

**Do you have any comments on the Draft Guidance on the 'drip pricing' provisions in the DMCC Act (found in the 'Material pricing information' section of Chapter 9 of the Draft Guidance), including the illustrative examples?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?**

Many companies encourage consumers to purchase goods and services by using an App or website. This reduces administration costs for the company and may be more convenient for customers who do not want to wait for customer service agent to become available. Some companies have gone further by making an additional charge for purchases made over the telephone. These additional charges (typically £10 to £20) may be reasonable but the existence of such a charge should always be made clear in an invitation of purchase. This is not always the case. For example, some companies may refer to such a charge in their terms and conditions on their website but others make no reference to this charge until the customer has started (or completed) the booking process. There may be analogous hidden charges where a consumer must pay to enter a market or exhibition or obtain a membership in order to purchase an item at the particular price. I believe the guidance document should be revised to cover this form of 'drip pricing' and prohibited.

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**Do you have any comments on the Draft Guidance on the banned practice relating to fake consumer reviews (found in Annex B to the Draft Guidance)?**

The draft guidance deals with the practice of publishing consumer reviews in a misleading way. This should address situations where review platforms allow companies to select the reviews that are presented to consumer's e.g. Trustpilot has a 'Trustbox' widget that enables to select only the best reviews to appear on a company website. The guidance also mentions the practices of 'cherry picking' positive reviews and encouraging just those who are satisfied to leave a review. I believe that there are two similar practices that should be explicitly mentioned and prohibited. 1. The practice of only asking for reviews if a purchase has been completed. For example a holiday company may issue review invitations a few days after a holiday has been completed. However, if a company or customer cancels a holiday booking the company the consumer may not be invited to leave a review. This means consumers are not given the chance to review how the cancellation and any refunds were dealt with. 2. One review platform (Feefo) allows companies to stop and start review invitations on request. Feefo says that companies may wish to stop consumer reviews if the company is experiencing technical or operational problems. I know that at least one holiday company stopped reviews on Feefo during the Covid lockdowns in 2020 and 2021. During this time the Feefo website should individual reviews and summary review information based on the

service provided prior to the Covid restrictions. In contrast other review platforms showed considerable dissatisfaction with the way the company was dealing with Covid cancellations and refunds.

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**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**

Paragraph 2.5 explains that the UCP provisions apply to commercial practices before, during and after a contract is made or a transaction takes place. I am concerned that some companies will seek to circumvent this requirement by using the phrase "terms and conditions apply". One area where I have a particular concern is in relation to holiday companies that encourage bookings using phrases such as "secure your holiday for £10" [Sykes Cottages] , "book your Easter holiday for just £25" [Cottages.com]. What these advertisements do not make clear is that the £10 and £25 is just an initial payment and, once a booking is made, the consumer is committed to paying at least the standard deposit for the holiday, even if they cancel within a few days of making the booking. Typically the full deposit will be one third of the cost of the holiday and could be several hundred pounds. Thousands of consumers are caught out by these offers every year and when they complain to the company they are told that they agreed to the terms and conditions when they booked. I consider that these adverts are likely to deceive the average consumer and this deception is not mitigated by the appearance of a footnote (often in small print) that says "T&Cs apply". I believe that the guidance document should explain that the phrase "T&C's apply" does not automatically absolve companies from deceptive presentation. Examples in paragraphs 6.5, 6.7, 7.4 or 9.11 could be used to illustrate this unacceptable practice. Chapter 3 of the guidance includes the definition of a consumer. It is not clear however whether the legislation applies to all consumers, irrespective of where they live in the world. Although it would not be appropriate to classify international consumers as 'vulnerable' there are some parallels in terms of characteristics and circumstances that are different to an 'average consumer' in the UK. For example, a consumer living in Australia may find it difficult to deal with a company in the UK because the company does not provide an email address for communications, and telephone lines and webchat facilities are only available during UK office hours. Similarly, if a company gives consumers a limited time to confirm information or to identify and correct errors the difference in time zones could be relevant to whether the overseas consumer would be able to respond. Paragraph 9.11 summarises the information that consumers must be given where traders make invitations to purchase. This includes "any existing email address used by the trader for conducting business". It is unclear how or whether this requirement would apply in situations where a business has chosen not to use email as a means of inbound

communication with consumers. Although almost all companies continue to use email to send messages and documents to consumers, many companies have elected, for various reasons, to not provide an email address to allow consumers to send messages, raise questions or to make complaints. I believe that failure to provide an email address for use by consumers is contrary to the requirements of the Electronic Commerce (EC Directive) Regulations 2002. Whatever the case, it would be helpful for both traders and consumers if the UCP guidance were to clarify whether, and under what circumstances, a trader is required to provide an email address for use by consumers.

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