British Vehicle Rental and Leasing Association

CMA consultation on DMCCA price transparency guidance

The British Vehicle Rental and Leasing Association (BVRLA) represents the demand side of the automotive industry. We have over 1,000 members who spend over £30 billion annually to upgrade their fleets. BVRLA members fund over 4.3 million cars, vans and trucks, including over half a million BEVs. The association collaborates with policymakers, regulators, and other key stakeholders to ensure that road transport delivers environmental, social, and economic benefits to all. Vehicle rental, leasing and fleet management support almost 500,000 jobs, add £7.6bn in tax revenues and contribute £49bn to the UK economy each year.

BVRLA welcomes the opportunity to comment on the draft guidance[1] published by the CMA on the specific price transparency requirements for traders when making invitations to purchase, as part of the Digital Markets, Competition and Consumers Act 2024 (DMCCA) Unfair Commercial Practices rules. We are grateful for all the engagement, including the roundtable meetings and webinars that we have participated in during the consultation process.

We welcome the CMA's aim of ensuring that consumers are given clear, fair, and easily comparable price information. Our membership includes businesses that rent vehicles to consumers. Each business is varied in its operations, but all seek to treat their customers fairly. We hope the comments provided below will help to make the final guidance more realistic and helpful to both consumers and businesses.

Consultation questions

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 Do you have any comments on the structure or clarity of the Draft Guidance?

Structure
The structure of the Draft Guidance makes sense. The Figure 1 flowchart used in section 3 (on page 12) is an easy-to-follow tool, and perhaps a similar one could be considered to simplify other sections of the guidance, though care must be taken to understand the nuances of different sectors. The use of illustrations, examples and summary boxes is helpful, though we believe that the vehicle rental illustrations could be improved (more details and suggestions are provided below).

Language
The draft guidance has been written in very clear language, and we are glad that unnecessary legal jargon has been avoided, making the document as accessible and easy to understand as possible.

General points of clarity – interaction with other regulations and sector regulator rules
We think it should be made clear that the CMA's price transparency guidance is not a replacement for any sector-specific rules for regulated sectors. The CMA needs to clarify at the start of the guidance where the guidance applies and how this will work in practice, so that businesses know which rules and regulations apply to them. For example, many of the BVRLA's leasing members are regulated by the FCA. Schedule 22 of the DMCCA states that FCA-regulated entities will be excluded from the DMCCA rules (as they must comply with the Consumer Duty instead).

For our rental members, who are not FCA-regulated and do not fall under the scope of the Consumer Credit Act but are regulated by other sector-specific regulations, the DMCCA and the CMA will be the main source of rules for consumer price information. If there are any instances of inconsistencies with sectoral regulations that businesses discover during the DMCCA embedding process, it would be good to have an easy-to-access

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point of contact at the CMA, so that businesses can discuss any overlap and confirm they are operating compliantly.

Sector specific issues

The draft guidance refers to 'pick up' fees for car hire companies in several places (including page 14, page 17 and page 35). This is not a standard industry term and is therefore an unrealistic illustration. The draft guidance would be clearer if this were changed to a more realistic example, such as mandatory local taxes, which are covered in section 5.2 onwards. The BVRLA would be happy to discuss further and ensure appropriate real-world language is used.

Q2. Do you have any comments about what an invitation to purchase is (Chapter 2)?

It would be helpful to include actual screenshot examples of:

a) an actual example of when a commercial practice is not an invitation to purchase (at point 2.7)
b) an example of current practice that is an invitation to purchase but does not include the full information required for a consumer to make a transactional decision about a product (at point 2.4)

This would help to clearly demonstrate instances where a trader may have incorrectly expected that the information they have shared would not constitute an invitation to purchase, but under the DMCCA, the CMA would disagree.

Q3. Do you have any comments about what needs to be included in an invitation to purchase (Chapter 3)? Is the guidance on when the presentation of prices might be misleading clear? Are there topics covered in this section that would benefit from further guidance?

What must be included in an invitation to purchase

It would be helpful if the Summary at a glance on page eight referenced the common pricing terms listed on page five. Can a trader be compliant with their invitation to purchase so long as the headline price includes all mandatory charges, so that the headline price is as close as possible to the total price that can reasonably be expected to be paid for a particular product or service?

Misleading presentation of prices – limited quantities

More clarity is needed around an invitation to purchase when there is limited availability (point 3.4). In the vehicle rental sector, a trader will advertise a particular brand and model of a vehicle for a particular price. The invitation to purchase will be realistic, meaningful and attainable but only while stocks last. How can businesses compliantly tackle the situation when an invitation to purchase a specific product in a particular version is available when the invitation to purchase is made, but the situation then changes? It may perhaps be possible for businesses to update stock availability on a mobile or web app. However, in the instance of a TV, radio or newspaper advertisement, it would be impossible to update, though it was not a misleading presentation at the time the invitation was made. If the CMA can include guidance on time lags between invitations to purchase and changes in availability, that would be helpful.

Indicative and 'from' prices for a customisable product

The draft guidance in point 3.3 mentions that an indicative price for a customisable product should reflect the total price that the consumer would have to pay, regardless of whether they could opt to later remove or vary what was included. In point 3.5 of the draft guidance, it states that indicative and 'from' pricing can be a useful tool to help make complex pricing more accessible to consumers. Point 3.16 of the guidance states that 'businesses compete for customers on headline prices'. These aspects of pricing are all particularly important in the vehicle rental and leasing sector.

In the vehicle rental sector, there are many variables that impact the total price, including those listed on page 21 in the final bullet of 4.15. It is standard practice for rental businesses to advertise potential prices or rates as headline amounts and then provide the price for that customer's journey at the point of booking.

However, the draft guidance at 4.15 refers to "from the outset" – this is confusing and doesn't provide an explanation or give relevant guidance: does it mean from the outset of the customer accessing a website (this would be almost impossible), or on an advert (again almost impossible) or when a website search is made?

Prohibited drip pricing practices: misleading and unrealistic examples for the vehicle rental sector
The car hire company examples used in section 3.17 (on page 14) refer to a 'pick-up fee'. As mentioned in response to Q1, this is not a normal industry term and, as such, represents an unrealistic scenario. We are not aware of any industry behaviour that would include a mandatory pick-up charge in the way referenced. It is not clear whether the purpose of the example is to inform businesses that any mandatory fees must be included in the headline price (or prominently indicated at the time of booking), rather than being hidden in the fine print of the terms and conditions. If the purpose is to demonstrate an example of misleading drip pricing, we suggest that the example in the final guidance should be changed to a different one.

Cross-border transactions
We would like the CMA guidance to provide clarity on the application of the DMCCA rules when there are cross-border transactions for a service, such as an on-line booking made in the UK but payment is made in, for example, the USA at the time of collection of the rental vehicle. In such a situation, does the DMCCA require the consumer to be made aware of the particular charges that could be applied by the overseas rental branch and if so, would that apply to all countries that the vehicle is collected from, or are there any differences in how the DMCCA rules apply to transactions completed in Europe or the rest of the world?

For example,

- Customer booked an overseas rental car and an additional driver, which was advertised at £90, with no mention of any local taxes.
- When the customer arrived at the rental desk, tax was added to the cost of the additional driver.
- Legally, what is the responsibility of the UK rental firm to comply with the transparent pricing rules?

Q4. Do you have any comments about the core principles for what the 'total price' must include and what businesses need to do if it is not reasonably possible to calculate it (Chapter 4)? Are there topics covered in this section that would benefit from further guidance?

The core principles outlined in points 4.2 to 4.8 are helpful, especially for the clarity they provide regarding what is permissible and which mandatory charges (such as VAT) must always be included in the total price, as well as which ongoing ownership taxes (such as VED) do not need to be included.

The draft guidance in points 4.9 onwards in relation to when it might not be possible to calculate the total price is again helpful, especially the illustrative examples shown in Figure 2, but in places it is confusing. We would recommend that additional guidance be provided in this section. In the exceptions given in point 4.10, where the total price is dependent on 'time', as well as hotel stays charged per night, it would be good to include a reference to 'vehicle rentals charged per day'.

As mentioned in response to Q3 above, car hire companies cannot reasonably calculate the total price until a customer has provided enough information. The final two bullets in point 4.15 are confusing because one states that where a car hire business structures its processes to obtain information required to calculate the total price, it must obtain customer's main requirements 'at the outset'; the final bullet point starts by saying that a trader may 'refrain from presenting prices at all until they have received enough information…..' and that 'This does not prevent traders from advertising indicative prices in early-stage advertising'. It would be helpful if an **example was included that showed what the CMA believe to be clear and transparent pricing, showing permissible indicative pricing in early-stage advertising.**

Q5. Do you have any comments about the guidance on specific types of charges and pricing (Chapter 5)? In particular:

a. Is the guidance on how businesses should present 'per-transaction charges' such as administration or booking fees in early-stage advertising and on traders' websites respectively clear? Is it clear when delivery fees will be mandatory? Are there additional means of providing this information to consumers that businesses may be able to use to comply with the UCP provisions, particularly in the context of how the prices are presented on a trader's website/app, that the CMA should consider providing guidance on?
If there is a price difference between a customer choosing to make payment now or at a later date (i.e. at the time of making a reservation rather than when collecting a rental vehicle), we assume that provided the price of each option is made clear on a trader's website, this would be permissible. Businesses often offer a lower price promotional discount for payment now; payment later, on collection of the vehicle, is often higher. We would like CMA to clarify that this would not be interpreted as a mandatory collection charge, as it is optional when the customer would like to make the payment.

b. Is the guidance on how businesses should present 'delivery fees' in early-stage advertising and on traders' websites/apps respectively clear? Is it clear when delivery fees will be mandatory? As above, are there other ways of providing this information to consumers that the CMA should consider providing guidance on?
We have no comments on this part of the draft guidance, as generally, delivery fees are not common for vehicle rental.

c. Is the guidance on how businesses should present 'local charges and taxes' in early-stage advertising and on traders' websites/apps respectively clear? This guidance reflects the guidance that the CMA has previously provided in relation to car rental and online hotel booking, is it helpful for businesses to have this consolidated in the Draft Guidance?
It would be helpful to include an example of how traders can lawfully display credit-card charges that may be imposed when a consumer makes a booking for a car rental in an overseas country. Would it be sufficient if the website included a statement underneath the price "Your credit card will be charged at the time of booking. You are responsible for fees that your card provider imposes. This may include a fee for paying us overseas"?

We believe it is helpful for businesses to have the guidance previously provided in relation to car rental consolidated in the Draft Guidance. We do however believe that the car rental example could be more relevant to the industry as pick-up fees (page 35) are not common.

d. Is the guidance on how businesses should present 'monthly pricing' clear?
'Monthly pricing' is an area of the guidance that is relevant to our sector. There seems to be some confusion over whether the amount payable for the term of the contract must be presented upfront as the headline price/total price or whether the monthly fee should be shown in the invitation to purchase. If the trader is free to choose either presentation, it would be helpful if this is made clear in the guidance. This is an area where a flowchart representation might be helpful.

An illustration showing how optional additional charges should be presented for periodic pricing or monthly contracts would be helpful. Rental businesses may encounter instances of periodic contracts that a consumer terminates early due to an accident, resulting in damage costs. Guidance notes on what amounts, or information need to be stated in the invitation to purchase regarding termination charges and potential costs for damage would be helpful.

e. Are there other types of charges or pricing that the CMA should consider providing specific guidance on?

In relation to the vehicle rental sector, further clarity would be very helpful via an illustration of how businesses can compliantly show the price of optional extras and how to ensure mandatory additional charges in the event of a breach of terms and conditions are to be shown.

Pricing of optional extras

Within the rental sector, there may be additional costs a renter may select when booking a vehicle: a car seat, navigation, excess protection, roadside protection, booster seat, or to offset carbon emissions. We kindly request the CMA to provide guidance on whether optional extras like this are sufficient to be displayed at the time of booking on a platform, clearly set out as additional cost, and how this may be dealt with if a renter were to walk into a branch to rent a vehicle? How would such additional optional extras then need to be displayed for an invitation to purchase to be compliant?

It may be helpful and worth providing guidance on how, if necessary, consumers should be pointed to any additional charges and whether including them within rental terms would be sufficient? If a cost is not determinable at the outset, how would the CMA want the rental sector to inform the consumer of this?

Charges for breach of contract

Examples of additional charges for breach of contract are those that are dependent on driver behaviour (such as vehicle damage, parking fines, returning the vehicle with the incorrect amount of fuel). These charges would be mandatory for a breach of terms and conditions and could include an administration fee for dealing with the issue. Businesses would like the final guidance to include a note to make clear that these charges do not need to be included in the invitation to purchase, as they are not purchase-related. These charges do not form part of the total price as they will not be liable unless the customer does not comply with the terms and conditions of the rental.

Q6. Do you have any comments on the illustrative examples provided in the Draft Guidance? Are there any areas where you think additional examples could usefully be reflected in the Draft Guidance?

Examples of compliant Invitations to Purchase where Total Price differs from the final price paid

It would be useful to include examples of compliance within the Guidance for instances where the Total Price given differs from the Final Price paid by the consumer, for legitimate reasons, such as when the consumer can opt to later remove or vary what is included in a customisable product.

We believe it would be beneficial to include additional examples in Section 4, outlining situations where the total price cannot be reasonably calculated at the time of the invitation to purchase. The current example is for the purchase of curtains and the resolution is to give the ‘per metre’ price which is a relatively common-sense approach. However, we believe there could be different industry examples provided that instead show resolution to more complex considerations, i.e. car hire, where there is more than one variable that a customer needs to choose to determine the total price.

Given that the car rental sector has been highlighted and certain examples provided, an illustrative example of how additional charges should be displayed would be welcomed. Where the draft guidance refers to mandatory insurance cover, what would this be if a renter chooses to insure a vehicle on their own insurance? Clarification on what the CMA mean by this would be helpful, together with the implications of how this impacts the price that needs to be shown at the time of booking.

Q7. Do you have any other comments on topics not covered by the specific questions above?

Some of the examples provided in the guidance seem to be focused on the car rental sector and how prices are displayed on rental websites. There are specific 'drip pricing' examples around where a car hire company's website does not clearly reflect the mandatory 'pick up fee' at the time of booking, and where a mandatory charge in respect of valeting a car, for sale, was not included as an optional extra and should have been included within the total price.

It would be helpful to understand the CMA's concerns about why it appears that the vehicle rental sector is specifically called out. BVRLA members are very open to meeting with the CMA to discuss resolutions to any of these concerns. We have flagged in the past the sector's best efforts at compliance in this space and our willingness to engage. Ensuring any examples are related to actual industry practices and situations is key for the Guidance to be useful.

About the BVRLA

The BVRLA represents over 1,000 companies engaged in vehicle rental, leasing and fleet management. Our membership is responsible for a combined fleet of nearly 4.3 million cars, vans and trucks – one-in-ten of all vehicles on UK roads.

BVRLA members represent the demand-side of the automotive industry, buying around 50% of new vehicles, including over 80% of those manufactured and sold in the UK. In doing so, they support almost 500,000 jobs, add £7.6bn in tax revenues and contribute £49bn to the UK economy each year.

Together with our members, the association works with policymakers, public sector agencies, regulators, and other key stakeholders to ensure that road transport delivers environmental, social and economic benefits to everyone. BVRLA members are leading the charge to decarbonise road transport.

BVRLA membership provides customers with the reassurance that the company they are dealing with adheres to the highest standards of professionalism and fairness.

The association achieves this by reinforcing industry standards and regulatory compliance via its mandatory Codes of Conduct, inspection regime, government-approved Alternative Dispute Resolution service and an extensive range of learning and development programmes.