



Skyscanner response to the CMA consultation on the draft guidance on the protection from unfair trading provisions in the DMCCA 2024

Q1 - Do you have any comments on the structure or clarity of the Draft Guidance?

The draft guidance is, on the whole, structured logically and reads well. We appreciate the number and range of examples the CMA has included to demonstrate commercial practices that could or could not be considered unfair. When it comes to the new provisions on drip pricing and fake reviews, we feel there are areas where the guidance does not consider the nature of a service like ours (a metasearch service which displays curated third-party information) and we would appreciate revisions to the guidance accordingly (more details below).

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 Are there any areas where you think additional examples could usefully be reflected in the Draft Guidance?

The UCP framework that the DMCCA restates (with some changes) has existed for a long time and many businesses, including Skyscanner, have long been familiar with it. The CMA's new guidance is nonetheless a helpful aide in navigating the requirements, particularly through the frequent examples included. For example, it is helpful to see how practices that were discussed during the DMCCA's passage through Parliament – for instance, greenwashing, for which some MPs had argued that separate provisions would be needed – can be captured by the regulations (p37).

An example we particularly welcome is example two on page 33, which describes the misleading action of a 'trader who pays for search results to be shown to consumers who search for a competitor's product, which lead to a website with a domain name that suggests it is operated by that competitor (while in fact it is not), and as a result consumers purchase products from that website.' Over the past years, we have often seen companies bid for paid search advertising on keywords relating to Skyscanner, in order to mislead consumers into thinking they were Skyscanner (they also often had a domain name designed to appear very similar to Skyscanner) which has misled customers. Many of them have contacted us with complaints or questions relating to their bookings, believing they had booked via Skyscanner. We are keen for the CMA to enforce the UCPs against such actors that are causing active harm to consumers and are damaging our brand in the process.

On the other hand, we are not under the impression that the guidance on the new provisions on drip pricing and fake reviews sufficiently accounts for the nature of a travel metasearch service and its capabilities. The guidance should be amended to ensure it can usefully guide such platforms. We have expanded on these points below.



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?

Skyscanner supports the drip pricing provisions made in the DMCCA. Our company was founded to make travel simple and transparent for everyone. We search billions of prices for flights, hotels and car hire to help consumers find the best deals available, and we are committed to providing unbiased and transparent information. Price transparency is thus at the core of our offering, and we strongly feel that consumers everywhere deserve to easily understand the total price of the products they are interested in. Indeed, effective price comparison cannot take place without transparency over total cost.

The DMCCA, and accordingly the CMA's guidance, requires traders to provide the total price of a product, which includes 'any fees, taxes, charges or other payments that the consumer will necessarily incur if the consumer purchases the product'.¹ We appreciate how clearly the concept of mandatory fees is explained in the guidance. In recent years, aviation has seen a trend towards unbundling, where often the base price does not include optional extras such as the ability to choose a specific seat (as opposed to the right to a random seat, which is necessarily included in the purchase price) or large cabin bags or checked luggage in the price. We welcome the clarity provided by the Department for Business and Trade's (DBT) confirmation from January 2024 that these optional fees such as airline seat and luggage upgrades for flights are not captured by the provisions for drip pricing as they are not mandatory charges – this corresponds to our understanding of the DMCCA and the CMA's draft guidance. Given this is a topic of interest for many consumers, the CMA may find it useful to include a corresponding example for the avoidance of doubt. Even though such optional extras will not be covered by the provisions, Skyscanner, by virtue of our aim to provide the most useful and comprehensive information to travellers, displays how the prices offered by airlines or online travel agency for a selected flight change when travellers add cabin bags or checked luggage (where the information is available).

While we have numerous systems and processes in place to ensure the completeness and accuracy of the pricing information we display, as a metasearch site we are reliant on our upstream partners providing us with complete and accurate pricing information. In some instances, hotels will charge fees (such as resort fees) that they themselves may not communicate clearly in advance and may not share with us. We have policies in place to ensure that our partners do not add any mandatory fees as part of the booking flow that they have not surfaced on our site – however, there have been instances of partners not complying with

¹ Where, because of the nature of the product, the price cannot be reasonably calculated in advance, traders must instead set out the way in which it will be calculated.



these policies, and in such instances we should not be held liable. We include all taxes and fees that we are aware of. It should also be noted that prices in the travel sector fluctuate frequently, and we cannot always guarantee that our partners have informed us of the latest changes in a timely manner. It is vital that intermediaries are not penalised for the failure of their partners to provide complete and accurate pricing information and we would urge the CMA to clarify this in the guidance.

Finally, displaying the range and quantity of offers we do on our website is a complex business. As a metasearch service, we aggregate billions of prices and organise them so that travellers can easily understand which offer is best for them (whether on the basis of price, convenience, or other factors). For example, we display far more options than airline websites, given the greater number of itineraries and providers (including online travel agencies) we aggregate on our site. This means the space we have available to communicate the details of an offer is limited, and we have made considerable efforts to design our site in a way that is useful and intuitive for our travellers and enables effective price comparison. Indeed, the design of user interfaces is an important means of competition between travel platforms, so the CMA should avoid prescriptive rules and requirements in this area. We welcome the CMA's repeated acknowledgement, in line with the provisions of the DMCCA, that it will consider limitations of space and time inherent to the given means of communication when evaluating the compliance of price displays.

In particular, we welcome the example on page 56, which makes clear that where multiple options are being offered for the purchase of a particular item, it is a permissible practice to provide more detail on a subsequent page as long as the customer can easily navigate there. On our site, if a user searches for a flight or hotel stay, they will be presented with a panel of options including the price from which these options are available. If they select the option, this will lead them to a page that displays all the available offers for that flight or hotel, before they are redirected to book via the selected provider. In essence, due to the nature of the search and quantity of aggregated options, this means there are more comparison variables in travel searches than in the provided example. We ask that the CMA confirm in its guidance that it will consider the complexity of the underlying search at hand when evaluating whether traders are complying with the drip pricing regulations.

The CMA should also strengthen its guidance on indicative pricing and clarify that there is no requirement to display all potential charges with equal prominence to the base price (where the total price cannot reasonably be calculated in advance) – in many cases, this is likely to overwhelm consumers. The CMA should more clearly state that it will consider a flexible approach, such as expandable drop-down menus or hover-over details, to be compliant given the requirement is also subject to considerations of limited space and time. Such features can provide a user-friendly solution while maintaining transparency.



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)?

Fake reviews mislead consumers and harm traders. In travel, trust is an important currency, and Skyscanner supports the DMCCA's provisions that prohibit the submission or commissioning of fake consumer reviews (positive or negative) that are not based on genuine experiences.

Tackling the submission and commissioning of fake consumer reviews should be the focus of the CMA's enforcement action – it lies at the root of all other provisions related to fake reviews and eradicating these practices will have the largest impact. This would align with the recent US Federal Trade Commission (FTC) [rule on fake reviews](#), which prohibits their sale or purchase.

While we support the overall provisions, we are concerned that the CMA has not sufficiently considered the nature of services like ours in developing the guidance on the remaining provisions regarding fake reviews.

For example, the CMA appears to argue at B.53 (a) that platforms hosting reviews of third-party products or services will likely need to implement more robust measures to deal with fake reviews than sites that host reviews on their own products or services. However, this blanket assertion fails to consider services like Skyscanner that are aggregating reviews originally posted on platforms hosting reviews about third-party products, but which have no review-posting features of their own. As elaborated below, we support the proposed measures but believe that these obligations should rightfully fall on platforms that actually allow users to post reviews. Those are the platforms that are best placed to implement the measures being proposed – this will also benefit users on Skyscanner since the reviews displayed will already have been audited.

Our site hosts two types of content that is relevant to these provisions – firstly, reviews plugged in from third parties in our hotel search feature (travellers can see reviews of hotels from Tripadvisor, Trip.com, Expedia, and Hotels.com both individually and as an overall rating). Secondly, for our flights and cars search, users benefit from a quality rating score that is based on survey results from users combined with post-booking feedback received by our Support Team about the travel provider – this is provided as an aggregate star rating (users cannot see individual reviews).

We understand that platforms are under the active obligation to take reasonable and proportionate steps to prevent and remove from publication banned reviews and false or misleading consumer review information. Skyscanner has procedures in place to ensure the reviews that form part of our quality rating score for our partners are not generated artificially and stem from users that booked via Skyscanner, and we rely on the partners that supply us with reviews to ensure the information is accurate.



We believe that in our case, a requirement to 'conduct regular and comprehensive risk assessments', and to review and update them frequently, is completely disproportionate and extends far beyond the legal requirements of the DMCCA. The CMA should not impose such a blanket requirement in its guidance, which will likely require the diversion of significant resources from other business activities, adds to the growing list of risk assessments that companies will have to complete anyway under the Online Safety Act (with some duplicative provisions), produces unnecessary costs for services that are at low risk of displaying fake reviews (given, for example, that our partners will already have procedures in place to ensure the reviews shared with us are genuine), and is by no means in line with the growth objective the Government has set the CMA.

Furthermore, many of the measures the CMA has recommended that all publishers should take to mitigate the risk of fake reviews or misleading consumer review information on their service are not practicable for us as a service that displays reviews from third parties. Moreover, it is disappointing that the CMA's interpretation of what can be considered 'reasonable and proportionate steps' does not take into account the degree of control a platform may have over the reviews published on its site. For example, we are not usually able to delete reviews syndicated from third parties on our site without significant changes to the code, which would be extremely time-consuming, difficult to execute, and clearly presents a disproportionate requirement for a site like ours. Instead, such obligations should sit with the platform where the review was first published.

We firmly believe that platforms that only show reviews (or aggregated review information) from third-party websites, which are already implementing their own moderation processes to ensure the validity of reviews, should be able to rely on these partners, who will already have taken steps to comply with the requirement to take reasonable and proportionate steps to prevent and remove fake reviews, concealed incentivised reviews and false or misleading consumer review information. Requiring us to replicate the same regular risk assessment processes and measures as the providers of the reviews would be duplicative and unnecessary.