

## CMA Unfair Commercial Practices Consultation

### Online Travel Coalition Response

#### Executive Summary

Online Travel Coalition (OTUK) welcomes the Competition and Markets Authority's consultation on addressing unfair commercial practices. We offer the following response to highlight areas of alignment with the CMA's proposals and provide our key recommendations to ensure the measures are both practical and proportionate in their implementation.

#### **Drip Pricing**

OTUK supports the CMA's proposal to require traders to display the total price, inclusive of all mandatory charges, at the invitation to purchase. In many cases, our members already comply with existing regulatory frameworks that require clear presentation of pricing information, such as the Package Travel Regulations and the CMA's established principles. Alignment with these rules is essential.

#### **Key Asks:**

- **Alignment with Existing Frameworks:** Recognise the industry's ongoing compliance with established guidelines to avoid unnecessary duplication of regulatory requirements.
- **Phased Implementation:** Ensure that businesses are given sufficient time to implement the necessary system adaptations.
- **Clear Guidance on Variable or Refundable Charges:** Establish clear protocols for the disclosure of costs that cannot be calculated in advance, ensuring fairness and clarity for both businesses and consumers.
- **Flexibility in Presentation:** Allow for flexible, user-friendly presentation methods, such as drop-down menus, to balance transparency with ease of use and avoid confusing user interfaces.

#### **Fake Reviews**

OTUK supports the CMA's proposal to ban fake reviews and increase transparency around incentivised reviews. We recognise the importance of trust in consumer reviews and encourage the regulator to support compliance by UK businesses by taking a flexible approach to how the regulatory regime applies to different companies. However, there are some clarifications required to ensure the regime operates effectively.

#### **Key Asks:**

- **Clear Definitions:** Provide clear, precise definitions of "fake" and "incentivised" reviews to avoid unintended consequences and ensure clarity for businesses.
- **De Minimis Thresholds:** Exclude minor incentives, such as loyalty points, coupons, generic discounts, or other price reductions from the scope of disclosure requirements to target incentives offered specifically to encourage positive or negative reviews and prevent over-regulation of low-impact incentives.

- **Global and UK alignment:** *Align the UK's approach with international standards, including those established by the US Federal Trade Commission (FTC), to simplify compliance for businesses operating globally. In addition, the CMA should recognise the obligations of some companies under the Online Safety Act to provide risk assessments which may overlap with this guidance. We ask for clarification on the nature of any risk assessment to avoid overlap, and ensure that this requirement is not applied to sites merely hosting reviews from third-party providers. Further, we would also seek cooperation between the CMA and Ofcom to prevent duplications.*
- **Third-party reviews:** *Platforms relying on third-party review providers should be permitted to depend on agreements to meet their commitments under this guidance. This approach balances accountability with the practicalities of operating large-scale platforms, and avoids burdensome, duplicative and anti-growth regulation.*

### **Prohibiting Misleading Consumer Review Information**

*OTUK supports the CMA's intention to prohibit misleading consumer review practices, including inaccurate aggregated scores or rankings influenced by fake or undisclosed incentivised reviews. As with our above comments, there are some clarifications required to ensure the regime operates effectively.*

#### **Key Asks:**

- **Proportionate Compliance Obligations:** *Ensure compliance requirements reflect the complexity of moderating user-generated content, do not introduce obligations to proactively moderate or monitor user-generated content and consider existing regulatory requirements, to avoid placing undue burden on businesses that could hamper economic growth.*
- **Third party reviews:** *as with fake reviews, platforms hosting aggregated ratings provided by third parties should be able to rely on agreements with that third-party platform to prove compliance.*

*OTUK appreciates the CMA's work in this area, and supported the principles of the Digital Markets, Competition and Consumers Act, which enabled these new rules. By aligning the CMA's proposals with existing frameworks, ensuring phased implementation, and refining definitions and compliance requirements, the regulator and industry can achieve its objectives while minimising unnecessary regulatory burdens on businesses that are already compliant with relevant standards.*

## **DRIP PRICING**

### **Total Price Requirement in an Invitation to Purchase**

As Online Travel UK (OTUK) we support the CMA's proposal to require traders to clearly display the total price of a product or service upfront in any invitation to purchase. This total price must include all mandatory charges, such as administration, booking, and processing fees, taxes, delivery charges, and any other essential costs needed for the consumer to receive or use the product.

Providing this transparency is essential to protect consumers from "drip pricing," where additional charges are revealed later in the purchasing process. To ensure fairness, we advocate for consistent enforcement of these rules across all sectors, including travel platforms, which must be held to the same standards as other industries.

It should be noted that members of OTUK, and online travel agencies generally, already adhere to a robust set of regulations and guidelines designed to ensure pricing transparency. These include the Package Travel Regulations, the CMA's 2019 Principles for Consumer Protection in the Accommodation Booking Sector, the CMA's 2018 guidance "Selling Car Rental", the ATOL Regulations, and the Civil Aviation Authority's guidance on the sale and advertising of flights and holidays. These frameworks already align closely with the objectives set out in the CMA's consultation and provide effective protections for consumers.

We also welcome the consultation's reference to the Package Travel Regulations as an example of pricing transparency standards. Many of the proposed requirements reflect practices already embedded in the travel industry. Acknowledging this alignment would avoid redundant changes and provide businesses with much-needed clarity. Overlapping or conflicting requirements would create unnecessary complexity for businesses and could disrupt established practices that already meet high transparency standards. We encourage the CMA to acknowledge these existing frameworks in its final guidance to ensure regulatory consistency.

To facilitate a smooth transition, we recommend the CMA adopt a phased implementation period. This would allow travel platforms adequate time to adapt their systems and processes to comply with any new requirements, minimising operational disruption while ensuring adherence to the rules.

In summary, while we support the CMA's efforts to enhance transparency and protect consumers from harmful practices, we urge a pragmatic approach. By ensuring alignment with existing regulations and adopting a phased implementation, the CMA can achieve its objectives without imposing unnecessary burdens on compliant businesses.

### **Definition of Mandatory Charges**

To ensure clarity and alignment with the consultation objectives, we propose the following response regarding the definition of mandatory charges:

OTUK members support the inclusion of region-specific charges, provided these charges are unavoidable and foreseeable. However, it is critical that businesses are not subjected to excessive administrative burdens, and that the rules avoid creating unnecessary complexity or confusion for consumers. We believe that traders should retain discretion over how they present prices and pricing information, including itemisation. This flexibility will allow businesses to adapt their pricing strategies without being overly restrictive, while still ensuring transparency for consumers.

We recommend that the CMA consider the "unavoidable and foreseeable" nature of mandatory charges, as established in Regulation 1008/2008. This framework provides a useful benchmark for ensuring consistency and fairness in the application of these rules.

OTUK recommends that the CMA introduce a de minimis threshold, similar to the approach proposed for Concealed Incentivised Reviews, to exclude cases where an undisclosed charge is insignificant in proportion to the total price. This objective threshold would ensure that minor discrepancies do not automatically result in non-compliance.

For clarity, this threshold should apply only to charges within the trader's control and included in the total price displayed, rather than costs independently incurred by consumers (e.g., user bank fees). Such a threshold would provide traders with the certainty needed to navigate pricing complexities without creating unnecessary regulatory burdens, while also ensuring consumer trust is maintained.

An example of the potential challenges in defining mandatory charges is airport-specific fees, such as the Norwich Airport Development Fee. While not included in the ticket price, this charge is mandatory for consumers wishing to access services. Clarification is requested on how such charges should be treated to avoid confusion and ensure compliance across the sector.

OTUK encourages the CMA to provide practical guidance that reflects these considerations and ensures consistency with existing regulatory frameworks. Clear and enforceable definitions will benefit consumers by promoting transparency, while offering businesses the clarity needed to align their practices with the proposed requirements.

### **Price Cannot Be Calculated in Advance**

OTUK recognises that certain scenarios make it impractical to calculate the total price of a product or service upfront. For example, charges based on distance, consumption, or variable fees, such as certain local taxes or resort fees, can depend on factors beyond a trader's control. However, in the context of tourism taxes, OTUK supports the current standard practice, which allows platforms to calculate and display such taxes as part of the total price based on the details provided by travellers (e.g., dates, number of guests, and ages).

Where straightforward exemptions apply, such as age-based exemptions, these can also be factored into the calculation, as platforms generally have access to this information through search parameters. However, for more complex exemptions (e.g., those applicable to veterans or carers), it is not feasible for platforms to have the necessary details at the point of booking. In these instances, the standard approach of displaying the tax based on available information and noting that specific exemptions may apply ensures transparency while accommodating operational limitations.

OTUK urges the CMA to avoid introducing new guidance that could unintentionally disrupt the established approach to displaying tourism taxes. It is important that traders are not required to treat narrow exemptions that apply to a small subset of travellers as a reason to conclude that the tax cannot be calculated for any bookings. Instead, the focus should remain on providing clear, accurate information based on the details available at the time of booking while acknowledging the potential for specific exemptions.

We also request that the CMA acknowledge that intermediaries, such as travel platforms, rely on their partners (e.g., hotels, airlines) to provide accurate pricing information. Intermediaries should not be penalised for the failures of their partners to provide up-to-date or complete

pricing details. This is particularly relevant in cases where charges are subject to change by the provider, such as resort fees or specific property-based charges.

Finally, we encourage the CMA to consider the practicality of displaying all potential charges with equal prominence to the base price. In cases involving complex variable charges, a flexible approach, such as expandable drop-down menus or hover-over details, can provide a user-friendly solution while maintaining transparency. Clear and pragmatic guidance will enable the industry to uphold the principle of transparency without imposing unnecessary burdens or prescriptive requirements that could disrupt consumer engagement. Businesses should have the flexibility to design their user interfaces in a way that makes most sense for their business and its users. Indeed, the design of user interfaces is an important means of competition between travel platforms, and the CMA should avoid prescriptive rules and requirements in this area.

### **Presentation of Material Pricing Information**

OTUK members recommend that pricing information must be presented in a clear and accessible manner, ensuring that consumers can easily calculate the total price of a product or service. To achieve this, all relevant pricing components should be visible during the invitation to purchase and should not be buried in terms and conditions or presented in small, difficult-to-read text.

While we fully support the principle of transparency, we urge caution against overwhelming consumers with excessive pricing details. The CMA should strike a balance between the need for clarity and usability. Platforms should not be penalised for presenting information concisely, provided it remains clear and easy to understand. Overloading consumers with unnecessary details could detract from the overall user experience, and unfairly impact competition in the travel sector.

OTUK has concerns over whether itemised pricing information will be required, or whether ensuring clarity and accessibility will suffice. OTUK members strongly encourage the CMA to provide flexibility in how pricing information is displayed, acknowledging the varying limitations of different platforms and communication methods. This flexibility will ensure that pricing information remains consumer-friendly and aligned with the capabilities of online platforms.

### **Assessment of Compliance**

OTUK supports the proposal that the medium of communication, whether an online platform or print advertisement, should be taken into account when assessing a trader's compliance with the requirement to provide total price information. Traders should be expected to take reasonable steps to address the inherent limitations of each communication platform, such as limited space on websites or in print media, as well as limited space in apps on mobile devices, plus the unique circumstances of specific businesses (travel intermediaries must display more information than individual providers such as airline or car rental websites, for example, given the greater number of itineraries and providers they display). This ensures that all pricing details are presented in a way that consumers can easily access and that they are not misled by hidden or additional charges.

It is critical that these requirements are enforced consistently across all sectors, including travel platforms, to prevent any disproportionate targeting. The same standards should apply across industries, ensuring fairness and consistency in enforcement.

We also recommend that the CMA allows for flexibility in cases where it is not reasonable to calculate the total price in advance, such as in accommodation pricing influenced by seasonal demand or transport costs reliant on fuel prices. In these instances, the CMA should provide clear guidance on how seasonal variations in pricing can be reflected in the total price, ensuring that consumers are not misled by fluctuating rates.

Furthermore, the CMA should avoid imposing overly prescriptive rules on how pricing information is displayed on online platforms. Platforms should be able to present pricing details in a user-friendly way that still ensures essential pricing information remains clear and accessible to consumers.

### **Complex Pricing and Multiple Factors**

We support the recommendation that traders provide realistic estimates or indicative pricing for products or services with complex pricing factors, such as distance or party size. This approach ensures that consumers are not misled by pricing practices, allowing them to better understand the potential costs associated with their purchases.

An example of this challenge can be found with travel intermediaries, which often struggle to provide accurate pricing due to fluctuating costs such as resort fees or variable local taxes, which can change at short notice. OTUK members recommend that the CMA provide guidance on acceptable methods for communicating “indicative pricing.” This would help clarify how these prices, which may vary based on specific circumstances, should be communicated to consumers without causing confusion.

### **FAKE REVIEWS**

As Online Travel UK, we support the CMA’s proposal to prohibit the creation or commissioning of fake consumer reviews that are not based on genuine experiences. This measure is critical to safeguarding consumer trust, protecting legitimate businesses, and ensuring a fair marketplace.

Fake reviews undermine transparency, mislead consumers, and harm competition. Addressing this issue is vital for maintaining confidence in the online review ecosystem, which is an integral part of many purchasing decisions.

Members of OTUK welcome the CMA’s focus on this issue and note the definition of fake reviews set out in primary legislation. While recognising it is not possible for the CMA to amend the legal framework, we suggest a useful addition for future consideration by policy makers, to state: “with the intent to deliberately mislead.” This amendment would help ensure that situations where the recollections of a traveller and a supplier differ, but the experience is nonetheless valid, are not inadvertently captured under the prohibition.

The CMA should also ensure consistency with international frameworks, such as the US Federal Trade Commission's rules on fake reviews, to create a harmonised global approach. This would bolster consumer confidence and facilitate compliance for businesses operating across borders.

OTUK members already adhere to rigorous standards and practices aimed at maintaining the integrity of online reviews. These include internal policies, moderation processes, partner policies, contractual arrangements, and adherence to existing regulations. The CMA's final guidance should acknowledge these efforts and avoid introducing overlapping or conflicting requirements that could impose unnecessary burdens on compliant businesses.

### **Concealed Incentivised Reviews**

We support the CMA's proposal to prohibit reviews that fail to disclose incentivisation, where a review is influenced by a commercial relationship such as free products, discounts, or commissions explicitly awarded to encourage positive reviews. Requiring clear disclosure of such arrangements or labelling them as advertisements when appropriate is essential to maintain consumer trust and prevent deceptive practices.

However, this approach must be carefully calibrated to avoid unintended consequences. Incentivised reviews, when genuine, can play a valuable role in encouraging consumer participation without compromising authenticity or transparency.

OTUK members highlight the following considerations to ensure the proposal is both fair and practical:

- **Establishing a de minimis threshold:** A threshold for incentivisation should be introduced to avoid disproportionate regulatory burdens. For instance, small-scale incentives such as loyalty points or vouchers that encourage genuine feedback or generic discounts that may improve customer satisfaction thereby leading to positive feedback should not be equated with advertisements requiring disclosure.
- **Clarifying definitions:** The terms "financial interest" and "commercial link" should focus on explicit offers of financial or commercial incentives offered in exchange for reviews. This refinement would ensure the regulation targets genuinely problematic practices without penalising incidental or benign incentives. Furthermore, as drafted, it could be considered to prohibit any employee from leaving a review even if they use the service as a customer.
- **Third-party reviews:** Platforms relying on third-party review providers should be permitted to depend on agreements ensuring proper disclosure by the source. This approach balances accountability with the practicalities of operating large-scale platforms, and avoids duplicative and unnecessary compliance burdens
- **Aggregated scores:** Excluding incentivised reviews from aggregated scores is unnecessarily restrictive and risks reducing the value of review platforms for consumers.

OTUK emphasises the importance of balancing regulatory objectives with practical considerations. Genuine incentivised reviews promote engagement while maintaining authenticity, and overly broad regulation could unintentionally undermine consumer trust by reducing the volume and diversity of reviews available.

In summary, OTUK supports the CMA's efforts to ensure transparency and prevent deceptive practices in incentivised reviews. By refining definitions, introducing a de minimis threshold, and adopting a proportionate approach to third-party reviews and aggregated scores, the CMA can strike the right balance between protecting consumers and maintaining the benefits of genuine, incentivised reviews.

### **Prohibiting Misleading Consumer Review Information**

We support the CMA's proposal to prohibit the publication of misleading consumer review information, including aggregated ratings or rankings derived from fake or undisclosed incentivised reviews. This is a step towards enhancing transparency and protecting consumers from the harm caused by misleading or distorted representations of products and services.

Misleading consumer reviews have an impact on consumer decision-making and can distort fair competition. Addressing this issue will help ensure that consumers can rely on authentic and accurate reviews when making purchasing decisions, promoting a more transparent and trustworthy marketplace.

However, to achieve a balanced and effective approach, we recommend that enforcement be proportionate. It is crucial that platforms are not overburdened with excessive compliance obligations, particularly given the complexities involved in moderating user-generated content. Clear, practical guidelines will be essential to avoid imposing undue burdens on businesses that are operating in good faith. As with fake reviews, platforms hosting aggregated ratings provided by third-party platforms should be able to rely on agreements with that third-party platform to prove compliance.

In summary, we strongly support the CMA's efforts to tackle misleading consumer reviews, provided that enforcement is balanced and fair. By ensuring a proportionate regulatory approach, the CMA can achieve its objectives without placing unnecessary burdens on businesses committed to transparency.

### **Submitting or Commissioning Fake or Concealed Incentivised Reviews**

We support the CMA's proposal to prohibit practices such as offering free or discounted products in exchange for fake reviews, requesting customers to amend reviews, or commissioning influencers to post incentivised reviews without disclosure. These deceptive practices undermine consumer trust and distort market competition, making it essential to address them through clear regulatory action.

The purpose of this proposal is crucial for maintaining the integrity of consumer reviews. By addressing these unethical practices, the CMA will help ensure that consumers are empowered to make informed purchasing decisions based on truthful and transparent information. This approach will also contribute to fairer competition and help prevent misleading representations of products and services. It also has the added benefit of addressing the problem at source, ensuring that regulatory burden and enforcement are targeted at the right entities and behaviour, and aligning with international regulatory standards, as seen in the approach recently taken by the US Federal Trade Commission.



We agree that clarity on what constitutes an "incentivised" review is required. However, we do not believe that the CMA should provide prescriptive guidance on "how" incentivised reviews should be disclosed. The manner, format, and wording used in disclosures should be left to the discretion of platforms hosting the reviews, allowing for flexibility in how disclosure is implemented while maintaining transparency.

To support the effective implementation of this proposal, we recommend that the CMA provide clear and practical guidance on the factors which may trigger an obligation to disclose the "incentivised" nature of reviews, particularly in cross-border contexts. Given the global nature of online platforms, clarity on when disclosure obligations apply will be critical for businesses operating in multiple jurisdictions to ensure compliance.

Additionally, we suggest the CMA implement educational campaigns to raise awareness of the new requirements among both businesses and consumers. This will help prevent unintentional violations and ensure that all parties understand their obligations under the new rules, fostering a culture of compliance.

### **Platform Responsibilities**

We support the CMA's proposal that certain platforms must take reasonable steps to prevent and remove fake and misleading reviews, including the implementation of policies, risk assessments, and appropriate sanctions. We also welcome the regulator's recognition that different types of businesses may need to adopt tailored approaches to meet these objectives, although we believe that the CMA could go further in achieving proportionality

We appreciate the CMA's inclusion of examples to clarify what constitutes "reasonable steps" in the proposal. These examples are valuable in reducing ambiguity and providing practical guidance for platforms. This clarity will greatly assist platforms in understanding their obligations and enable smoother implementation of the requirements. However, we firmly believe that platforms that only show reviews from third-party websites, which are already implementing their own moderation processes to ensure the validity of reviews, should be able to rely on agreements with those third-party providers to demonstrate compliance. Requiring those platforms to replicate the same processes as the providers of the reviews would be duplicative and unnecessary.

It is important to recognise that many platforms already employ robust moderation processes to manage reviews. For platforms with established practices, the CMA should clarify that these existing measures can be taken into account, rather than requiring businesses to start from scratch with new risk assessments. Acknowledging the efforts already in place will help avoid unnecessary duplication of work and encourage platforms to build upon existing best practices.

Additionally, we suggest that the CMA carefully balance platform obligations to avoid disproportionately burdening platforms.

OTUK also requests that the CMA expressly acknowledges in the draft guidance that, whilst platforms should not be under an obligation to do so, it may be legitimate practice for platform operators to prevent or remove reviews where there is an ongoing dispute between the reviewer and the reviewee. This situation can be distinguished from where a reviewee disputes

the content of the review itself (as identified by the CMA in paragraph B.44(b) of the draft guidance). In cases of a dispute between the reviewer and the reviewee, any review may not necessarily be considered genuine, and platform operators should be able to act appropriately by preventing or removing such reviews.

Further, the Draft Guidance provides a number of examples that can be interpreted as extending further than simply seeking to prevent the publication of fake reviews. There are circumstances in which a service will remove reviews that are not motivated by the removal of negative reviews but, based on the examples provided in the Draft Guidance, may be prohibited. The CMA should acknowledge that traders may need to prohibit / remove reviews based on publicly accessible policies. We encourage the CMA to add an acknowledgement in paragraph B.20 of the Guidance that the rules are without prejudice to policies adopted by traders that are not intended to suppress negative reviews, provided those policies are publicly available and operated in good faith.

### **Alignment with Existing Frameworks**

Some Online Travel Platforms (although not all OTUK members) have responsibilities to protect users from harmful and illegal content under the Online Safety Act. While online travel platforms are generally considered low risk, our members in scope of the rules take their responsibilities seriously. However, to avoid unnecessary duplication, we ask the CMA and Ofcom to consider how the risk assessment for illegal content under the OSA may overlap with the risk assessment for fake reviews required by this guidance.

It is essential that these assessments do not replicate each other. We would appreciate further clarity on the nature and key topics expected of the risk assessment for fake reviews so that companies in scope of both regimes can clearly understand their responsibilities. Where the two regimes overlap, we encourage steps to harmonise them, such as recognising that an OSA risk assessment can address fake reviews and inform mitigations, rather than requiring separate assessments.

We urge the CMA and other digital regulators to carefully consider the cumulative impact of digital regulations on businesses and ensure that regulation is appropriately targeted to avoid hindering innovation.

Additionally, we strongly challenge the CMA's stance that platform operators should use available information to assess whether users have correctly identified themselves as traders or consumers. This position diverges from the EU approach, where self-declaration by the trader is usually sufficient, and undermines the principle of the 'hosting defence' that outlines when a platform operator is liable for third-party content. Platforms must be able to rely on users' declarations and should not be required to proactively verify and monitor their activities. While we agree that sign-up processes should discourage misrepresentation, the proposals create an unrealistic level of diligence and liability for platform operators. We believe it is not appropriate to interpret principles-based legislation in a way that contradicts existing legislation on the same issue.

### **About Online Travel UK**

*Online Travel UK represents leading UK online travel services (further information can be found at [www.onlinetraveluk.com](http://www.onlinetraveluk.com)). Our members facilitate seamless travel experiences for consumers by providing comparison services and access to the best deals on the market. We are committed to fostering competition and transparency to drive growth in the travel sector while also prioritising consumer welfare.*