

Online car rental intermediaries

Consumer law compliance summary

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This publication is also available from the CMA's webpages at www.gov.uk/cma.

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Introduction

Background

1. The Competition and Markets Authority (CMA) is taking action to ensure that consumers renting cars in the UK and abroad receive the information about prices and other key features of the rental that they are legally entitled to when they search for and book a rental. In order to create a level playing field for businesses and a fair market for consumers, the CMA's work is focussed on both direct and indirect booking channels. In the summer of 2015, the CMA concluded a piece of work with the five major rental companies that secured improved clarity of prices for consumers in their direct booking channels. Since then, it has been focused on ensuring that the product comparison services and the indirect booking channel offered by car rental intermediaries are compliant with consumer law.
2. The CMA's work on car rental intermediaries is part of its ongoing programme of consumer enforcement work in digital markets, which also includes a market study on Digital Comparison Tools (DCTs).¹ DCTs cover a wide range of online businesses, including car rental intermediaries, used by consumers to compare and potentially to switch or purchase products or services from a range of businesses. The DCTs study report sets out 'CARE' principles for how DCTs should behave. They should treat people fairly, by being **Clear, Accurate, Responsible** and **Easy to use**. These four principles, in general terms, embody some of the core principles of consumer protection law.
3. This compliance summary is specific to online car rental intermediaries. It builds on those four principles and provides further details on how businesses involved in helping consumers search for car rental services can comply with their legal obligations.

Who is this document for?

4. This document has been written for online car rental intermediaries,² by which the CMA means any online Business that:
 - enables a consumer to search for and compare different car rental offers, and/or

¹ CMA, *Digital Comparison Tools: Market Study*, September 2017.

² Parts of the document will also be relevant to car rental providers that allow consumers to make bookings on their websites and to non-online car rental intermediaries.

- arranges a Booking for car rental, and/or
- facilitates, enables or assists the entering of a contract for car rental, but which does not supply the rental car itself.

All references to 'you' in this document are references to online car rental intermediaries.

5. When your Intermediary service does **not** allow consumers to make a Booking or enter into a contract on your website, but only routes them to your Suppliers' websites, you will only need to observe the elements of compliance at paragraphs 12 to 34. Otherwise, you need to observe the wider set of elements at paragraphs 12 to 49.

Why has the CMA produced this document?

6. This document is intended to help you understand and comply with UK consumer protection law, specifically in relation to price and other key information that you should present to UK consumers. It builds on, and supersedes, a letter sent by the CMA to car rental intermediaries in June 2016.

What does this document cover?

7. The document sets out steps you should take to help you to achieve compliance with consumer protection law in three areas:
 - ensuring the accuracy of the information you display;
 - displaying Headline Prices inclusive of Compulsory Charges; and
 - providing other key information, specifically:
 - Fuel Policies;
 - Excesses and Pre-authorisations or Deposits;
 - exclusions from the Collision Damage Waiver or Optional Protection Cover; and
 - warnings about legal requirements for snow chains, child seats and the availability of Optional Products.
8. All three areas relate to **the underlying principle that you should give consumers the true cost of the rental and key information about any**

additional liabilities they may be exposed to, and you should do this in a clear and prominent manner.

9. This document focuses on matters that affect the price the consumer is quoted and the price they pay. It is not intended to be a comprehensive summary of every piece of consumer legislation applicable to your Business and it cannot and does not cover every eventuality. Ultimately, compliance with consumer law is the responsibility of each Business. You should self-assess your compliance with the law. The legal requirements set out in this document reflect the CMA's view and not necessarily those of other enforcers; in any event, only a court can interpret the law.

What do you need to do?

10. You should:
- carefully review this document;
 - consider, in consultation with legal advisers as appropriate, whether you need to make any changes to your business practices (e.g. to the way you present prices and other key information to consumers) to ensure that they comply with the law;
 - if necessary, make changes to your business practices to ensure compliance, starting with and prioritising compliance in relation to your most popular destinations; and
 - ensure that your relevant staff understand the requirements and comply with them, as your Business is responsible for their actions.

What happens if you do not comply with the law?

11. Non-compliance with consumer protection law could result in enforcement action being taken by the CMA, local authority Trading Standards services or the Department for the Economy (DfE) in Northern Ireland. All of them have powers to enforce the consumer protection legislation referred to in this document and can bring civil proceedings or criminal prosecutions against certain breaches, as appropriate.

Ensuring the accuracy of the information you display

12. Consumers need information that is accurate, up-to-date, prominent, timely and not misleading. This enables them to identify and compare the best value offers and make an informed choice about which vehicle to rent. Intermediaries that display inaccurate information or omit important information, risk their websites being found to infringe consumer protection law.³ Intermediaries that fail to take the necessary steps to ensure that their Suppliers provide accurate information also risk failing to act in a professionally diligent manner, a breach of consumer protection law.⁴

What steps to take to check the accuracy of information

13. The CMA considers that a professionally diligent Intermediary will take steps to check the accuracy of the information it receives and displays. It recognises that it is not possible for Intermediaries to manually check all the prices they list in real time. Rather, it expects you to have reasonable procedures in place to manage the risk of listing inaccurate prices. To reduce the risks of non-compliance, the CMA suggests that, as a minimum, **you should:**
- **ensure your website is configured to display accurate and full information, including price information;**
 - **regularly monitor a sample of rentals, such as the cheaper deals in popular destinations, to check for inaccuracies;**
 - **investigate and rectify problems that you find yourself or which are brought to your attention by customer complaints;**
 - **place a contractual requirement on Suppliers to include Compulsory Charges and other necessary information in their data feed to you; and**
 - **develop a policy on how you will deal with Suppliers who routinely submit prices which are inaccurate, in order to ensure that you no longer display inaccurate prices.**

³ The Consumer Protection from Unfair Trading Regulations 2008 (the 'CPRs') prohibit commercial practices which are misleading actions (Reg 5) and/or omissions (Reg 6) that would cause the average consumer to take a transactional decision they would not otherwise have taken.

⁴ Regulation 3 of the CPRs establishes a standard of special skill and care which is expected to be exercised in a trader's dealings with consumers. It is commensurate with either, in the trader's field of activity, (a) honest market practice or (b) the general principle of good faith. It looks to good standards of commercial morality and practice.

How to deal with suppliers who do not provide the required information

14. As stated in the CARE principles set out in the DCT Market Study, you should address inaccuracies promptly. The CMA recognises that, to achieve compliance, you may need to work with Suppliers to ensure that they include the required information in data feeds. Many car rental Suppliers have upgraded their data feeds to comply with the requirements of intermediaries that have already brought their websites into compliance. The CMA therefore expects that they will be able to quickly offer the same improved data feed to you and expects you to move to full compliance quickly, starting by prioritising your most popular destinations.
15. Businesses are under a strict liability to ensure their pricing is accurate and it is not generally a defence to claim that Suppliers do not provide the necessary information to you. **If necessary, therefore, you should cease to list non-compliant offers.**

Headline prices

16. You should make the total costs, including any Compulsory Charges, clear to consumers. **Consumers need to know the true cost of the rental upfront when looking to book a vehicle**; this cost should not come as a surprise to them later in the Booking Process or at the rental desk. Consumers cannot make informed decisions about the rentals on offer and assess which offer best meets their needs without accurate and complete information on prices. Intermediaries that provide false price information, omit or hide charges, or provide prices in an unclear, unintelligible, ambiguous or untimely manner may mislead consumers and so breach UK consumer protection law.⁵
17. The CMA considers that in a compliant Booking Process there are likely to be two prices with which the consumer will be presented:
 - an initial ‘Headline Price’ which is shown to consumers immediately after they enter their search parameters including the intended pick-up and drop-off locations, proposed dates and times and driver’s age; this price will typically exclude any Optional Products the consumer might purchase, but must include all Compulsory Charges;
 - a ‘Final Drive Away Price’ at the end of the Booking Process which may include additional ‘Optional Products’.

In this document, the terms ‘Headline Price’ and ‘Final Drive Away Price’ are used as defined above.

18. It follows that you may need to change your website so that the appropriate information is obtained from the consumer at the start of the Booking Process before the Headline Price is returned. As a minimum, this will be the locations, dates and times of the pick-up and drop-off and the driver’s age. **You should configure your website so that you collect all the relevant information from consumers to ascertain whether they have to pay Compulsory Charges and include these in your Headline Prices.**

What to include in headline prices

19. In your Headline Prices, you should quote the total price of each rental inclusive of all charges that are:

⁵ See footnote 3 above.

- compulsory, in that the consumer cannot avoid the charge if they choose the rental offer; and
 - calculable, in that the amount the consumer will have to pay can reasonably be calculated.
20. **Any charges that meet the criteria at paragraph 19 should always appear in the Headline Prices that the consumer sees in their search results.** These charges should not be added later in the Booking Process or at the rental desk.
21. Charges that should be included in the Headline Price include, but are not limited to: rental charges for the vehicle, and, where these are charged, Young Driver Surcharges, Older Driver Surcharges, One-way Fees (or Drop-off Fees), Fuel Surcharges, Out of Hours Fees, Premium Location Fees, Taxes, and Airport Surcharges. This list is **not** exhaustive (the key issue is whether the charge falls within the criteria at paragraph 19). You may wish to provide an additional breakdown of these charges.
22. If the consumer then adds Optional Products (e.g. a child seat, satellite navigation system or roof rack) to their Booking, then their Final Drive Away Price should include all the charges contained in the Headline Price plus the costs of all the Optional Products that the consumer has added to the Booking.

Example

Headline price	Optional products	Final drive away price
£100	£50	£150
Rental charge for car Taxes One-way fee	Child seat	
<i>No other compulsory charges apply</i>	<i>No other optional products ordered</i>	

How to deal with variable charges

23. Some intermediaries have asked the CMA for clarity on how they should treat the cost of fuel and Fuel Surcharges where those charges are compulsory but the amount to pay varies depending on certain factors, meaning there may be complications about calculating them up front.
24. With respect to Fuel Surcharges, the examples of variable Fuel Surcharges that the CMA has seen tend to vary according to the type of car chosen by the consumer. As the category of car will be known at the time of Booking, the legal requirement is for these fees to be included in the Headline Price. To the extent that the car Rental Provider lists a range for the fee for a specific category or classification of vehicle, then the higher end of the range must be included in the Headline Price (you may choose to advise your consumers that the final price could be lower). **In other words, you should include these variable Fuel Surcharges in the Headline Price.**
25. Where consumers have no choice but to purchase fuel from the Rental Provider, the Headline Price may mislead them if this is not made clear. You should consider how you can achieve this, for example by presenting cars with different policies in different lists, or otherwise making very clear which cars will involve the additional charges (and how these charges will be calculated).
26. However, because the charge for the exact price of the fuel on the day is likely to be impossible to calculate in advance, **the CMA accepts that this cost of fuel may be omitted from the Headline Price provided you clearly and prominently explain:**
 - **the type of Fuel Policy (e.g. level-to-level, full-to-empty),⁶**
 - **the fact that the consumer will be charged for fuel by the Rental Provider (where the Fuel Policy requires this),**
 - **the terms of the Fuel Policy (e.g. whether there is a refund for unused fuel and, if there is, how it will be calculated), and**
 - **how the price will be calculated (e.g. whether there is any mark-up and, if so, the amount of the mark-up on the price of fuel at local**

⁶ The fuel policy that applies to a rental should always be explained to consumers clearly and prominently, whether or not the policy requires the consumer to buy fuel from the provider.

petrol stations), so that the consumer can estimate their full liability and make a choice as to which Fuel Policy and/or car rental offer to take up.

Example

Fuel policy: full-to-empty.

You will be charged for a full tank of fuel at pick-up.

There is no refund for unused fuel.

The price of the fuel will be calculated by reference to the local pump price on the day of pick-up plus 10%.

27. As noted at paragraphs 21 and 24, where the consumer has to pay fuel-related charges beyond the cost of the fuel (e.g. an administration fee or other Fuel Surcharge), these charges should be included in the Headline Price.
28. It is important to note that it is only where the **nature of the product** makes it genuinely impossible to calculate its price upfront, that it will be acceptable to omit the price. This is an exception and is to be narrowly applied.

How to present and rank headline prices clearly and prominently

29. Prices are crucial to consumers' decision-making. **Prices should be easy for consumers to find and understand.**
30. The key requirement is that the information specified at paragraphs 16 to 28 is clear, prominent, accurate and timely. For information related to Compulsory Charges this means putting the information in the Headline Price (and Final Drive Away Price). In the limited circumstances where fees or charges are compulsory but cannot reasonably be calculated in advance, due to the nature of the product they relate to, a warning about the charge should be placed close to the Headline Price (i.e. in the search results) with details of how the charge will be calculated no more than one-click away.

Two-part pricing

31. Some intermediaries present the Headline Price and Final Drive Away Price in two parts, typically a 'Pay Now' Price and a 'Pay Later' Price. For overseas rentals, the 'pay now' part is usually in Pound Sterling and the 'pay later' part in a foreign currency.
32. The CMA considers that two-part pricing may mislead consumers in the following ways:

- If search results are ranked by price, but according to one part of the two-part price (e.g. the 'Pay Now' Price), not the total price, then such a ranking would distort the best value / cheapest offers and therefore be misleading.
 - If the 'Pay Later' Price is less prominent than the 'Pay Now' Price, or if the two parts are presented in different places on the webpage or in the Booking Process, then consumers may be misled into thinking that the 'Pay Now' Price is the total price.
33. In order to reduce the risk of engaging in an unfair commercial practice in breach of consumer protection law, **you should present Headline Prices clearly, prominently and in a timely manner, and rank search results in a manner that will not mislead. The simplest way to achieve the latter is for you to allow consumers to rank offers on the basis of the total cost of the rental**, calculated by:
- where both parts of the price are in Pound Sterling, adding those two parts together; or
 - where the two parts are in different currencies, converting them into a common currency and presenting them as an 'estimated total price'.
34. The CMA considers that the 'total price' or 'estimated total price' figure should be displayed, along with both parts of the two-part price, so that consumers are aware of how much they will have to pay and at what time. Where the total price is an estimate, you should also make it clear to consumers why it is an estimate (e.g. because of currency fluctuations).

Example 1

Payable now.....	£100
Payable later.....	£100
Total price.....	£200

Example 2

Payable now	£100
Payable later.....	€100
Total price.....	£180 (approx)

Other key information

35. Consumers need certain key information upfront when looking to book a vehicle. They cannot make informed decisions about the rentals on offer and assess which offer best meets their needs without accurate and complete information on the rental's main characteristics, particularly those that relate to their liability for additional charges. Intermediaries that provide false information, omit or hide key information, or provide key information in an unclear, unintelligible, ambiguous or untimely manner may mislead consumers and in doing so breach UK consumer protection law.⁷

What key information to provide

36. Information is likely to be key if it relates to additional liabilities that the consumer may be exposed to. In particular, information about the Fuel Policy, the amount of both the Excess and the Deposit as well as details of the level of insurance cover (in particular the exclusions from the Collision Damage Waiver or any Optional Protection Cover) are likely to have a material bearing on the consumer's liability for additional charges.

How to deal with excesses and pre-authorisations or deposits

37. **You should prominently and clearly state the amount of the Excess on the Collision Damage Waiver (CDW).** See paragraph 46 and 47 for more detail on what 'clear and prominent' means for these purposes.
38. **If Pre-authorisation of a credit card or a Deposit payment for the Excess (or any other amount) is required, then you should inform the consumer in a clear and prominent manner of the amount.**
39. **If you sell a product for reducing the consumer's Excess, you should inform them what the reduction will be and what it costs so that they know their total costs if they wish to buy it and reduce their exposure.**
40. The CMA also considers that, by way of best practice, intermediaries should place a prominent warning on their websites:
- advising consumers to check the Excess amount, and

⁷ The CPRs prohibit commercial practices which are misleading actions (Reg 5) and/or omissions (Reg 6) that would cause the average consumer to take a transactional decision they would not otherwise have taken.

- flagging where the Rental Provider requires a Deposit or Pre-authorisation, and explaining how large this will be;

Example

‘Check your excess. You will need to leave a deposit or a pre-authorisation as large as the excess even if you have your own insurance.’

How to deal with collision damage waiver or optional protection cover exclusions

41. **Any exclusions from the CDW and optional waiver or insurance products (such as damage to the roof or to the undercarriage of the car) should be highlighted to the consumer by you.** This must be clear and prominent (e.g. It could be put in a ‘What’s included section’ or made clear by comparing the CDW with your own waiver product). See paragraph 46 and 47 for more detail on what ‘clear and prominent’ means for these purposes.
42. If you sell a product to reduce the scope of the exclusions from the CDW, you should inform the consumer before the Booking of this product is completed, what it covers and does not cover, and what it costs.

How to deal with warnings about legal requirements for snow chains, child seats and the availability of optional products

43. Where snow-chains are required (or likely to be required) by law, you should warn consumers, advise them that a charge may apply and, where the Booking can be made on your website, set out what this charge will be.
44. For rentals in jurisdictions where drivers are legally required to ensure that children travelling in the car are seated in an appropriate child car seat, you should warn consumers of the legal requirement, that a charge will be applied for providing child seats and, where the Booking can be completed on your website, set out what this charge will be.
45. Where Optional Products are offered but not guaranteed, you must at least inform the consumer of this fact. However, you reduce the risk of non-compliance if you ensure that the Optional Products that may be ordered on your website are in fact guaranteed.

How to present information clearly and prominently

46. The information specified at paragraphs 35 to 45 must be presented clearly and prominently. Key information, for example about the Excess or Pre-authorisations, may affect consumers' choice of rental offer. This information should therefore be easy for consumers to find and understand.
47. For details of Excesses, Pre-authorisations and Deposits, and CDW exclusions, to be sufficiently prominent to comply with the law, this information should be no more than one-click away from the Headline Price. This might be in a 'Key Facts' document or simply by way of clicking an icon in the search results. You should not leave this information only in your Terms and Conditions; it requires a more prominent placement.
48. Warnings about legal requirements for snow chains or child seats could, for example, be flagged to consumers when options are offered or appropriately highlighted.

Example

'For this booking you may be legally required to use snow chains for which a charge will apply. Click [here](#) for charges.'

49. For all other Optional Products, if availability cannot be guaranteed, it is important that you make a clear and prominent statement when the consumer selects the item (e.g. 'The availability of this optional product is not guaranteed').

Annex A. Glossary

Age-related surcharge	See 'Young Driver Surcharge' and 'Older Driver Surcharge'.
Airport Surcharge	A fee for picking up the rental car at the airport; it is applied to cover extra costs that the Rental Provider must pay to the airport authority.
Booking	Includes, but is not limited to the: <ul style="list-style-type: none">• making of a reservation• facilitation of or entry into a contract,• completion of a transaction.
Booking Process	Covers the consumer's journey online, including their: <ul style="list-style-type: none">• search for offers,• comparison of offers,• selection of an offer, and• Booking of a rental.
Business	Means any natural or legal person acting for purposes relating to their trade, craft, or profession, whether acting personally or through another person acting in the Business's name or on the Business's behalf.
Collision Damage Waiver (CDW)	A basic waiver product that is normally included in the rental price to reduce the amount for which the consumer is responsible in the event of damage to, or theft of, the car. The Rental Provider waives the contractual liability that the consumer would otherwise bear towards it. However, there will usually be CDW exclusions and an Excess.
Compulsory Charge	A charge that the consumer cannot avoid if they choose the rental offer.
Deposit	The amount that the consumer must leave as security that they will be able to pay the Excess in the event that the vehicle is lost or sustains damage while in the consumer's possession.
Drop-off Fee	See 'One-way Fee'.

Excess	The amount of money that the consumer will be required to pay to the Rental Provider if the car is lost or damaged while in the consumer's possession.
Final Drive Away Price	The price shown to the consumer at the end of the online Booking Process which may include additional 'Optional Products'.
Fuel Policy	The explanation of how the supply of fuel will be handled during the consumer's rental. It covers, for example, whether the consumer must leave a deposit for fuel or pay for it upfront, what Fuel Surcharge applies (if any), and what the consumer must do on return of the car (and what extra charges they may incur if they do not do it).
Fuel Surcharge	An extra charge related to the supply of fuel (separate to any charge levied for the fuel itself). It may be called an 'administration fee', a 'service charge', 'a handling fee', a 'logistics fee' or similar.
Headline Price	The price which is shown to consumers immediately after they enter their search parameters including the intended pick-up and drop-off locations, proposed dates and times and driver's age; this price will typically exclude any Optional Products the consumer might purchase but must include all Compulsory Charges.
Intermediary	Any online Business that: <ul style="list-style-type: none"> • enables a consumer to search for and compare different car rental offers, and/or • arranges a Booking for car rental and/or • facilitates, enables or assists the entering of a contract for car rental, but which does not supply the rental car itself.
Older Driver Surcharge	A charge that must be paid by older drivers (typically those aged over 70).
One-way Fee	A fee that is often charged when the consumer wants to drop off the car at a different location to the pick-up point. Sometimes called a 'Drop-off Fee'.

Optional Product	A product other than a Compulsory Charge (e.g. a child seat, satellite navigation system or roof rack) that the consumer can add to their Booking.
Optional Protection Cover	The additional cover that the consumer may purchase in order to reduce their liability, bringing the Excess down and/or extending the cover provided by the Collision Damage Waiver. Products may be offered by a Business or third party. The cover is a separate product from the car rental and the consumer enters into a separate contract for it.
Out of Hours Fee	A charge that may apply where the consumer wants to pick up or drop off the car outside the Rental Provider's local office hours.
'Pay Later' Price	Costs that the consumer must pay at the rental desk at the start of the rental.
'Pay Now' Price	Costs that the consumer must pay to the Intermediary when they book the rental car.
Pre-authorisation	The practice whereby the Rental Provider reserves a payment on the consumer's credit or debit card, and thus knows that the consumer has the money to pay the Excess in the event that the vehicle is lost or sustains damage while in the consumer's possession.
Premium Location Fee	A fee applied to cover extra costs that the Rental Provider must pay to the property owner in order to operate at a prime location (e.g. an airport, a train station or a city centre).
Rental Provider	A Business that supplies the rental car to the consumer.
Supplier	A commercial partner from which an Intermediary gathers data on rental offers. It may be a Rental Provider or an Intermediary that takes Bookings.
Tax	Any national, state or local tax that applies to the Booking, the rental and/or any charge that is part of the Booking or rental.
Young Driver Surcharge	A charge that must be paid by young drivers (typically those aged between 21-25).

