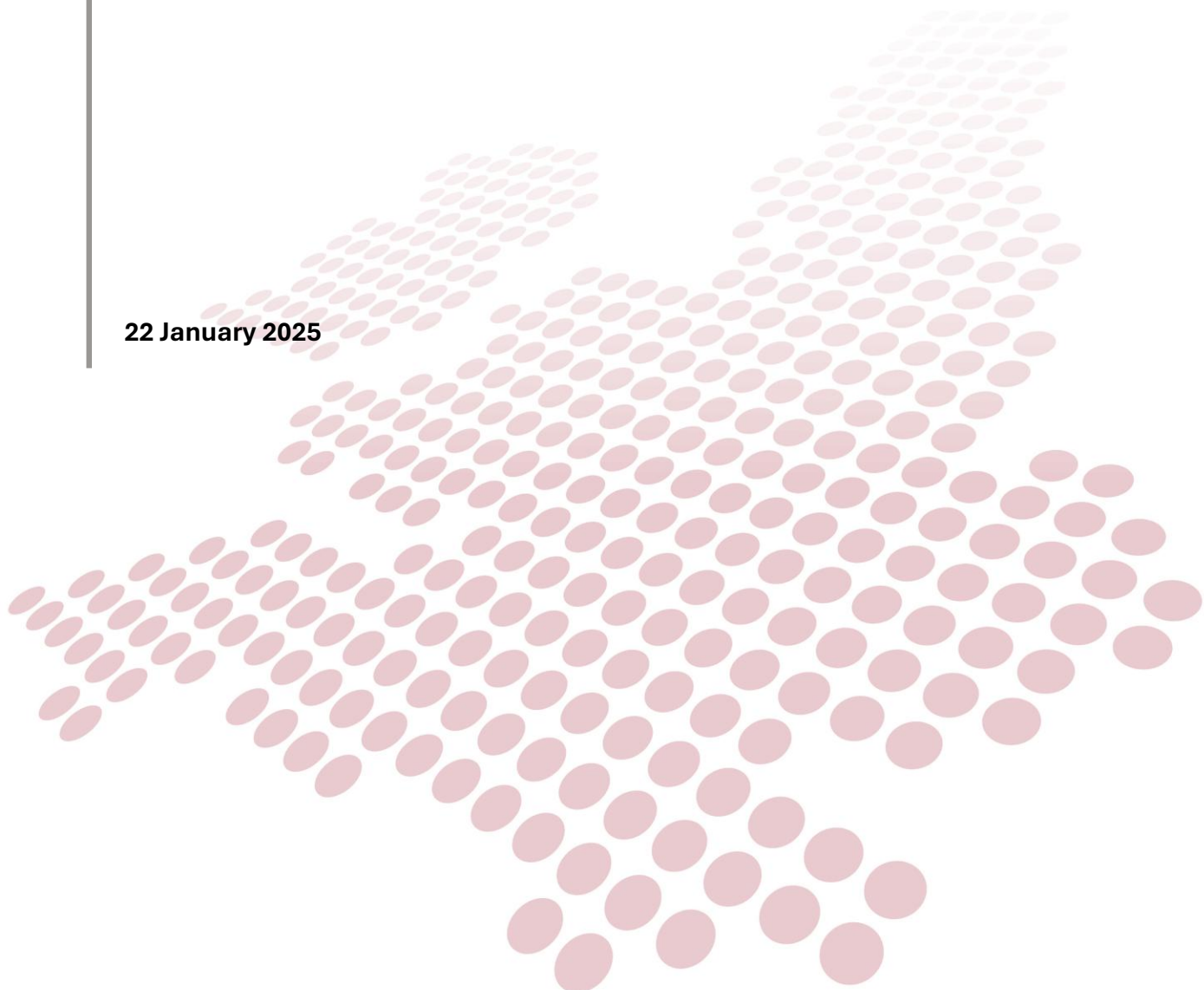


Response to the CMA consultation on draft guidance on the unfair commercial practices (UCP) provisions in the draft guidance on the unfair commercial practices (UCP) provisions in the Digital Markets, Competition and Consumers (DMCC) Act 2024

22 January 2025



About UKCTA

1. This submission is made by the UK Competitive Telecommunications Association (UKCTA). UKCTA is a trade association promoting the interests of fixed line telecommunications and broadband companies competing against BT as well as each other, in the residential and business markets. Its role is to develop and promote the interest of its members to Ofcom and the Government. Details of membership can be found at www.ukcta.org.uk. Its members serve millions of UK consumers.

Summary

2. UKCTA members are fully supportive of the basic principle that consumers should be provided with information in straightforward presentation that enables the consumer to make a fully informed purchasing decision. This submission addresses issues of significant concern to our members:
 - a. Guidance around the total price of the product
 - b. Guidance on prominence of calculable total prices
 - c. Ofcom already significantly regulates our market and is very active and effective in the use of its consumer policy and consumer protection mandate. In addition, there is regulatory oversight by the Advertising Standard Authority (ASA) in respect of pricing¹.
3. All of our members are committed to enabling a positive purchasing experience for consumers. We are concerned that some of the proposals have the real potential to negatively impact consumer experience. Our members appreciate that that the Guidance is intended to provide advice and best practice, and this submission is made and welcomes the opportunity to take part in this consultation. However, it is a concern that the consultation period is very short for an issue of this magnitude², and we would encourage the CMA to consider taking more time to consider the consultation responses and work

¹ [Guidance on the presentation of mid-contract price increases in advertising for telecoms contracts](#)

² A six-week period of consultation that included the Christmas Holiday period

towards implementation than the current timetable suggests. UKCTA members encourage the CMA to meet with service providers.

The Issues

CMA draft guidance – total price of contracts

4. The law is intended to prevent ‘drip pricing’. Our members agree with the merits of this objective. However, the draft Guidance does not draw a distinction between ‘total price’ and ‘total amount. The guidance has the real potential to create harm for consumer in the home phone and broadband market.
5. Our understanding of the draft Guidance in relation to fixed term contracts of the kind commonly sold by communications providers (a set monthly price over a specific number of months, with or without an activation fee or similar) is that the CMA has interpreted the ‘total price’ of such contracts to be the sum of every monthly payment (plus any one-off fees which will be clearly identified at point of sale). For example, a 24-month contract with a monthly charge of £20 and an activation fee of £10 would have a ‘total price’ of £490 and a 12-month contract under the same pricing terms would have a total price of £250.
6. Consumer home phone and broadband services are overwhelmingly sold under such contracts and our member’s customers are well used to considering the monthly cost. Consumers have significant awareness and practice of comparing competitive deals and choosing packages, based principally on the price per month and the number of months.

Prominence requirements

7. We consider that the aspects of the draft guidance that deal with the prominence of calculable total prices is ambiguous, and that part of the guidance goes beyond the requirements of the legislation.
8. The requirement for total prices to be presented in a clear and timely manner is referenced in paragraph 9.31 of the draft Guidance. However, this is immediately followed within the same paragraph by a reference to non-calculable totals, which have very different prominence requirements under DMCCA. The remainder of this section also deals with both pricing

scenarios and uses ambiguous language so that it is not always clear to which each piece of advice applies. UKCTA members would urge the CMA to review these proposals.

9. We also note that Annex C contains a reference to the DMCCA requiring that “all pricing information must be set out with equal prominence.” As the DMCCA only stipulates equal prominence for an explanatory statement for non-calculable totals alongside any statement of partial-total cost, this reference to **all** pricing information appears to go beyond the requirements of the law.
10. With regard to both of these proposals we would urge the CMA to reconsider its interpretation of the requirements under the DMCC and to adopt a more flexible approach to compliant implementation. Consumer protection is working very well in the home phone and broadband market. Services providers are committed to ensuring easy to understand pricing options. Transparency and prominence are not issues, and in any event all advertising is well regulated and monitored by Ofcom and the ASA.

Ofcom Regulation

11. In the area of consumer policy and protection we have a very effective sectoral regulator in Ofcom. The recent statement on the new £/p rules from Ofcom specifically references the “total price” question, with reference to the CMA’s position, and clearly shows Ofcom’s belief that it would not be appropriate for total whole-term price to be referenced in the same way as monthly cost. The following extracts from the statement make that clear:

4.63 - The CMA considered the £/p requirement would help to remove consumer financial uncertainty and make it possible to calculate the total cost of a contract, which in turn would improve competition and better overall market outcomes.

4.64 - We received several responses calling for additional rules to require providers to set out upfront the total price that a customer will pay over the duration of the contract (the 'total contract cost'):

The CMA stated that this could be a way to make it as easy as possible for consumers to compare the total price of contracts, as it considered that, even with the £/p requirement in effect, some complexity would remain in stepped pricing structures.

4.71 We note calls from some respondents for a requirement to present a total contract cost or average monthly price, alongside the £/p requirement. We acknowledge that a total contract cost or average monthly cost might make the cost of different contracts clearer to many customers. During the course of our review, we considered the merits of requiring providers to present the total cost of a contract, in addition to the £/p requirement.

4.72 However, we concluded that it may be difficult to implement a requirement to present the total contract cost or average monthly price of all services subject to the GCs effectively. For example, the impact and benefits of such a requirement may be undermined where providers offer bundles that contain elements with contract periods of different lengths or rolling subscription elements that customers may cancel at any time. Given that, and the fact the £/p requirement will mean customers would have sufficient clarity and certainty about the price they will pay, so that they are able to make more informed decisions on the best deal for them, we did not think this was required.

Unintended consequences

12. The CMA's proposals will lead to consumer confusion and potentially worse consumer outcomes. The current system is well established and underpinned by a clear understanding of our consumers need to be able to compare competitive packages. Longer-term contracts look more expensive when sold on the basis of whole-term cost, but are in fact cheaper in the long run due to lower monthly costs. Obscuring this from consumers may lead to them paying more because they purchase shorter term contracts that only appear cheaper because their total price is calculated over fewer months.
13. The proposals do not sit well with the government's growth agenda and have the potential to slow down or even discourage network investment. Discouraging the up-take of longer-term contracts means that operators have less certainty over their medium-long term customer base and revenue. This uncertainty increases the risk for investors, lowering their confidence and reducing their appetite for investment.
14. There is also potential consequential harm to a growing competitive market. Any impact on investment will disproportionately affect the small 'challenger' altnets and therefore benefit

the incumbent monopoly provider. This leads to a further cycle of higher risk and lower investment, and a smaller number of altnets. Ofcom themselves have identified competition as vital for spurring rollout, due not only to the additional build from altnets but also due to the incentive it provides for Openreach to build at pace.

Timescales for implementation

15. The proposed timescale for implementation does not support a well-managed transition to a new framework, as significant changes will be needed to be made to consumer purchasing processes from marketing to final purchase. We would suggest a minimum of 12 months implementation from the date of the publication of the guidelines.

End