

**Response to CMA's Consultation on *Unfair commercial practices: price transparency* CMA209con draft guidance for businesses on the price transparency provisions of the Digital Markets, Competition and Consumers Act 2024 (DMCCA).**

This response is provided on behalf of the dnata Travel Group companies in the UK, namely Gold Medal Travel Group Limited, Travelbag Limited and Travel Republic Limited. Each entity sells travel arrangements including but not limited to packages, tours, cruises, multi centre holidays and single component bookings to UK consumers.

Gold Medal Travel Group Limited is a B2B business which sells travel arrangements through agents. It also has a B2C trading limb in the form of Netflights.com which sells flights and packages directly to consumers via its website and call centre. Travelbag Limited is a B2C business selling travel arrangements to consumers through its retail shops and call centre. Travel Republic Limited is an online travel agency selling travel arrangements to consumers via its website and call centre.

The focus of our response to this consultation is on the proposal to include in resort fees and taxes within the headline price as it will have a significant impact on our sector, as explained in more detail below.

**Q1.** Do you have any comments on the structure or clarity of the Draft Guidance?

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

**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?

dnata response: We note that mandatory charges must be included in all invitations to purchase, even early stage advertising. This is said to include any fees, taxes, charges or other payments that the consumer will necessarily incur if they purchase the product.

We fully support the objective of fair and transparent pricing. However, in our view, local taxes and resort fees should not constitute mandatory charges for the purposes of an invitation to purchase. Instead, we consider that they should fall within the scope of paragraph 3.10 of the draft guidance where *"because of the nature of the product, the price (or a part of it) cannot reasonably be calculated in advance"*.

Local taxes and resort fees are subject to change due to exchange rate fluctuations and regulatory change in the relevant destination. Consumers frequently book travel arrangements well in advance of the intended date of travel. It is therefore artificial to attempt to predict the amount that will be payable with such a degree of certainty as to include it within the headline price. It risks misleading the consumer if the amount payable transpires to be more or less than anticipated at the time of the invitation to purchase. This will also likely lead to dissatisfied customers and complaints to the travel business, through no fault of the relevant business.

We note the proposal in the examples set out in the guidance that the trader could state in the advertisement that the price includes the relevant mandatory fees (in this case local taxes and resort fees). However, space limitations in certain marketing media would make this difficult, meaning that the headline price may appear inflated compared to the amount actually payable by the consumer at the time of making the booking.

In addition, time-consuming, challenging and costly systems developments would be required to include local taxes and resort fees within the headline price, which are explained in further detail in our response to question 5(c) below.

We have concerns regarding how and the extent to which this requirement will be monitored and enforced by the CMA. Clearly, it will put a business at a competitive disadvantage if that business includes local taxes and resort fees within its headline price but other businesses do not. We also question how this would be enforced against non-UK based travel businesses which target UK consumers.

The travel industry is highly competitive, with price often being the most important factor in influencing a consumer's choice of company with which to book their travel arrangements. Therefore, we do not see the merit in including uncertain amounts such as local taxes and resort fees in the headline price which distort the price payable for the travel arrangements and which risk being applied inconsistently across the industry, leading to consumer confusion and an unfair playing field for businesses in the sector.

**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?

dnata response: We were disappointed to see *"local taxes, resort fees and other unavoidable charges that become payable on arrival or departure at hotels, ports or airports"* specifically called out at paragraph 4.4 of the draft guidance as examples of mandatory charges which must be included within the total price.

We note that paragraph 4.9 of the draft guidance reflects s.230(2)(c) of the DMCCA, stating that: *"If, owing to the nature of the product, the whole or any part of the total price cannot reasonably be calculated in advance, the UCP provisions require that consumers are given information about 'how the price (or that part of it) will be calculated. The information about how to calculate the total price must be set out in the invitation to purchase with 'as much prominence as' the part of the total price that is calculable in advance."*

As set out in our response to question 3 above, we consider that local taxes and resort fees fall into the category of parts of the total price that cannot reasonably be calculated in advance. Currently, an estimate of local taxes and resort fees is displayed during the booking journey to alert consumers to the existence of those fees and the fact that the consumer will need to factor them into their travel budget. This approach works well and is not the subject of customer complaints or confusion. It provides clarity regarding the amount payable by the consumer to the travel company and alerts the consumer to the existence of in resort fees that will become payable during their holiday, in accordance with the requirements of s.230(2)(c) DMCCA. It also complies with existing industry regulation such as the Package Travel and Linked Travel Arrangements Regulations 2018 which require that consumers are given an indication of the type of additional costs that they may have to bear. On that basis, we see no justification to depart from the current approach to the treatment of local taxes and resort fees.

It seems to us that the intention of the DMCCA in this area is to prevent drip pricing *by the trader making the sale*, where consumers would otherwise initially be misled into believing that the cost payable *to the trader* is lower than the amount that they ultimately pay. By contrast, most in resort fees and taxes are mandated by destination governments and are collected in resort either directly by a government authority or by a service provider on their behalf, imposed merely for being a visitor to a destination, and are not a charge for the underlying product or service collected by the trader.

We would highlight the contrast with the treatment of entry visas, which cannot fall into scope of the present guidance since requirements vary by customer nationality/circumstances, but nevertheless for many customers require payment of an unavoidable/mandatory charge collected by a separate entity, merely for being a visitor to a destination, and are not a charge for the underlying product or service. This inconsistency of approach risks creating, not reducing, consumer confusion as to costs that they may bear.

**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?
- 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?
- 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?

dnata response: The guidance is clear. However, we strongly urge the CMA to reconsider its approach to the presentation of local charges and taxes.

Furthermore, we would clarify that paragraph 5.20 of the draft guidance is incorrect where it states: *"While commonly referred to as 'tourist taxes' the responsibility for paying, or at least collecting, local charges and taxes will normally sit with the trader providing the accommodation. The UCP provisions therefore apply to these charges in the same way as any other mandatory charge."* Responsibility for paying local charges and taxes rests directly with the consumer, not the trader who sold the travel arrangements. Our businesses do not collect those charges in the vast majority of cases. They are paid by the consumer in resort directly to a hotel/port/airport/local authority, often a long time after placing the booking. For example, all visitors to Venice must pay the Venice Access Fee: the consumer pays it online directly to the government if they are a day visitor, or to the accommodation provider if they are staying overnight (with the latter responsible for paying the tax to the government).

Paragraph 5.21 of the draft guidance assumes that the trader can easily calculate the applicable local taxes for indicative purposes in headline prices: *"Before the trader has the consumer's specific requirements the local charges and taxes should be incorporated into the headline per person, per night (or similar) price presented to the consumer. If indicative pricing is used, local taxes and charges should also be incorporated into those prices - for example, if taxes are charged on a per person per night basis, and the advertisement indicates a week's stay in a cottage for four people, the indicative price should include the amount payable in taxes for those four people"*.

This is a significant over-simplification of the practical reality of incorporating local charges and taxes into a headline price. The advertisement and sale of package holidays involves collating a range of travel products from different sources, each of which treats pricing in different ways depending on the product and the route of supply. This becomes more complex the more multi-faceted the travel

arrangements are. For example, multi-centre holidays could involve mandatory local charges at different points of the holiday and in different currencies.

Changing how holiday pricing is displayed is a significant piece of work and will potentially require updates across the full technology stack to ensure that consumers see transparent, all-inclusive pricing. Key changes include updating the reservations platform to incorporate mandatory fees and extras into availability responses, with currency conversion applied at the point of response. Any applicable charges will need to be reflected against each component and included in the cost summary of quotes/bookings. Supplier feeds/API methods will need to be updated to pass through mandatory fee data and for cost breakdowns to include local currency, exchange rate applied and GBP equivalents. (APIs include hotel, car, documentation, view quote and view booking).

Changes will also be needed on our businesses' websites, affecting front-end, content management system and APIs. Development work will be required to: ensure clear labelling of included extras; display total prices inclusive of local fees; and present detailed breakdowns throughout the hotel/holiday funnel journeys and on hotel landing pages. Similar changes will be required in our curated offers portal, offers listing pages, view offer page and in any agent marketing outputs (emails, social, posters).

Customer/agent documentation will also need to be updated to reflect these changes, to ensure consistency across booking platforms and all customer-facing displays.

A full tech analysis of the implementation requirements can be provided if that would assist the CMA in considering its approach to this issue.

In summary, the proposed requirement to include local taxes and resort fees within the total price would require substantial IT development work, much of which is beyond our control due to the way that pricing information is received from suppliers and travel technology platforms.

Accordingly, this will be an industry-wide issue which will take considerable time and cost to resolve. If the CMA is to maintain its position regarding the inclusion of local taxes within headline/total prices, a lengthy implementation period will be required to adapt systems to put this requirement into effect. We feel that this is unnecessary and disproportionate given that the communication of local taxes to consumers works well as it is.

It is unclear why local taxes and resort fees should be treated as mandatory charges for the purposes of the DMCCA but not other charges which a consumer will necessarily incur in order to take up travel arrangements, such as travel insurance costs, passport/visa fees and indeed any other unavoidable costs associated with the consumer's holiday such as travel to the airport/parking etc. There are a number of costs which a consumer will incur in connection with a holiday. We do not agree that local taxes and resort fees should be given special treatment with regard to their inclusion in the headline/total price. As stated in our response to question 4, the consumer is given information regarding approximate local taxes during the booking journey which satisfies the objective of the DMCCA.

Similarly, our current approach (whereby an indication of in resort fees is provided during the booking journey) complies with the requirements set out in paragraph 5.25 of the draft guidance which states: *"Where the total price includes such a 'pay now' price and a 'pay later' price the trader should also provide a clear and prominent breakdown of how much consumers will have to pay and at what time. This should be provided no later than the stage at which the consumer will complete their booking. The total price must also be displayed clearly and prominently next to the constituent elements."*

We do not understand the justification for the disparity between the treatment of local taxes and resort fees for the travel sector and the treatment of car tax in the car sales sector, where the latter does not need to be included in the headline price despite being a mandatory charge that the consumer will incur in the same way as local taxes and resort fees. In our view, the same approach should be applied to resort fees as is applied to car tax, whereby information can be provided to the consumer regarding the existence and approximate amount of the tax without going as far as to include it within the headline/total price.

- d) Is the guidance on how businesses should present 'monthly pricing' clear?
- e) Are there other types of charges or pricing that the CMA should consider providing specific guidance on?

**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?

dnata response: We consider the example at paragraph 5.26 of the guidance (set out below for ease of reference) to be unclear and potentially confusing to consumers who may believe that they are paying the entire cost, inclusive of local taxes, at the time of booking. This may lead to further confusion when consumers are then asked to pay the taxes in resort.

The example is based on a single hotel booking. It is unsuitable for packages where more than one local tax may be involved. If all local taxes are to be individually listed with applicable exchange rates, it would make the pricing information lengthy and difficult to interpret. We do not consider that to be in the best interests of consumers.

In addition, whilst the example mentions that exchange rates may change before the consumer pays, it does not mention that the tax may be varied by the relevant authorities in the destination. However, to add such wording would require a lengthy and confusing explanation of the price calculation.

We do not see any benefit of displaying the pricing information in the manner suggested in the draft guidance. Information regarding approximate local taxes is provided to consumers during the booking journey in a less confusing manner at present by displaying an estimate of the fees to be paid in resort beneath the amount payable to the trader. We are confident that this does not cause customer confusion or cause for complaint as a pricing practice given that we do not receive complaints about it.

CHECKOUT NOW

The Beachy Hotel

5 night x 2 adults, dbl room

Price Breakdown

 Pay now:

£475

Pay at property:

€30

Total

£500.27

Includes approx. £25.27 (€30)  
tax to be paid at the hotel

Based on an exchange rate of  
(1 EUR =0.842276).

Exchange rate may change  
before you pay at the hotel.

PAY NOW

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