

Improving trader recommendation platforms: Consultation document

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1. Introduction

About the CMA

- 1.1 The Competition and Markets Authority (**CMA**) is an independent non-ministerial UK Government department and is the UK's principal competition and consumer protection authority. We help people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour.
- 1.2 The CMA has a range of consumer protection law powers to tackle practices and market conditions that present challenges for consumers and hinder their decision making. This includes powers to protect consumers from unfair business practices and unfair contract terms (for which it has the lead role).
- 1.3 The CMA shares these enforcement powers with other bodies, such as Trading Standards Services and sectoral regulators. The CMA also shares certain consumer functions with other agencies, such as the Advertising Standards Authority.
- 1.4 As part of its role, the CMA produces compliance advice and guidance for businesses to clarify their legal obligations and promote compliance.
- 1.5 This document has been written by the CMA, in partnership and with the contribution of National Trading Standards (**NTS**), Trading Standards Scotland (**TSS**), the Society of Chief Officers of Trading Standards in Scotland (**SCOTSS**), and the Northern Ireland Trading Standards Service (**NI TSS**).

About the consultation

- 1.6 We are consulting on draft consumer law compliance advice for trader recommendation platforms (**TRPs**), ie businesses that:
 - a) Operate a website or app that consumers may use to find a trader, either in the form of a 'matchmaking' service in which consumers can post the work they require and traders can respond, or a database, search or listing service (or similar); and
 - b) represent implicitly or explicitly, or otherwise create the perception or

expectation, that the traders listed or hosted on the platform, or with whom matches may be made, are of a particular quality and/or are trustworthy, reliable or suitable for the consumer's requirements.

- 1.7 This draft guidance provides a set of compliance principles for TRPs in relation to their consumer-facing practices (eg the services, marketing and webpage content that they direct at consumers).
- 1.8 TRPs play an important role in facilitating consumer transactions, instilling greater trust in people and traders, and helping people making informed decisions. It is crucial that people can trust the claims made by TRPs and their vetting processes, and can rely on an appropriate complaints process and trustworthy consumer reviews.
- 1.9 The CMA has produced this draft compliance advice following concerns we identified through our review of evidence gathered from UK Local Authority Trading Standards Services, directly and through the NTS, SCOTTS and NI TSS, Citizens Advice Consumer Service (covering England and Wales), Advice Direct Scotland, Northern Ireland's Consumerline, the CMA's research into RTP websites, and a consumer survey. We identified concerns around:
 - a) TRPs making misleading claims or creating a misleading impression that the traders listed or hosted on the platform can be trusted, when in fact the RTP does not vet, monitor or intervene to address complaints, sanction poor performance or does not appropriately tackle fake reviews;
 - b) TRPs not having appropriate and effective vetting and verification processes;
 - c) TRPs not having effective and accessible complaints processes, including an appropriate record-keeping and complaints review procedure in order to identify patterns of poor trader standards or behaviour;
 - d) how TRPs deal with problematic traders and whether they sanction these traders appropriately; and
 - e) TRPs' approach to consumer reviews, so that they do not present reviews in misleading ways and take appropriate steps to minimise the presence of fake reviews.
- 1.10 Based on these concerns, we have provisionally identified the need for

practical advice to help TRPs comply with their consumer protection law obligations.

1.11 Given the widespread use of TRPs by people to find traders, including for building, home improvement work and the installation of greener and more efficient home heating solutions, this work closely aligns with the CMA's strategic priorities, set out in our [2024/25 Annual Plan](#), to ensure that people can be confident they are getting great choices and fair deals in areas of essential spending, and helping to accelerate the transition to a Net Zero economy.

2. Scope of the proposed compliance advice

- 2.1 As mentioned above, the draft compliance advice is intended to apply to all UK businesses which operate TRPs (see paragraph 1.6)¹.
- 2.2 This advice is not directed: i) to other types of platforms and services that solely provide alphabetical listing of traders or only publish consumer reviews of traders; ii) to the traders which are featured on TRPs (although some of the principles may also be relevant to them). It is also not aimed at standards bodies. In the field of green heating, solar products and insulation, the CMA has produced separate '[good practice principles](#)' for standards bodies.
- 2.3 The draft compliance advice applies to practices on any marketing channel including websites, social media, online adverts (such as sponsored ads), posters, and sales brochures.
- 2.4 The draft compliance advice sets out several principles to help businesses understand and fulfil their legal obligations, namely:
- a) *Representations made by TRPs to consumers*: TRPs' representations about the service and the traders on the platform should be clear and accurate, and must not mislead consumers;
 - b) *Vetting practices*: TRPs should have in place appropriate processes and adopt the necessary practices to effectively vet a trader when it wishes to

¹ The platform does not need to be used by consumers only for that purpose. It may be used to find other sorts of services or other information too. However, at least some of the traders on the platform will be in the home improvement, maintenance and repair sector.

- join the platform;
- c) *Complaints process*: TRPs should have accessible, transparent and effective complaints processes;
 - d) *Monitoring activities*: TRPs should monitor the performance of traders and monitoring activities should be appropriate and effective.
 - e) *Investigations and sanctions*: TRPs should act effectively on issues that come to their attention via complaints process(es) and monitoring activities. This includes adopting a suitable and transparent sanctions policy and operating timely and effective investigation and sanction processes; and
 - f) *The collection, moderation and publication of consumer reviews*: TRPs should adopt effective, transparent and impartial management practices for the collection, moderation and publication of online consumer reviews.

2.5 Under each principle, the draft compliance advice provides examples of practices that are more likely to uphold the principle and those that would be unlikely to do so. These examples are not intended to be exhaustive.

2.6 Where TRPs apply the principles set out in the draft compliance advice, they would, in the CMA's view, be less likely to mislead consumers and more likely to be on the right side of consumer protection law. It is important to recognise that there are various types of platforms, and the specific requirements for each platform which enable it to remain compliant with the law may vary based on their offerings, size and operational structure. For example, TRPs should take steps to prevent the publication of fake reviews and from them impacting consumer's transactional decisions. The mechanisms that will be considered reasonable and proportionate to achieve this objective may vary.

2.7 Consequently, whether a TRP is complying with the law in any particular case will depend on the specific facts. Nonetheless, in the CMA's view, adopting these principles should help TRPs to stay on the right side of the law and reduce their risk of facing enforcement action.

2.8 The draft compliance advice focusses on the Consumer Protection from Unfair Trading Regulations 2008 (**CPRs**), particularly in relation to practices which are misleading by act or omission. TRPs should familiarise

themselves with other relevant guidance on the application of consumer protection law where necessary. We signpost businesses to some other sources of useful guidance within the draft compliance advice.²

2.9 The draft compliance advice does not create new legal requirements for TRPs. It would not be a substitute for the law itself or replace the role of the courts which is to provide the definitive interpretation of consumer protection law based on the facts of each case.³

2.10 Ultimately, a TRP is responsible for ensuring that it is compliant with the law. If a business is in any doubt whether its practices may infringe consumer protection law, it should consider seeking its own independent legal advice.

3. Questions for consideration

3.1 We are seeking feedback on the following questions. Please provide your reasoning, any relevant information, and examples or evidence to support your response.

Scope

3.2 Is the scope of the draft compliance guidance appropriate and clear? If not, what else should this compliance advice address and why?

3.3 Are there any additional sector-specific considerations which the draft compliance needs to reflect? If so, what are these and why? How can these be addressed?

Compliance principles

3.4 The draft compliance advice sets out a number of principles for TRPs to follow.

a) Are the principles identified in the draft compliance guidance the right

² We note that in February 2016, the CMA issued an open [advisory letter to trusted trader schemes](#). The final compliance guidance, when issued, will replace the advice in this advisory letter.

³ At present, the CMA can only enforce consumer law through the courts. The Digital Markets, Competition and Consumers Act, which has become law but is yet to come into force, gives the CMA powers to determine whether breaches have occurred and to issue fines.

principles? If not, why not? What other principles would help TRPs comply with consumer protection law and why?

- b) Is the description of the principles sufficiently clear? If not, what needs to be done to improve their clarity?

‘Do’s and don’ts’ examples

3.5 The draft compliance advice sets out a number of ‘Do’s and don’ts’ examples for each principle:

- a) Are these examples clear and easy to follow? If not, how can they be improved?
- b) Are the examples provided in the draft compliance advice helpful? If not, why not? How could they be improved?
- c) Are there any additional or different examples that would help businesses to understand how to apply the principles in the draft compliance advice? If so, what would these should cover and why?

General and additional issues

3.6 Generally, are there any aspects of the draft compliance advice that you consider need further clarification or explanation, and why? In responding, please specify which section of the draft compliance advice (and, where appropriate, the issue) your comments relate to.

3.7 Overall, is the draft compliance advice sufficiently clear and helpful for the intended audience? Is the language and terminology helpful?

3.8 Any there any other comments that you wish to make on the draft compliance advice?

4. Consultation process

4.1 We are publishing this consultation on our [case page](#) and sharing it with a range of interest parties to seek views on the questions set out in section 3 of this document.

Duration

4.2 The consultation will run for a period of five weeks from 11 July 2024. Responses should be submitted by email to trp@cma.gov.uk by no later than 5pm on 16 August 2024.

How to respond

- 4.3 Please respond to as many of the questions as you can and support your answers with any evidence or examples you may have.
- 4.4 When responding to this consultation, please state whether you are responding as an individual or are representing the views of a business, group or organisation (including those representing consumer or business interests). If the latter, please make clear who you are representing and their role.

Use of information provided to the CMA

- 4.5 This section sets out how the CMA may use information provided to it as part of this consultation.
- 4.6 The information you provide will help to inform the CMA's final compliance advice for TRPs.
- 4.7 We may wish to refer to comments received in response to this consultation in future publications. Where appropriate, we may also use the information you provide when carrying out the CMA's other functions, for example, when using our consumer protection law enforcement powers, or we may share information with another regulator or public authority (such as local authority Trading Standards Services, sectoral regulators or the Advertising Standards Authority).
- 4.8 However, we may only publish or share information in specific and limited circumstances set out in legislation (principally, Part 9 of the Enterprise Act 2002). In particular, prior to any publication or disclosure, we must have regard to (among other considerations) the need for excluding, so far as is practicable:
- a) any information relating to the private affairs of an individual which might, in our opinion, significantly harm the individual's interests; and
 - b) any commercial information relating to a business which, if published or shared, might, in our opinion, significantly harm the legitimate business

interests of that business.

- 4.9 If you consider that your response contains such information, that information should be marked as 'confidential information' and an explanation given as to why you consider it is confidential.
- 4.10 Any personal data you provide to us in responding to this consultation will be processed by the CMA, as controller, in line with the Data Protection Act 2018.
- 4.11 'Personal data' is information which relates to a living individual who may be identifiable from it.
- 4.12 Any personal data you provide to us will be handled in accordance with our obligations under the Data Protection Act 2018. For more information about how the CMA processes personal data, your rights in relation to that personal data, how to contact us, details of the CMA's Data Protection Officer, and how long we retain personal data, see our Privacy Notice.
- 4.13 The CMA is also bound by the Freedom of Information Act (the FoIA). Under the FoIA, where a person makes a request in accordance with the requirements of the FoIA, the CMA may have to disclose whether it holds the information sought. The CMA may also be under a duty to disclose it unless an exemption applies. If you consider that any information you provide may be exempt from such disclosure you should say so and explain why.
- 4.14 This statement overrides any standard confidentiality disclaimer that may be generated by your organisation's IT system.
- 4.15 Further details of the CMA's approach can be found in the [Transparency and Disclosure: Statement of the CMA's Policy and Approach \(CMA6\)](#).

Compliance with the Cabinet Office Consultation Principles

- 4.16 This consultation is compliant with the latest Cabinet Office Consultation Principles. The Cabinet Office Consultation Principles criteria can be found at www.gov.uk/government/publications/consultation-principles-guidance.

After the consultation

- 4.17 We will collate and analyse the responses to the consultation and amend the draft compliance advice as appropriate. We will publish an anonymised summary of the responses that fall within the scope of the consultation together with a list of all respondents (save for individuals).
- 4.18 We aim to publish the final version of the compliance advice by Autumn 2024. The compliance advice will be available on our webpages at www.gov.uk/cma and respondents will be notified when it is available.