Consultation questions

1. Do you agree with the guidance principles set out above?

Yes. However, the principles should be strengthened further in a number of areas.

2. Do you agree with taking the same approach to ads for both tiered and variable contracts, in terms of the level of prominence expected for information about mid-contract price increases?

Yes. Some providers use variable contracts to apply increases well in excess of inflation. Even if the customer has the right to terminate the contract, it can be difficult to contact the provider during the relevant window, particularly if they have notified all customers of the increase at the same time so phone lines are busy.

If variable contracts are not subject to the same rules, they could be used as a spoiler for competing offers. When the subsequent price increase is applied, the competitor's offer may no longer be available.

3. Do you have any comments on the use of terms used to describe rates of inflation such as CPI and RPI, and the level of understanding consumers have of these terms (including when they are referred to using an initialism only)?

No.

4. Do you agree with the mitigating factors listed as having the potential to cause an advertiser to take additional action in order to ensure material information relating to in-contract price increases is sufficiently clear?

Yes. Particularly the example "£30 for 24 months" which is blatantly misleading if the contract includes an automatic price increase before 24 months.

5. Do you agree that in instances where multiple offers/products appear on one page (for example, on a telecoms provider's own website), it may be sufficient for prices to link or refer to a suitably-prominent single piece of information about mid-contract price increases, rather than including this information within each individual product listing?

No. This would allow advertisers to put important qualifiers at the end of the listing rather than placing the information prominently next to the relevant headline prices.

Each price in the product listing should be clear in its own right as to the nature of any price increases during the minimum contract period.

6. Do you have any other comments or suggestions in relation to the proposals?

Yes

Above-inflation increases

The consultation document states:

> The initial price period preceding the obligatory rise can be seen as functionally the same as an introductory discount period

Consumers might consider it reasonable for the price to increase by inflation applied pro-rata from the start of the contract. However, if the price increases by more than this (e.g. if the increase is more than inflation, or if a full year's increase is applied before the contract has been running for a full year) it is functionally the same as an introductory discount period and should be given the same prominence as an introductory discount.

For contracts with a known minimum price increase (for example a fixed percentage increase, or CPI + 3.9% with a minimum increase of 3.9% annually) the advert should include the average price over the term of the contract with the minimum price increase included, because it is not possible for the customer to pay less than this amount. Alternatively, it could be presented as:

£10 per month until April 2023
£10.39 plus Jan 2023 RPI*, from April 2023
£10.80 plus Jan 2023 RPI* and Jan 2024 RPI*, from April 2024

Some customers will find a monetary amount easier to understand than a percentage increase.

Timing of the first increase

The consultation document states:

> The ASA has received complaints in the past from consumers who saw a monthly price for a tiered telecoms contract advertised shortly before the annual price increase in April, meaning that the initial price only applied for a month or two. Contracts frequently have durations of 18 months or more. It is advisable that marketers take extra care when advertising close to a tiered price increase, to ensure it is clear to consumers that the price will go up imminently.

Any advertisement published more than 5 working days after the relevant rate of RPI or CPI has been made public should show the imminent price increase as a monetary amount, in the same way that an introductory discount would be shown. This would be clearer for customers leading to fewer complaints of the type described.

For example, if the increase is CPI + 3.9% and the relevant CPI rate is known to be 11.1%:

£10 per month until April 2023
£11.50 per month from April 2023 – this price will increase by the Consumer Price Index rate of inflation plus 3.9% every April from 2024

Variable contracts

The examples shown for variable contracts put the qualifier "Price may rise during contract" in brackets. The use of brackets reduces the impact of this phrase and makes it easy to overlook. The qualifier "Price may rise during contract" should not be in brackets.

Price comparison services and websites

The consultation document states:

> CAP and BCAP consider that:
> a) the existence or known possibility of a mid-contract price increase; and
> b) if known, the nature of that price increase
> constitute material information that a consumer requires in order to make a transactional decision including the decision to enquire or otherwise engage further in the sales process. Therefore, ads that omit that information or present it in an unclear, unintelligible, ambiguous or untimely manner are likely to mislead consumers.

The same principle should apply to any advertisement or website that makes a price comparison, including dedicated price comparison websites.

If two contracts have the same initial price and contract term, but one has mid-contract price increases and the other does not, or one has increases that are known to be higher than the other (e.g. CPI + 3.9% versus CPI), this should be taken into account when determining the order in which to rank those contracts in any price comparison.

For contracts where the price is not fixed for the whole of the minimum contract period, the presence of mid-contract price increases should be displayed prominently in any price comparison, before the point at which the customer decides which offer to engage with.

For contracts with a known minimum price increase (for example a fixed percentage increase, or CPI + 3.9% with a minimum increase of 3.9% annually) any price comparison should take into account at least the minimum annual increase, averaged over the minimum contract period. The minimum monthly price, averaged over the contract term, should be shown alongside the initial price, otherwise the price comparison is misleading.

For contracts that include further increases linked to CPI or RPI, the presence of such increases should be prominently highlighted in the price comparison before the point at which the customer decides which offer to engage with. If the rate of CPI or RPI for the first increase has already been published, this amount should be included in the minimum average price of the contract (similar to my comment in the previous paragraph).