

## NEW CONSUMER PROTECTION LAWS IN THE UK

### An elevated risk profile for companies supplying goods or services to UK consumers

New UK legislation raises the stakes for corporates as regards consumer protection law. It replaces the previously weak enforcement system with a robust consumer protection regime involving substantial fines. This tougher regime makes it essential for businesses selling to UK consumers to ensure compliance.

The regime will safeguard fair-dealing businesses by acting as a strong deterrent against rivals seeking to gain competitive advantage by engaging in unethical industry practices towards consumers. There is a route for reporting competitors' misconduct to the UK's Competition and Markets Authority, the CMA.

#### AT A GLANCE

1. This is an important new risk management issue, with the potential for substantial fines and reputational damage.
2. The rules apply not only to UK-based corporates but also to any supplier of consumer products (goods or services) sold to UK consumers.
3. Concerning conduct includes false advertising of price discounts, drip pricing (where the headline price conceals compulsory add-ons), fake online reviews, "greenwashing" (misleading environmental claims), subscription traps, and certain pressure selling techniques.
4. There is also the risk of private litigation and liability for damages, with some potential for class actions in the future.
5. It is advisable for corporates to begin implementing risk management measures now, ahead of the regime coming into force in April 2025.

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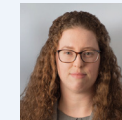
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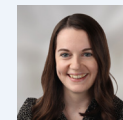
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**1. The new rules significantly increase the risk profile for consumer protection law compliance for companies**

For corporate boards, the new risk of substantial fines for infringements means that consumer protection compliance becomes, for the first time, at least as important a risk management issue as compliance with antitrust (competition) and data protection laws.

**2. Potential for significant fines and reputational damage**

Where it finds an infringement, the CMA will be able to issue legally binding orders requiring companies to alter their business practices and impose fines of up to 10% of global group turnover. This is on par with penalties for antitrust/competition law infringements and significantly higher than the maximum fines for data protection law breaches. No less damaging is the negative publicity associated with findings that customers have been “misled” or “ripped off”. CMA investigations can be protracted and demand diversion of management time.

**3. These new powers are expected to be used**

There has been significant pressure and lobbying for the tough sanctions that will soon be available. Therefore, there is an expectation that the CMA will use its new powers swiftly to address illegal practices such as false discounts, drip pricing and fake online reviews.

**4. Litigation risk**

Investigations by the CMA or local authority Trading Standards departments are likely to lead to consumers seeking redress through private litigation, with support from consumer organisations or watchdogs. As a result, we expect the emergence of related private litigation and potentially even collective claims. The latter could become a real possibility if claimant firms succeed in their lobbying efforts to expand the Competition Appeal Tribunal’s remit to hear consumer class actions.

**5. Recommended actions to take**

Businesses selling goods or services to UK consumers should proactively prepare for the new regime by introducing effective risk management measures in the run-up to April 2025. Measures may include establishing compliance programmes and training for senior management and sales and marketing staff, and conducting internal due diligence and audits, seeking legal advice where issues arise. “Mystery shopping” exercises at random stores or online may also help to identify areas of risk.

**NEW REGIME – WHAT YOU NEED TO KNOW**

- New UK consumer protection laws come into force in April 2025
- Risky conduct in marketing or selling to consumers includes:
  - Misleading consumers – examples where the CMA has expressed concern in recent years include: false “discounts” where the higher price was never, or seldom, in place; “drip” pricing (e.g. flights or car rentals) where the headline price conceals compulsory add-ons; false or misleading online reviews; “greenwashing”, i.e. exaggerated or unsubstantiated claims about the environmental sustainability of a product or service;
  - Subscription traps – making it difficult to cancel a subscription, or not being transparent about automatic renewals and termination rights;
  - Unfair terms – provisions in terms and conditions that are excessively skewed in favour of the supplier over the consumer, such as restrictions on refunds or cancellation rights, or unilateral rights to increase prices during a contract period; and
  - Pressure selling – creating a false impression through misleading claims about scarcity or misleading “countdown timers”. Misleading countdown timers were notably the subject of rare court proceedings initiated by the CMA against a bedding company in October 2024.
- If an infringement is found, the CMA can (i) declare the practice illegal, (ii) issue binding orders to stop the practice, and (iii) impose fines of up to 10% of global group turnover.
- Companies can offer undertakings to change practices to address concerns (without admitting liability) to end an investigation. Early admissions of liability can significantly reduce fine levels.

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