

# Statement of scope for Advertising and Pricing Market Studies

15 October 2009

On 19 August 2009, we announced our intention to launch a market study looking at the impact on consumers from potentially misleading advertising and pricing.

Since then we have engaged with a wide range of stakeholders from Government, trade organisations, consumer groups and the advertising industry to gain their views on the scope of the study. We have also received useful comments from individual businesses and consumers. We are grateful for all of these contributions to our work.

Following this consultation, we have decided to arrange the work in two separate studies:

- **Advertising of prices**, which will focus on several different ways in which prices are often advertised and which may give rise to concerns, and
- **Online targeting of advertising and prices**, which will cover online behavioural advertising and customised pricing.

The two studies have largely separate scopes, stakeholders and work streams and so splitting the studies will allow us to conduct each project more efficiently and gives each project a tighter focus.

## Advertising of prices

### Scope

Following consultation with stakeholders, we have decided to focus our study on five advertising practices: drip pricing; reference pricing; bait pricing; complex pricing; and time limited offers, as well as price comparison sites which may employ some of these practices.

The main objective of the study is to understand the potential benefits to consumers that such practices have when they are used in a clear and accurate manner and also whether, and in what circumstances, detriment might arise from them. Consumer detriment might include reducing consumers' ability to search for and compare deals which could potentially result in a more expensive or less suitable purchase and/or increased time spent searching. The detriment from any individual practice may decrease if

consumers learn from previous transactions but this may also result in decreased trust in advertising in general.

There is a large amount to learn about the effect that the internet has had both in introducing new practices, and in increasing consumers' ability to compare product and share information – this will be a particular focus of the study although the scope is not restricted solely to online issues.

To understand the effects of the different practices, we will continue to engage with other regulators, trade organisations, individual businesses and consumer groups. We will also consider existing literature and research on the area, and commission consumer research. The responses we have had on the scope have highlighted how different practices are used in different industries. We will consider the pricing practices in general but to make our work more relevant and of practical value we will focus the research for each pricing practice within the context of a few industries.

### **Pricing practices and example industries**

- **Drip pricing** This mainly refers to purchases where consumers only see an element of the price upfront, but either optional or compulsory price increments 'drip' through the buying process. Potential representative industries include airlines, car hire, ticket sales and insurance.
- **Reference pricing** This term is mainly used to refer to circumstances where sale prices are compared to an 'original' or 'recommended' price. Potential representative industries include cruises, furniture, supermarkets and wine.
- **Bait pricing** This covers a range of practices, but essentially involves consumers being enticed with discounts, although they may ultimately purchase a more expensive product either because there are very few items available at the discounted price or because they decide to upgrade as part of the sales process. Potential representative industries include travel/airlines, consumer electronics and clothes.
- **Complex pricing** This covers a range of practices, but includes those pricing practices used by retailers which might make it difficult for the consumer to assess the unit price, for example 3for2 offers and 'free' add-ons, or where complex price structures might make it difficult for consumers to compare prices. Potential representative industries include insurance, mobile phones, supermarkets and IT hardware.

- **Time limited offers** This mainly refers to where discounts are advertised as only being available for short periods of time. We may also consider situations where the price advertised to consumers changes during the online purchasing process. Potential representative industries include airlines, carpets and furniture.

### **Price comparison sites**

Price comparison sites are included in the scope of the study. There are clear benefits to price comparison sites in enabling customer to more easily search and compare products, however we will also consider whether, either by employing some of the practices listed above or by engaging in other advertising and pricing practices, such as returning quotes which do not include all requested add-ons, they may result in consumers making incorrect decisions.

We intend to look at a wide range of price comparison sites in our work and will include switching sites, which allow consumers to compare and switch between providers, and also sites which search a range of supplier's websites for the cheapest match.

### **Outside scope: wider advertising and online issues**

Several additional issues were raised by stakeholders. These included a range of issues relating to potentially misleading or unclear terms and conditions and potentially misleading advertising of product quality. Whilst we acknowledge that these may be important issues, they were considered to be too far removed from the core objectives of this particular study to include.

Stakeholders also mentioned a wide range of important issues around consumer protection in a digital environment, such as spam, e-scams and privacy, which are of particular interest to the OFT but remain outside the scope of this particular study.

The study does not include broadcast advertising, which is regulated by Ofcom.

Matters relating to the supply of advertising space fall outside the scope of this study.

We will keep the focus of our work under review during the study.

## **Online Targeting of Advertising and Prices**

### **Scope**

The main objectives of this study are to consider the benefits of targeting advertising and prices and whether, and under what circumstances, current behavioural advertising practices and likely developments in targeted pricing might be expected to give rise to consumer harm.

### **Targeted advertising**

Almost all advertising is targeted. This is true across TV, radio, print and outdoor media. Online targeting, however, may involve collecting and tracking information about individuals. It is possible to gather a great deal of information about an individual online user and this may mean that online profiling or targeting is relatively more accurate than offline. Consumers, however, may not be aware that they are being tracked.

Targeted advertising can have a number of benefits, including reducing the number of irrelevant adverts consumers see, making advertising more cost effective and helping to fund online content and innovation. On the other hand, targeted advertising also raises a number of issues relating to privacy and transparency especially where consumers are unaware that their data is being collected.

The study will initially consider the extent of online behavioural advertising, the types of practices used to collect data and how the data is used. The study will then go on to consider whether there are some targeted advertising practices which may be more or less likely to result in consumer detriment, for example:

- where the data collected for profiling is identifiable to a specific person or a specific computer
- where the data is collected and used by a single website known as 'first party' behavioural advertising, and
- where advertising is based on a single visit or search criteria and involves no retention of data known as contextual' behavioural advertising.

The study will clarify how the existing legislation may apply to online behavioural advertising. We will also look at the self regulatory measures which have been put in place.

## **Targeted prices**

Online targeting of prices is a form of price discrimination in which firms can access large amounts of information about consumers in order to segment consumers and charge them different prices. The consultation highlighted that the technology to target prices and products to individuals or narrow consumer segments is ahead of the business models. While a few businesses may be exploiting information gathered online, some are still working out strategies for gathering it effectively and others have shied away from targeted pricing because of the fear of bad publicity once the practice is discovered. This part of the study will therefore inevitably have a forward looking focus.

The main objective of this part of the study will be to provide a greater understanding of the emerging issues in relation to consumer protection.

The study will consider the likely ways in which online retailers may be able to use consumer profiles and segmentation to target specific products and prices to individual consumers. We will then consider whether these practices would be likely to cause consumer detriment particularly where consumers are unaware that they are being targeted, which may affect the extent to which they compare products as well as potentially raising privacy concerns.

## **Wider commercial use of consumer information**

Our study is focused on the use of consumer information to create individual profiles or to place consumers into narrow segments in order to target advertising, prices or products. We do not propose to consider other online uses of consumer information, such as to provide customers with updates and information on products and services they use or subscribe to. Offline targeting of prices, for example through the use of loyalty cards, is also excluded from the study.

During the consultation process stakeholders also raised concerns about stealth advertising, i.e. affiliate links and retailers posting comments falsely claiming to be from consumers on online chat rooms and other online forums promoting products; and advertorials, i.e. adverts designed to look like independent news stories or advice. These issues are not included in this particular study.

We will keep the focus of our work under review during the study.

## Next steps

The study team will continue to engage with stakeholders – in particular we would welcome submissions from interested parties on the substantive issues raised above by **18 December 2009**.

Please send submissions to [AdvertisingandPricing@oft.gsi.gov.uk](mailto:AdvertisingandPricing@oft.gsi.gov.uk), or to

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We intend to complete the Targeted Advertising and Prices study in March 2010 and the Advertising of Prices study in June 2010, and will post updates on our website at:

[http://www.oft.gov.uk/advice\\_and\\_resources/resource\\_base/market-studies/current/advertising-pricing/](http://www.oft.gov.uk/advice_and_resources/resource_base/market-studies/current/advertising-pricing/)