

CMA Consultation on price transparency guidance | Response by Community Leisure UK

[Community Leisure UK](#) is a membership organisation representing charities and social enterprises managing public leisure and/or culture services, including leisure centres, gyms, swimming pools, theatres, libraries and museums.

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 Do you have any comments on the structure or clarity of the Draft Guidance?

No – it is clear.

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

We would like further clarification on when a price is not included in a product description, for example because it is not yet calculable, whether this is still an invitation to purchase.

Paragraph 2.7 states that *“A commercial practice which does not include a price is not an invitation to purchase”*. However, later in the guidance, specifically paragraph 4.15, states that businesses can *“Refrain from presenting prices at all until they have received enough information from the consumer to be able to calculate the total price that would apply to a particular consumer”*.

Some of our members do not display prices on their websites when advertising leisure memberships. This may happen when organisations operate leisure facilities across different local authorities where prices, including concessionary pricing, differ pending on the locality of the customer. When customers click the membership based on the products and services they want/choose, the relevant price is then displayed (example: GLL/better <https://www.better.org.uk/>) or an enquiry form is sent to the operator, after which the operator contacts the customer with pricing information (example: Freedom Leisure <https://www.freedom-leisure.co.uk/>).

We would like clarification from the CMA whether this is permissible or whether a price must always be displayed on the website in the case of leisure memberships. This would be even if a total price cannot be calculated yet, prior to the customer clicking 'join online' or 'enquire now' where the prices will be displayed based on the selection (such as location or type of membership) made by the customer.

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?

Please see our detailed response to question 4 with regards to the inclusion of pro rata fees – we would welcome further guidance on ensuring a price is not misleading when pro rate fees are concerned.

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?

We would like to request further information on how "pro rata" fees should be included in a total price. This is a common practice in the physical activity and leisure sector, as customers can take out memberships that start immediately, and therefore their first month payment is pro rata based on the total monthly price and how many days are left in the month when the customer purchases the membership.

While there has been a shift to starting direct debit runs on the 1st of the month, this does not take away the challenge of allowing customers immediate access and asking for payment for the remainder of days in the month to accommodate this access. The operational reality is that most of our members usually have two direct debit runs a month – this is due to historic payments being taken from long-time customers vs new customers, and, in some circumstances, allowing customers choice when payment is taken in subsequent months.

One of our members has provided the below example of the terms and conditions that are provided to customers when making the payment for their new leisure membership, with the example of a sign up before the 18th of the month. This is a common practice in the leisure sector with millions of annual users.

As you will see, this text is too long to include in any headline/total price on all invitations to purchase. If we were to follow the current draft guidance, our understanding is that we would need to provide information to the customer on how to calculate the total price if the total price cannot yet be calculated.

However, we are unsure how to provide this information in a realistic, meaningful, and attainable way e.g. is it realistic for the average customer to calculate how much extra they should pay if, for example, the monthly price is £35 a month and there are 10 days left in the month when they take out the membership?

We understand how to include a general enrolment fee in the total price as per the draft price transparency guidance, but the final guidance needs to provide clarification on how a prorata fee should be included/advertised as part of a total price given the context we provided and the below payment information. Would it

be enough to state *"Membership from £X and a one-off additional fee for your first month based on the start date. This will be calculated when you select a start date."*?

Sign up on or before 18th of month:

First payment:

1. Payment of a pro rata payment on the day of joining. This is a payment for the remainder of the month meaning you can use your membership straight away.
2. You will also pay an enrolment fee of £25.

Subsequent Payments:

Monthly direct debits will be taken on the 1st of the next month and subsequent months.

Sign up after 18th of month:

First payment:

1. Payment of a pro rata payment on the day of joining. This is a payment for the remainder of the month meaning you can use your membership straight away.
2. In addition, a full month's payment for next month will be taken, as it is too late for us to set-up a direct debit in time for the 1st of the next month.
3. You will also pay an enrolment fee of £25.

Subsequent payments:

There will be no payment taken on the first of the month after joining.

Your first direct debit will be taken on the 1st of the following month and subsequent months. (i.e. join on August 19th, first DD will be taken on October).

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?**

Yes this is clear.

- 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?**

Not applicable for us.

- 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?**

Yes this is clear.

- d. Is the guidance on how businesses should present 'monthly pricing' clear?**

No – please see our response to question 4 with regards to prorata fees which may change on a daily basis due to their nature.

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

Pro rata fees as exemplified in detail in our response to question 4.

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?

A visual illustration of the promotion of a gym/leisure membership with a total monthly price, including a joining fee and pro rata fees would be helpful.

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

We would like to request further clarification on the usage of promotion codes that discount over a specific time frame but then revert to standard price point.