

CONNELL & CONNELL WS

SOLICITORS AND ESTATE AGENTS

10 Dublin Street,
Edinburgh, EH1 3PR
Tel: 0131 556 2993
Fax: 0131 557 5542
DX ED184
www.connellws.co.uk

To:

consumerguidance@cma.gov.uk

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E-mail:

Our ref:

Your Ref:

To Whom It May Concern,

Consultation response - Draft guidance for businesses on the price transparency provisions of the Digital Markets, Competition and Consumers Act 2024

I am writing in response to your consultation on draft guidance for business on the price transparency provisions of the Digital Markets, Competition and Consumers Act 2024 (DMCC Act). As Chief Executive Officer of ESPC, I am a Partner in a solicitor estate agent firms based in Edinburgh. I am also a Non-Executive Director of Edinburgh Solicitors Property Centre and the current Chair of the Edinburgh Conveyancers Forum.

I want to start by outlining my belief that this is important guidance to protect consumers overall. However, I am very concerned about several aspects of the proposed guidance which do not take account of the nuances of the Scottish property market, which is particularly unique. Solicitor estate agents are duty bound by the Law Society of Scotland to be transparent on pricing and notify clients if they believe there will be any changes in the pricing ensuring that they are already operating at the highest level.

I have highlighted the key areas for concern below.

1. Legal Fees and Charges: Managing Necessary Variability

The draft guidance calls for transparency around mandatory charges. As solicitor estate agents, we are compelled to provide clear and accurate quotes to our clients for the sale of their property prior to instruction.

Partners: Andrew J Ogilvie WS | Lesley M Elrick WS | Richard J Murray WS | Jennifer L Boyle WS | Jill S Andrew | Irene Turner
Consultant: Gordon D Cairns WS

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The purchase however, is a little more complex and can have several variables, such as buyers status, title complexity of purchase and mortgage arrangements. Some of these will only come to light at a later stage.

Considering the variability in professional fees, we urge the CMA to consider sector-specific allowances enabling the use of fee ranges, supported by a disclaimer indicating that final costs will depend on the particulars of the transaction and the individual circumstances of the buyers.

2. Renovation Costs: Balancing Risk and Realism

Section 3.6 to 3.9 of the guidance suggests that foreseeable renovation costs should be given equal prominence to the purchase price. In reality, these costs are highly variable and depend on the buyer's intended scope of work and the findings of a qualified surveyor.

Requiring these speculative costs to be estimated prior to the property purchase, even with caveats, sets unrealistic expectations and could expose selling agents to professional liability issues.

Properties for sale in Scotland are required to hold a Home Report prior to marketing. The Home Report includes a survey of the property which highlights anticipated renovation works. Whilst an exact amount for remedial works is not quoted (due to the issues already highlighted above), it clearly signposts issues with the property allowing the buyer to make an informed decision including the opportunity to obtain their own estimates prior to purchase.

In recognition of the inherent uncertainty surrounding renovation costs, we recommend that the CMA permit the use of qualitative disclosure, such as "property requires upgrading; buyers are advised to obtain independent surveys and cost estimates", as a more appropriate alternative to speculative financial figures, which may mislead or misinform consumers.

3. "Offers Over" Pricing: Preserving Market Norms

The guidance states that the headline prices must be realistic, meaningful, and attainable. It is unclear whether this therefore challenges the established "Offers Over" pricing model which operates, misleading in Scotland.

This format is well understood by Scottish agents and consumers and reflects legitimate market practice, particularly where sellers are open to a range of offers depending on a variety of conditions. Provided that sellers are acting in good faith and genuinely intend to consider offers at or above the stated amount, I firmly believe this format should be explicitly permitted under the final version of the guidance. The Home Report, as mentioned in 2 above contains an independent market valuation by a qualified surveyor, so the market value of the Property is a known fact and available to all prospective buyers.



I believe that the guidance should allow for a subsection for the Scottish property market, offering clear guidance for buyers and sellers in Scotland, taking in to account the considerations mentioned above and recognising our unique position.



Partner

Connell & Connell WS