

# Unfair commercial practices

**CMA207con**

**Consultation on draft guidance on the protection  
from unfair trading provisions in the Digital Markets,  
Competition and Consumers Act 2024**

11 December 2024



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## 1. About this consultation

- 1.1 On 24 May 2024 Parliament passed the Digital Markets, Competition and Consumers Act (DMCC Act). The provisions in Chapter 1 of Part 4 of the DMCC Act prohibit unfair commercial practices, replacing and updating the Consumer Protection from Unfair Trading Regulations 2008 (CPUTRs).
- 1.2 The unfair commercial practices (UCP) provisions in the DMCC Act will come into force on a date which the Government appoints by statutory instrument<sup>1</sup> and will apply only in relation to acts or omissions that take place on or after that date.
- 1.3 The Competition and Markets Authority (CMA) has produced draft guidance (Draft Guidance) on the UCP provisions which updates and, once finalised, will replace its current guidance on the CPUTRs ([Consumer Protection from Unfair Trading Regulations - traders: OFT1008](#)). The CMA is inviting comments on the Draft Guidance. The specific questions on which the CMA is seeking respondents' views are listed in section 3 of this consultation document.
- 1.4 The Draft Guidance illustrates how the UCP provisions may apply in practice. It includes explanation and examples of commercial practices which:
- (a) are likely to cause consumers to take decisions they would not have taken otherwise as a result of misleading actions, misleading omissions, aggressive practices, or contraventions of the requirements of professional diligence, and
  - (b) are prohibited in all circumstances regardless of their impact on consumers' decision making. This includes the prohibition of 'drip pricing'<sup>2</sup> of mandatory charges and a new banned practice in relation to fake consumer reviews.
- 1.5 The UCP provisions apply to a wide array of commercial practices with the potential to affect consumers. While the Draft Guidance is intended to help traders, their advisers, enforcement authorities and others in understanding what actions are prohibited, it is non-exhaustive and is not a substitute for, or definitive interpretation of, the law and should be read in conjunction with it. Ultimately, whether a practice is unfair within the meaning of the UCP provisions will be decided depending on the facts of a particular case.

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<sup>1</sup> Commencement is a matter for the Government. The Government's [written ministerial statement](#) states that the UCP provisions are expected to come into force in April 2025.

<sup>2</sup> 'Drip pricing' occurs when consumers are shown an initial price for a product and additional fees are introduced (or 'dripped') as consumers proceed with a purchase or transaction.

## 2. Consultation process

- 2.1 The CMA is consulting for 6 weeks with a closing date of 22 January 2025.
- 2.2 Responses should be submitted by email to [consumerguidance@cma.gov.uk](mailto:consumerguidance@cma.gov.uk) or through the CMA's [consultation portal](#). Any queries about this consultation should be sent to [consumerguidance@cma.gov.uk](mailto:consumerguidance@cma.gov.uk).
- 2.3 When responding to this consultation, please state whether you are responding as an individual or are representing the views of a group or organisation. If the latter, please make clear who you are representing and their role or interest.
- 2.4 In pursuance of the CMA's policy of openness and transparency, the CMA will publish a non-confidential version of responses on its webpages. If your response contains any information that you regard as sensitive and that you would not wish to be published, please provide a non-confidential version for publication on the CMA's webpages which omits that material. You should at the same time explain why you regard the omitted material as sensitive.

### **Use of information and personal data that is supplied in consultation responses**

- 2.5 Any personal data that you supply in responding to this consultation will be processed by the CMA, as controller, in line with data protection legislation. This legislation is the General Data Protection Regulation 2016 and the Data Protection Act 2018. 'Personal data' is information which relates to a living individual who may be identifiable from it.
- 2.6 The CMA is processing this personal data for the purposes of its work under section 6 of the Enterprise Act 2002 (providing the public with information or advice on matters relating to its functions). This processing is necessary for the performance of the CMA's functions and is carried out in the public interest, in order to take consultation responses into account.
- 2.7 For more information about how the CMA processes personal data, your rights in relation to that personal data, how to contact the CMA, details of the CMA's Data Protection Officer, and how long the CMA retains personal data, see the [CMA's Privacy Notice](#).

- 2.8 The CMA's use of all information, including personal data, that it receives is also subject to Part 9 of the Enterprise Act 2002.<sup>3</sup>
- 2.9 The CMA may wish to refer to comments received in response to this consultation in future publications. In deciding whether to do so, the CMA will have regard to the need for excluding from publication, so far as practicable, any information relating to the private affairs of an individual or any commercial information relating to a business, where the CMA considers that disclosure might significantly harm the interests of that individual or business.
- 2.10 Please note that information, including personal data, provided in response to this consultation may be the subject of requests by members of the public under the Freedom of Information Act 2000. In responding to such requests, the CMA will take fully into consideration representations made by you in support of confidentiality. The CMA will also be mindful of its responsibilities under the data protection legislation referred to above and under the Enterprise Act 2002.
- 2.11 If you are replying by email, this statement overrides any standard confidentiality disclaimer that may be generated by your organisation's IT system.

## **After the consultation**

- 2.12 Following this consultation, the CMA will publish a non-confidential version of responses received during the consultation on its webpages.
- 2.13 Taking into account feedback received as part of this consultation, the CMA will publish its final guidance on the application of the prohibitions of unfair commercial practices in Chapter 1 of Part 4 of the DMCC Act.
- 2.14 While the Draft Guidance is currently presented in a single document to aid consultees, the CMA may restructure the guidance document into more than one document at final publication.

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<sup>3</sup> Part 9 of the EA02 imposes a general restriction on the disclosure of information which the CMA obtains during the exercise of any of its functions (referred to as 'specified information') to other persons. Guidance on the application of Part 9 EA02 and when disclosure of specified information may be permitted is set out in [Transparency and disclosure - statement of CMA's policy and approach: CMA6 - GOV.UK](#).

### 3. Consultation questions

In responding to these questions, please have regard to the Draft Guidance. Please give your reasons and any relevant supporting information or evidence in relation to your response.

- Q1. Do you have any comments on the structure or clarity of the Draft Guidance?
- Q2. Do you have any comments on the illustrative examples of commercial practices applying the prohibitions? Are there any areas where you think additional examples could usefully be reflected in the Draft Guidance?
- Q3. Do you have any comments on the Draft Guidance on the 'drip pricing' provisions in the DMCC Act (found in the 'Material pricing information' section of Chapter 9 of the Draft Guidance), including the illustrative examples? In particular, are there any specific pricing practices that have not been included in the 'drip pricing' illustrative examples which you think it would be helpful to include, and if so, what should such further guidance specifically cover?
- Q4. Do you have any comments on the Draft Guidance on the banned practice relating to fake consumer reviews (found in Annex B to the Draft Guidance)?
- Q5. Do you have any other comments on topics not covered by the specific questions above? If so, the CMA requests that respondents structure their responses to separate out their views in relation to each of the Draft Guidance's chapters.