

SMMT response to CMA consultation on Price Transparency (re draft guidance CMA209con)

Introduction

1. The Society of Motor Manufacturers and Traders (SMMT) is one of the largest and most influential trade associations, representing the automotive industry in the UK.
2. The automotive industry is a vital part of the UK economy, integral to growth, the delivery of net zero and the UK as a global trade hub. It contributes £92 billion turnover and £25 billion value added to the UK economy and invested £5 billion in R&D, with 183,000 people employed directly in manufacturing and some 796,000 in total across the wider automotive industry. Many of these automotive manufacturing jobs are outside London and the South-East, with wages that are 8% higher than the UK average. The sector accounts for 13.4% of total UK exports of goods with more than 140 countries importing UK produced vehicles, generating £108 billion of trade in total automotive imports and exports.
3. The UK manufactures almost every type of vehicle, from cars, to vans, taxis, trucks, buses and coaches, as well as specialist and off-highway vehicles, supported by more than 2,500 component providers and some of the world's most skilled engineers. In addition, the sector has vibrant aftermarket and remanufacturing industries. The automotive industry also supports jobs in other key sectors – including advertising, chemicals, finance, logistics and steel.

Executive Summary

4. We welcome the opportunity to respond to this consultation on the CMA draft guidance CMA209.con under the Digital Markets, Competition and Consumers Act 2024 (DMCCA). We support a balanced approach that provides robust consumer protections whilst enabling businesses to implement compliance with clarity and certainty.
5. We identify below some key concerns and recommendations as several provisions of the draft guidance present challenges arising from the particular sales and marketing features of the automotive sector (paras. 13 to 19 and paras 20 to 26).
6. To assist businesses to interpret the guidance and determine their responsibility for marketing (especially where they are not the ultimate vendor), the guidance should include (a) illustrative examples applicable to the automotive sector's sales and distribution structures and (b) clear steps on how businesses can manage their new responsibilities for transparent pricing and invitations to purchase.
7. We request a transition period of at least twelve months to help businesses adapt to the new requirements.
8. We seek clarification/confirmation, in particular, on :
 - a. the distinction between "invitation to purchase", "invitation to treat", and "offer".
 - b. how the CMA would treat conditional charges / end of contract charges.
 - c. where a business that hosts a platform for third party traders to make invitations to purchase through product listings, that the hosting business would not be responsible for transparent pricing obligations.
 - d. certain additional questions, listed in para. 27 (a) to (j) at the end of this submission.
9. We welcome further engagement should the CMA wish to discuss any of the points made in this submission.

Key Points

Invitation to Purchase

10. The DMCCA and the guidance CMA207 broaden the definitions of "trader", "commercial practice" and "transactional decision" and introduce a new concept of "invitation to purchase" (which does not currently exist in English law). While well-intentioned, the effect of these is to extend the scope of the DMCCA and CMA207 to several preliminary stages of a consumer's purchase journey, thereby extending the application of the strict measures to the "invitation to treat" stage.
11. This is further compounded by the removal of legal tests when assessing whether omissions from invitations to purchase are misleading. Businesses must now provide all material information in many marketing and

promotional materials, at the invitation to purchase stage, where previously, such obligations did not exist for invitations to treat. This represents a significant additional burden for businesses, not least in relation to space limitations in adverts and promotional information.

12. We ask that the CMA provides clear guidance on invitations to purchase, including on the specific questions around invitations to purchase contained at para. 28(a)-(j), below.

On-The-Road (OTR) Pricing and Manufacturer's Suggested Retail Price (MSRP)

13. In the automotive sector, vehicle manufacturers and importers (OEMs) apply a long-established practice of displaying On-The-Road (OTR) pricing in promotional materials. The OTR price is an indicative price which covers (a) the Manufacturer's Suggested Retail Price (MSRP) for a particular model which is the OEM's recommended selling price or a maximum price, together with (b) any extras known to be fitted to the car, number plates, any delivery charges, the appropriate VAT (quoting the rate applicable), the cost of 12 months' Government Vehicle Excise Duty (VED), and the first registration fee.
14. In the franchised dealer model of distribution, this indicative pricing approach gives consumers the opportunity to compare models without undermining the necessary independence (under competition law) of the franchised dealer's ability to set the final transaction price. Moreover, it would be impossible for OEMs to attempt to show the total final transaction price of their multiple models across all their dealer networks, and to do so would in any case run the risk of constituting price monitoring.
15. If an ad featuring indicative pricing is to be treated as an invitation to purchase, full disclosure of all material information, including total price will be required. However, following from para. 14, OEMs cannot represent to consumers that the MSRP is what will be charged by its franchised dealers as in most instances the OEM's dealer networks will set their own prices, competing with both other dealers in the network and with the MSRP.
16. In addition, the inclusion in the OTR price of the first 12 months' VED is a legal requirement for vehicles in use. The draft guidance suggests, however, that such fees are not necessary for indicative prices (section 4.8 in CMA209con). Given that the legal requirements are exceeded, however, in the automotive sector, we assume there is no issue here and we ask CMA to confirm this.
17. We also ask the CMA to confirm that the inclusion of other, non-optional fees such as number plates, VAT and the first registration fee in the OTR price are compatible with the requirements of the draft guidance.
18. OEM brands may need to consider withdrawing advertising or marketing support provided to franchised dealers through national campaigns and centralised advertising should the current OTR pricing practice be at risk of being deemed non-compliant. This could result in a loss of consumers' ability to compare models.
19. SMMT therefore seeks confirmation that:
 - a) the MSRP and OTR pricing as outlined above, can continue to be displayed without being captured by the total price requirements of the draft guidance;
 - b) that the inclusion of the first 12 months' VED, number plates, VAT and the first registration fee presents no compliance issue; or
 - c) if price were omitted completely from advertising or promotional content (in order to avoid falling within the definition of "invitation to purchase"), whether this would be treated as a misleading omission, subject to the "transactional decision" test.

Online platforms

20. OEMs may host an online "stock locator" platform for their dealers to facilitate listing of new and used car stock currently available for sale. Listings include the transaction price, specification, and the dealer's location and identity. Often, the dealer controls the content of the online listing.
21. We request that the guidance covers this type of scenario and clarifies that the invitation to purchase responsibilities lie with the dealer or vendor and not the host of the platform.

End of Contract charges

22. For leasing, or other non-ownership models, conditional charges are often included such as excess mileage, or excessive damage charges.
23. Excessive damage is often assessed by whether it exceeds fair wear and tear set out in industry established parameters, whereas excess mileage is specifically set out in the lease agreement.
24. Any potential charges and the methods of calculating them are drawn to the consumer's attention prior to contract formation but may be difficult to include in any adverts or promotional documentation due to space limitations.
25. We ask that the guidance makes it clear whether these charges are considered a mandatory charge, and whether businesses must disclose their method of calculation on any invitations to purchase.

Transitional Arrangements

26. Compliance with the guidance may require substantive changes to infrastructure, advertising approaches, and IT systems, for which a relatively short deadline is given between CMA's expected final publication date and any proposed enforcement date. We ask for a phased implementation period of at least 12 months to ease the transition and allow businesses to adapt without unnecessary disruption.

Additional Questions

27. We request CMA confirmation on the following additional matters:
 - a. that OEMs are not "traders" for the purposes of section 4 of CMA207 – and the related DMCCA provisions – and that, accordingly, OEMs are not required to include such material information as is described in paragraph 4.13 of CMA207 in their promotion and marketing materials (including websites);
 - b. that images of a vehicle accompanying a vehicle description with no pricing information do not constitute an invitation to purchase;
 - c. what is the definition of a "brand advert" referenced in point 2.7 of CMAcon209?;
 - d. Where an advert promotes a brand's services or related products, e.g. an extended warranty product, by featuring the brand's vehicle, whether the total price requirement is satisfied by depicting the price for the extended warranty product only (as that is the subject-matter of the advert)?;
 - e. Where an advert promotes no specific vehicle but showcases a range of specific vehicles or products, whether the total price is required to be provided alongside each and every product?
 - f. Where text SMS messages are sent to customers to remind them of annual servicing of their vehicle, but where no specific service provider or retailer is featured, whether total price required should be included?;
 - g. Similarly, where service reminders are sent via in-app messaging, whether prices for a preferred dealer such as the OEM's network are required?;
 - h. Where vehicles are shown on individual webpages at multiple points during the process of deciding whether to purchase, does the total price have to be on every page?;
 - i. Whether CMA would regard the total price as misleading where websites show a nationally advertised indicative price, but in reality may be different at the specific dealer?; and
 - j. Whether any of the following constituent parts of the OTR price are considered a mandatory charge,
 - i. Optional extras known to be fitted to the car;
 - ii. Number plates;
 - iii. Delivery charges;
 - iv. Appropriate VAT (quoting the rate applicable);
 - v. 12 months' Government VED; and
 - vi. First registration fee

8 September 2025

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