

[REDACTED]
Kate & toms Ltd

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Q1. Do you have any comments on the structure or clarity of the Draft Guidance?

Certain elements of the proposed implementation may not align with established practices in the self-catering tourism industry and could lead to unintended consequences.

The draft guidance on unfair commercial practices under the DMCC Act 2024 poses serious risks to the short-term holiday let sector, especially for agencies. While consumer protection is crucial, some proposed measures could disrupt agency operations, compromise security, invade property owner privacy, and threaten the industry's integrity.

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 Are there any areas where you think additional examples could usefully be reflected in the Draft Guidance?

Tourism Levy

More guidance is needed on how tourism levy will be applied. The CMA guidance is clear that 'local taxes and other fees that become payable on arrival at hotels', are a mandatory charge. The Welsh tourism levy is charged per person per night, which may lead to discrepancies between advertised property capacity and the actual number of guests. While this won't affect the property price, it will impact the tourism levy. We request guidance confirming that in such cases, the total price can't be calculated in advance, and the calculation method (per person per night) should be clearly communicated to consumers. Including the levy based on maximum capacity in the headline price, then adjusting it for smaller groups, feels less transparent and unfairly inflates the price for larger properties booked by smaller parties.

Mandatory versus optional charges within the tourism industry9.20

There are industry specific examples which we are concerned may, but should not, fall within the 'viable in practice' bracket such as

- Holiday homes (and agents) that advertise as dog friendly (with this feature being their marketing focus) however there is an additional fee for bringing dogs.
- Some add ons may included extra linen, optional facility such as a hot tub.

We request further guidance and tourism-specific examples to clarify that optional charges, like those for pets, should not be treated as mandatory, especially when it's uncertain if the consumer will select them.

The draft guidance would benefit from examples relevant to the tourism industry, especially for online holiday accommodation bookings. Key points include:

1. When the "invitation to purchase" stage occurs.
2. What is required when the headline price depends on variable consumer information (e.g., visitor levies).
3. Which fees are mandatory (including damage deposits).
4. Correct use of headline price breakdowns.
5. Examples of context and limitations in communication, particularly for booking websites.

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?

We are concerned about how damage deposits in short-term holiday lets will be handled by legislation. Typically, a property has a headline price (e.g., £5,000) and an additional damage deposit (e.g., £1000), refunded if no damage occurs. This practice is widespread due to high potential damage costs and difficulty in recovering fees.

There are three common approaches:

1. An optional non-refundable damage waiver, which doesn't need to be included in the headline price.
2. A mandatory damage deposit at booking, refunded if there's no damage, which is not part of the holiday price.
3. A deposit held on the guest's card, taken only if damage occurs, with no upfront costs.

Current guidance is unclear on whether refundable damage deposits should be considered mandatory fees, especially when paid upfront but refunded later.

If a refundable damage deposit, whether paid upfront or held against a card, is deemed a mandatory fee, and therefore need to be included in the headline price, we are concerned that this will mislead the guest (customer) into thinking that the booking is more expensive than it is. The guest will only make payment permanent in the event of damage.

We do not believe it would be the spirit of the legislation that this charge should be included in the headline cost as only in extreme circumstances will it be paid. It should, however, be fully explained to consumers in the booking process and prior to purchase.

We request further guidance on these scenarios and strongly believe that the guidance needs to explicitly account for the charging of damage deposits that are 100% refundable and confirm they are not within the drip pricing requirements.

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)?

All ok

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.

The proposed requirement for agencies to disclose property owners' full contact details at the invitation to purchase stage raises concerns about privacy, security, and the viability of the agency model. This would increase the risk of fraud, undermine agencies' roles in guest screening and dispute resolution, and disrupt their business model, potentially leading to revenue losses and the withdrawal of properties from the market. We ask the CMA to amend the guidance, allowing agencies to continue their intermediary role to protect both owners and consumers. This change could undermine essential security, support, and fraud prevention provided by agencies.

Disclosure of contact information

We have concerns about the requirement to disclose the full contact information of any person a trader is acting for - relating to ourselves, an Agency, who is instructed to act on behalf of property owners.

Concerns about the Proposed Requirement for Disclosure of Owner Details

The draft CMA guidance (sections 7.11 and 9.12) suggests that the context and limitations of communication methods should be considered when determining the disclosure of contact information. However, practical examples of how this applies are scarce. Our concerns, particularly within the self-catering tourism industry, are outlined below.

Role of Holiday Booking Agencies

Holiday booking agencies play a vital role in marketing and promoting properties on behalf of individual property owners. These agencies range from large platforms like Airbnb, Booking.com, and VRBO, to smaller operators managing a handful of properties. Section 3.14 of the guidance includes agents in the definition of traders, but there is no explicit definition. Section 9.11(g) states that agents must disclose the contact details of the property owner, subject to context and communication limitations.

Practical Issues with Owner Contact Disclosure

1. **Owners' Preferences for Agency Engagement:** Many property owners engage agencies to avoid direct consumer interaction. They expect the agency to handle all queries and bookings, a well-established practice in the travel industry.
2. **Security Risks:** Making owners' contact details publicly available would expose them to significant risks, including:
 - **Spam:** Owners' email addresses would become targets for spam, undermining their confidence in the industry, especially in rural and coastal communities.
 - **Scams:** Malicious actors could exploit the exposed contact details for fraudulent schemes, such as offering fake bookings.

3. **Increased Risk for Criminal Activity:** If the agent is required to disclose the property address on public websites, criminals could exploit this information to identify unoccupied properties.
4. **Disrupting Agency Relationships:** Disclosure of owner details could lead to direct bookings, bypassing the agent, which undermines the agent's investment and commercial model.

Limitations and Risks of Disclosure

Displaying owner details on booking websites poses several risks:

1. **Security:** It exposes consumers to potential scam holidays.
2. **Spam:** Owners would be inundated with unsolicited emails.
3. **Property Security:** Publicly accessible details could jeopardize the physical security of the property.
4. **Commercial Impact:** Agents, who invest heavily in generating enquiries, would lose commission if bookings are made directly with the owner.

Existing Safeguards

Agents already have systems in place to address these risks, such as providing owner information through customer service teams with monitored emails and phone numbers.

Request for Guidance Update

We request that the guidance be updated to confirm that, in the context of marketing properties on multiple platforms and ensuring security through customer service, agents are not required to disclose the property owner's contact details at the invitation to purchase stage. This would better align with the interests of agents, owners, and consumers, and avoid undermining the established agency model.