

BIS guidance for foreign  
exchange providers: compliance  
with consumer protection  
legislation

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# BIS GUIDANCE FOR FOREIGN EXCHANGE PROVIDERS: COMPLIANCE WITH CONSUMER PROTECTION LEGISLATION

## PURPOSE

1. This note provides an outline of the Price Indications (Bureaux de Change) (No.2) Regulations 1992 (SI 1992/737)<sup>1</sup> and their requirements. The regulations apply in England, Wales and Scotland. However in Northern Ireland the Price Indications (Bureaux de Change) Regulations (Northern Ireland) 1992 (SR 1992/272) provide for an almost identical regime<sup>2</sup>.
2. This note also provides supplementary guidance for providers of foreign exchange services to consumers to that published by the Department for Business, Innovation and Skills in the Pricing Practices Guide<sup>3</sup>. The Guide provides a set of good practice guidelines for traders in giving information about price, particularly in the context of the provisions of the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277) which apply to traders throughout the UK.
3. You should not treat this guidance as a substitute for the regulations themselves, which are available from: [www.legislation.gov.uk](http://www.legislation.gov.uk) (please note that the site does not always incorporate amendments to legislation). The Department hopes that these notes will be of help to you, but you should bear in mind that whether there has been a breach of the regulations in any particular circumstances is ultimately a matter for a court to decide; if in doubt you should seek your own legal advice.

## Price Indications (Bureaux de Change) (No.2) Regulations 1992

### WHO IS SUBJECT TO THE REGULATIONS

4. The regulations apply where a person acting in the course of business indicates willingness to buy foreign currency from or to sell foreign currency to consumers in exchange for sterling and in so doing gives exchange rate indications [Regulations 3(1)

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<sup>1</sup> These Regulations replaced the Price Indications (Bureaux de Change Regulations) 1992, S.I. No.316, which were found to contain a printing error. The reference to “foreign exchange” should have been to “foreign currency”. The No.2 Regulations correct that error. The only other changes are those necessary to secure the replacement of the earlier Regulations by the present Regulations – coming into force dates and all other substantive provisions remain the same.

<sup>2</sup> Please note: cross references to particular regulations in this document refer to the Price Indications (Bureaux de Change) (No.2) Regulations 1992 (SI 1992/737). The relevant regulations in the Price Indications (Bureaux de Change) Regulations (Northern Ireland) 1992 (SR 1992/272) may be numbered differently.

<sup>3</sup> BIS publication URN 10/1312 available from the BIS web site: <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/p/10-1312-pricing-practices-guidance-for-traders.pdf>

and 3(2)]. The regulations do not apply to indications of the exchange rate between two foreign currencies or to transactions between businesses.

5. There is **no requirement** in the regulations to give exchange rate indications, but when an exchange rate indication is given, it must conform to the regulations.

6. The regulations apply to businesses providing an exchange rate indication however given, including on premises, in person, in advertisements, and via distance selling means, such as over the telephone or on-line. For example, if an advertisement includes an exchange rate illustrating the rate the business is trading at, it must be current and apply for as long as the advertisement is published.

7. The regulations do not apply to things done at premises where the business does not hold itself out in any way to consumers generally as providing currency exchange facilities. Thus, a bank or building society branch which does not advertise itself as providing facilities for exchanging currency, but which is prepared to order foreign currency or accept it if a customer asks, is not subject to the regulations [Regulation 3(2)].

8. Similarly the regulations **do not apply** to other traders – for example a hotel or a shop – who do not indicate that they offer exchange facilities but who may on occasion be prepared to sell sterling to a customer who asks.

9. The regulations **do not apply** to traders solely as a result of their willingness to take payment for goods, services or accommodation in foreign currency and where they do not hold themselves out as willing to exchange one currency for another. So, for example, a shop which is willing to accept Euros in payment for goods is not subject to the Regulations. Similarly a website which accepts payment for goods or services in non sterling currencies is not subject to the Regulations, unless, of course, the service on offer is to provide an amount of sterling in exchange for the payment [Regulation 3(4)(b)]

## WHAT THE REGULATIONS REQUIRE

10. The essential requirement of the Regulations is that where an exchange rate indication is given, it must be comprehensive and clear. This requirement is set out in more detail below. Sufficient information needs to be provided to enable a consumer to work out the amount of currency they will receive when exchanging sterling for foreign currency or vice-versa.

11. Any information or explanation required to be provided by the Regulations must be accurate. Disclaimers or statements to the effect that an exchange rate indication is not to be relied on are prohibited [Regulation 8].

## DISPLAYS ON PREMISES

12. If a written exchange rate indication is displayed on any premises the display must be clear and prominent. It must be visible to each consumer as they approach the premises or the part of premises where the bureau de change is operated, or as soon as a consumer enters the premises or the relevant part of the premises. Any written statements additional to the exchange rate indication, such as those relating to fees or commission, must be given the same degree of prominence as the exchange rate itself [Regulation 5].

13. The display must include full information relating to transactions the trader is prepared to undertake in a currency. It is necessary to include information such as buying and selling rates (if any), rates for travellers' cheques where these differ from those for notes, any denominations or values of currency to which the rates displayed do (or do not) apply, and fees or commission rates. If the trader is not prepared to either buy or sell a particular foreign currency there is no requirement to indicate a buying or selling rate, whichever is applicable. But if a buying rate is given, then the corresponding selling rate should also be given if there is one (and vice versa) [Regulation 4].

14. Where particular types of transaction are only accepted to order (for delivery later and not to be transacted on the spot), the display can show that, say, Yen travellers' cheques are available "to order" without showing an exchange rate. In this situation the trader must also tell the consumer before an order is placed how the rate or any other charge is to be determined, for example, that it will be the rate applying on the day the order is fulfilled [Regulation 4].

15. There is **no requirement** for all the information to be displayed on the same board. A supplementary notice pinned to the bottom of the board or mounted alongside it are examples of alternative ways in which the requirements of the regulations could be met, but this supplemental information, where required by the regulations, must still be as prominent as any exchange rate indication.

## OTHER WRITTEN OR ORAL EXCHANGE RATE INDICATIONS

16. Other written or oral exchange rate indications given by a bureaux de change must be legible or audible, and must also be comprehensive [Regulations 4 and 5(2)].

17. Where a consumer asks for an exchange rate indication in respect of a particular type of transaction, for example the purchase of travellers' cheques of a particular denomination in a particular currency, the operator need give only the relevant exchange rate indication and the rate or amount of any commission or other charge which is not included in the buying rate or selling rate. If that indication relates only to currency of certain values or certain denominations this must also be indicated [Regulation 4(4)].

18. The rules in Regulation 4 about the information to be given do not apply to an exchange rate indication provided by way of a net price (i.e. a final price inclusive of any commission or other charges) in response to a specific consumer request to be informed of the amount of one currency which the trader is prepared to buy or sell in exchange for a given amount of another currency. For example, where a consumer asks how many, say, Euros the trader will supply in exchange for £100, including commission etc., the trader can simply state the number of Euros which will be supplied [Regulation 4(5)].

19. Where a trader gives an exchange rate indication but there will be a lapse of time between taking an order and delivering a currency, and the trader indicates that he will or may charge a different rate to that indicated or that a different charge or commission will apply, the consumer must be told this and how the exchange rate applicable will be determined. For example, if such is the case, the consumer must be told that the rate applicable at the time of delivery will apply, not the rate at the time of taking the order. The consumer must also be told the rate of commission or other fees or, if this is not possible, how they will be calculated [Regulation 4(3)].

## RECEIPTS

20. Where a transaction results from an exchange rate indication the trader must provide a receipt to the consumer at the time currency is supplied. The receipt must be clearly expressed, legible and unambiguous and must include all of the following:

- the date by reference to which the exchange rate was determined;
- the amount of foreign currency involved;
- the amount of sterling involved;
- the rate of exchange;
- the rate or amount of commission or other charges applied to the transaction which is not included in the rate of exchange;
- the net (total) amount paid to the consumer; and
- the name and address of the trader operating the bureau de change or such other information as will enable those particulars to be readily identified by the consumer, for example a bank sorting code [Regulation 6].

21. Where payment is made by credit or other payment card there is no requirement for the receipt to include any charges made by the card issuer for the use of the card for the transaction.

22. Transactions via machines which exchange currency notes or other instruments representing cash<sup>4</sup> and by which an exchange rate indication is given are generally subject to the regulations, but a receipt is only required where the machine is capable of providing one and the consumer opts to receive one. Where a machine is not equipped to provide receipts there must be a clear notice on or close to the machine to this effect [Regulation 6(2)].

23. Machines which exchange only coins need not give receipts and are not subject to the general requirements of the regulations, but if it is indicated that the machine will exchange one or more coins of one currency for one or more coins of another, there must be displayed a clear notice indicating for each specified coin inserted the value of coins in other currency which will be dispensed [Regulations 6(2) & 7].

## PENALTIES

24. The Bureaux de Change Regulations carry criminal sanctions of, on summary conviction, i.e. by a magistrate's court, a fine not exceeding the current statutory maximum - £5,000 (£2,000 in Northern Ireland) for each offence. On conviction on indictment, i.e. by a Crown Court, a fine set by the court may exceed £5,000 [Regulation 9(2)].

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<sup>4</sup> For example, travellers' cheques, but not cash cards or credit cards for use in automatic teller machines or automating cash dispensers. [Regulation 6(3)]

25. Enforcement is carried out by local authority trading standards departments (in Northern Ireland the trading standards function is carried out by the Department of Enterprise, Trade and Investment).

## The Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)(CPRs)

### WHAT THE REGULATIONS DO

26. The CPRs prohibit traders from engaging in unfair commercial practices against consumers. The Regulations apply across all business sectors and provide a framework for how businesses must deal with consumers.

27. The CPRs set out broad rules outlining when commercial practices are unfair. These fall into three main categories:

- A general ban on conduct below a level which may be expected towards consumers (honest market practice/good faith). This is intended to act as safety net protection for all consumers;
- Misleading practices, like false or deceptive messages or leaving out important information; and,
- Aggressive sales techniques that use harassment, coercion or undue influence.

28. For a practice to be unfair under these rules it must harm, or be likely to harm, the economic interests of the average<sup>5</sup> consumer by affecting their decision making, for example, when a consumer makes a decision to buy that would not have been made had they been given accurate information or had they not been put under unfair pressure to do so. In addition, the CPRs ban thirty-one specific practices<sup>6</sup> outright without the need to consider their effect on the average consumer.

### THE CPRs AND PRICE INDICATIONS

29. General practical guidance on good practice when giving price indications or information about prices and on the impact on pricing practices of the Consumer

<sup>5</sup> See Regulations 2(2) – 2(6) of the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277) - <http://www.legislation.gov.uk/ukxi/2008/1277/contents/made>

The European Commission Document: The Guidance on the Implementation/Application of Directive 2005/29/EC on Unfair Commercial Practices includes the following on page 24 - “ The average consumer test is not a statistical test. National courts and authorities will have to exercise their own faculty of judgement, having regard to the case law of the Court of Justice, to determine the typical reaction of the average consumer in a given case.” - [http://ec.europa.eu/justice/consumer-marketing/files/ucp\\_guidance\\_en.pdf](http://ec.europa.eu/justice/consumer-marketing/files/ucp_guidance_en.pdf)

<sup>6</sup> See Schedule 1 to the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277) - <http://www.legislation.gov.uk/ukxi/2008/1277/contents/made>

Protection from Unfair Trading Regulations 2008 is available in the Department's Pricing Practices Guide (see footnote 2).

30. To avoid the risk of breaches of the CPRs it is important that consumers are not misled either actively or by omission and are given the information they need in order to take informed decisions. Some instances of potentially misleading practices are given below.

31. The Guide covers price comparison claims such as "best rates", "lowest prices", "competitive rates", and recommends that such claims should not be made if they cannot be backed up by suitable evidence to show that the trader is indeed offering better rates than all of their competitors, or that, in respect of "competitive rates" their rates are not significantly lower than those of their competitors when selling and not significantly higher when buying. What might be considered significant will depend on the circumstances of each case.

32. Failing to be clear that transactions are subject to additional costs, such as commission charges or any other charges, could amount to an offence under the CPRs in addition to being an offence under the Bureaux de Change Regulations. Similarly, for example, a claim of "0% Commission" on transactions without being clear that conditions apply, such as a requirement to exchange a minimum amount, could constitute an offence.

Where a trader advertises that they will buy back currency which the consumer has previously purchased from the trader, the terms of the buy back offer should be made clear before the original purchase of the currency by the consumer. This is because the terms on which the trader is willing to buy back currency may affect the consumer's original decision. For example, it should normally be made clear:

- whether or not the exchange rate for buying back may differ from the rate at which the consumer was originally sold the currency;
- whether the transaction will attract any additional charges or commission;
- whether there are any limits to the amount or to the time during which the offer stands;
- whether the currency can only be returned to the branch from which it was bought;
- whether proof of original purchase is required; and,
- whether there are any other restrictions or conditions to be met in order for the consumer to take advantage of the buy back offer.

33. Exchange rate indications which are provided on web-sites must comply with the Bureaux de Change Regulations. Care should also be taken to avoid any confusion as to which type of transaction the rate advertised applies. For example, where an organisation provides foreign exchange services over the counter or provides a telephone ordering service as well as via the internet it should be clear whether the exchange rate indicated on the internet may differ from an over the counter rate, including indications of the level of commission. Internet and telephone traders should also be clear, before the consumer is prompted to pay, about any delivery or collection or administrative costs or other conditions such as charges which might apply according to the method of payment offered.



34. Some traders set out examples to illustrate the process of a transaction and to help consumers understand the final or total cost of a transaction. These are useful tools provided they are clear, are based on realistic scenarios and reflect the true nature and cost of the deal. “Worked examples” of this type which do not meet these criteria could give rise to offences under the CPRs.
35. The CPRs apply not only to misleading statements but also to commercial practices which are misleading by omission. For example, a practice misleading by omission might be where exchange and commission rates are indicated for a particular currency but there is no notification that the rates may differ for currency ordered for later delivery.
36. A bureau which posted at the entrance to premises exchange rates for currencies at which it was not prepared to sell or buy could be committing a misleading action under the CPRs because a consumer interested in those currencies would be likely to make a decision to enter the premises on the basis of incorrect information.
37. In general, a price quoted to a consumer should be the final price, inclusive of all charges and commissions attracted by a transaction<sup>7</sup>.
38. General BIS/OFT Guidance on the CPRs is available at:  
[http://www.offt.gov.uk/shared\\_offt/business\\_leaflets/cpregs/oft1008.pdf](http://www.offt.gov.uk/shared_offt/business_leaflets/cpregs/oft1008.pdf)

## PENALTIES

39. The CPRs carry criminal sanctions of fines of up to £5000 in magistrates’ courts for each offence, and unlimited fines or imprisonment of up to two years for cases taken in Crown Courts.
40. Enforcement is carried out by local authority trading standards departments (in Northern Ireland the trading standards function is carried out by the Department of Enterprise, Trade and Investment). The Office of Fair Trading also enforces the CPRs in respect of practices which are against the general interests of consumers.

## Money Laundering Regulations

41. Businesses that exchange currency, transmit money or cash cheques for their customers are known as 'Money Service Businesses'. Money Laundering Regulations require most Money Service Businesses to register with HM Revenue & Customs (HMRC). The only bureaux exempt from registering with HMRC are those already regulated by the Financial Services Authority.
42. Detailed guidance on your obligations under Money Laundering Regulations can be found at the HMRC website: <http://www.hmrc.gov.uk/MLR/index.htm>

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<sup>7</sup> Aside from any method of payment surcharges levied by the bureau de change this would not include transaction charges levied direct on consumers by card providers for the use of credit or debit cards.

## More Information

43. Your local trading standards service will be pleased to advise you or to direct you to relevant sources of information on the above regulations. You can contact them via [www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk), or be directed to them via the Citizens Advice helpline on 0845 4040506 (or, in Northern Ireland, the Consumerline on 0300 123 6262).

44. The texts of any of the above mentioned regulations are available at the website: [www.legislation.gov.uk](http://www.legislation.gov.uk) (please note that the site does not always incorporate amendments to legislation.)

45. When you make use of advertisements, including any statements on web-sites you should also have regard to the relevant rules governing misleading advertising. Further information on these rules is available from the Advertising Standards Authority at: [www.asa.org.uk](http://www.asa.org.uk). The ASA codes are a self-regulatory system backed by enforcement of the CPRs by the OFT and Trading Standards Officers.

46. The Law Societies of England and Wales, of Scotland, and of Northern Ireland will help you locate a solicitor with suitable experience should you require legal advice on any of the above legislation:

[www.lawsociety.org.uk](http://www.lawsociety.org.uk)

[www.lawscot.org.uk](http://www.lawscot.org.uk)

[www.lawsoc-ni.org](http://www.lawsoc-ni.org)

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