

CAP and BCAP's evaluation of responses to proposal for guidance on the presentation of mid-contract price increases in telecoms contracts



1. Introduction

Following public consultation, the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice (BCAP) have decided to adopt guidance on the presentation of mid-contract price increases in telecoms contracts.

These proposals were set out in the consultation document.

CAP and BCAP have published a separate Regulatory Statement summarising the rationale for their decision and confirming the outcomes on the various points that were consulted on. The tables below in this document sets out CAP and BCAP's detailed evaluation of all significant comments received. It should also be read alongside the [regulatory statement](#) and the [consultation document](#).

Full copies of the responses have been published on the [consultation output page](#).

2. List of respondents and their abbreviations used in this document

The following parties responded to the consultation.

| | Organisation / Individual | Abbreviation |
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| 1 | Advice Direct Scotland | ADS |
| 2 | British Telecommunications | BT |
| 3 | Communications Consumer Panel and Advisory Committee for Older and Disabled People | CCP-ACOD |
| 4 | Citizens Advice Scotland | CAS |
| 5 | Competition and Markets Authority | CMA |
| 6 | Community Fibre | CF |
| 7 | Consumer Scotland | CS |
| 8 | G.Network | GN |
| 9 | Hyperoptic | HO |
| 10 | Independent Networks Cooperative Association | INCA |
| 11 | Ombudsman Services | OS |
| 12 | Organisation A | OA |
| 13 | Organisation B | OB |
| 14 | Public respondent A | PRA |
| 15 | Public respondent B | PRB |
| 16 | Public respondent C | PRC |
| 17 | Sky | S |
| 18 | Utility Warehouse | UW |
| 19 | Vodafone | VF |
| 20 | Which? | W |

3. Evaluation of consultation responses

| 1. Do you support the guidance principles? (general support) | | | |
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| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
| 1.1.1 | ADS | Agree. | CAP and BCAP agree. |
| 1.1.2 | CCP-ACOD | Agree. | CAP and BCAP agree. |
| 1.1.3 | CAS | Agree. | CAP and BCAP agree. |
| 1.1.4 | CF | Agree (except principle c – see answer to 1(c)) | See 1(c).2.1 |
| 1.1.5 | CS | Agree. | CAP and BCAP agree. |
| 1.1.6 | HO | <p>Agree with principles. On some points consider they could go further.</p> <p>The prevalence of telecoms contracts containing mid-contract price rises, the cost of living crisis, and evidenced lack of consumer awareness mean that the guidance should be implemented as soon as possible.</p> <p>Strongly agree with the principle of price as material information. ASA and Hyperoptic research show that this is one of the primary concerns of customers choosing a broadband package.</p> <p>Own research shows while customer awareness has improved, majority are still not sure whether mid-contract increases apply to their own contract. A third did not know the practice occurred. Indicates cannot rely on improved consumer knowledge of the practice in general to bring transparency to advertising.</p> | <p>CAP and BCAP agree.</p> <p>See 1(a).1.3, 1(b).1.4-1(b).1.7, 1(d).1.3, 1(d).1.4, 1(f).1.5, 3.3.8, 4.1.7-4.1.10, 5.1.6, 6.1.8, 6.1.9</p> |
| 1.1.7 | INCA | Agree. | CAP and BCAP agree. |
| 1.1.8 | OS | Agree. | CAP and BCAP agree. |
| 1.1.9 | PRA | Agree. | CAP and BCAP agree. |
| 1.1.10 | PRB | Agree, but believes they should be stronger. | CAP and BCAP agree. See 5.2.4, 6.1.18-6.1.21 |
| 1.1.11 | PRC | Agree, but believes they should be stronger. | CAP and BCAP agree. See 2.1.9, 3.3.9, 3.3.10, 5.2.5, 6.1.22-6.1.24 |
| 1.1.12 | W | Agree. Particularly important as predicting very high inflation linked rises. | CAP and BCAP agree. |
| | Respondents disagreeing | Comments | CAP and BCAP's evaluation |

| | with the proposals | | |
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| 1.2.1 | GN | <p>Disagree.</p> <p>Consumers should be informed and empowered to make the right purchasing decisions, and agree that price is a leading factor in choosing an intangible service like broadband.</p> <p>However there is a trade-off between providing enough information and overwhelming consumers with detail.</p> <p>Introducing further pieces of information to advertising may increase confusion and complexity, with the potential to drive switching inertia, which is bad for consumers and competition.</p> <p>Consumers are purchasing against a backdrop of variable inflation and uncertain economic outlook. Consider that indicating more prominently that prices are linked to inflation is unlikely to help them to make a meaningful buying decision.</p> <p>Caution that any change that makes it more difficult for smaller challenger brands ('altnets') to advertise risks damaging competition and limiting consumer choice.</p> | <p>The presence and, if it can be anticipated, the nature of a price rise that will or may be applied to a monthly contract price constitute material information that consumers need in order to make an informed transactional decision.</p> <p>CAP and BAP acknowledge that, where there are many pieces of material information, lengthy and/or complex text, this could, in certain circumstances, impact on consumer understanding.</p> <p>If advertisers find that the quantity of material information that needs to be conveyed to avoid misleading consumers is such that it is creating overly-long or dense text, they may wish to consider the elements of the particular product or offer in question, as well as whether all the information featured is strictly necessary.</p> <p>CAP and BCAP disagree that more prominent information is unlikely to aid a consumer's decision.</p> <p>The guidance will, as always, apply across the market and CAP has not seen evidence that it would affect smaller brands disproportionately.</p> |
| 1.2.2 | OA | <p>Disagree. A more nuanced approach required.</p> <p>Customers are familiar with annual price increases and guidance should be considered in that context.</p> <p>Do not consider that principles take sufficient account of Ofcom statutory requirements (implementing EECC phase 2) on providing customers with information prior to entering into contracts, and subsequent cooling off period.</p> <p>Provide mock-ups of approaches they believe are more proportionate.</p> | <p>As discussed in the consultation document, CAP and BCAP have considered Ofcom statutory requirements on providing contract information when developing the principles. CAP and BCAP consider that the presence and nature of price increases are material information that should be made clear to consumers to avoid them being misled into a transactional decision they would not otherwise have made. A transactional decision is not limited to the decision to make a final purchase, but could also include a decision to enquire further in response to advertising. Therefore, such information should be sufficiently clear and prominent in the ad itself, regardless of the specific, detailed information that is required to be given to the consumer at a later stage of the purchase process. Various pieces of research show that many consumers struggle to understand that mid-contract increases will apply, and the nature of those increases. Public knowledge that annual price increases apply to some contracts does not relieve advertisers of the responsibility to ensure the presence and nature of price increases are sufficiently clear and prominent in advertising.</p> |

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| 1.2.3 | OB | <p>Disagree. While clear and transparent presentation of pricing is necessary in advertising, the proposals go further than legally required or necessary. Pose serious problems for advertisers, given the time and space limitations of many media. Too rigid and 'one-size-fits-all'</p> <p>Video ads: Mock ads don't account for how advertising generally appears. Pricing is generally only held on screen briefly, as various other elements highlighted to differentiate products. If advertisers are required to qualify pricing in the onscreen visuals immediately alongside any price point featured in the ad, this would unduly complicate the advertising as a result of the hold times or sequencing it would necessitate. Superimposed legal text is widely recognised as a prominent form of qualification, is retained for longer than the onscreen visuals and is the next level down in the qualifying ladder.</p> <p>Guidance fails to adequately consider drawbacks of giving undue prominence to qualifying information, which may reduce prominence of other pieces of information.</p> <p>Should not enforce rigid principle of equal or immediately adjacent prominence. A reasonable and proportionate approach would be to instead consider the context and presentation of marketing communications in assessing whether they are potentially misleading or not. Standard in many cases will be incapable of being met. May lead to providers excluding price altogether, to consumer detriment.</p> <p>Believe guidance goes beyond what is required under the CPRs and would be unlawful, irrational and/or disproportionate.</p> <p>Effect of guidance would be prescriptive and any ad that didn't follow the proposed approach would likely be in breach of the rules, effectively 'black letter law'.</p> <p>The average consumer would not require, or indeed expect, the level of price qualification as provided for by the guidance proposal. A suitably qualified price claim, potentially using an asterisk and which links to qualifying text positioned at an appropriate step on the qualifying ladder, could not rationally be said to be in breach of the CPRs.</p> | <p>The Consumer Protection from Unfair Trading Regulations 2008 (the CPRs) prohibit unfair marketing to consumers, including misleading or aggressive advertising. Whenever it considers complaints that a marketing communication misleads consumers or is aggressive or unfair to consumers, the ASA will have regard to the CPRs. That means it will take factors identified in the CPRs into account when it considers whether a marketing communication breaches the Codes.</p> <p>The Codes state that ads should not materially mislead consumers, or be likely to do so. Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner. Ads are evaluated against the Code on a case by case basis taking into account their context.</p> <p>The consultation document considered the requirements of different media. While CAP and BCAP accept that there may be some instances where media are genuinely space-limited, they concluded that the formats indicated (particularly paid-for search results) were not so limited in space as to justify not including information about price rises in the ad itself.</p> <p>Again, in relation to video ads, the amount of information needed to immediately qualify price statements within the main aid would not appear prohibitive and if other elements of the offer are causing issues then advertisers may want to consider the necessity of those elements.</p> <p>Ultimately, the guidance presents a set of principles, in aligning with which CAP and BCAP consider advertisers are more likely to avoid misleading consumers. It does not follow that there would never be circumstances where presentation of this information at a lower level of prominence would be acceptable, as individual ads must be assessed on a case by case basis.</p> <p>The guidance states price rise information is less likely to mislead if it is as prominent as the price information itself. This is because of its importance to the consumer. As CAP guidance on qualifications states, where possible, ads should be worded in full to make the point the advertiser wishes to make about the product rather than relying on qualifying text.</p> |

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| 1.2.4 | OB | <p>Suggest instead updating supplementary guidance to give further advice on how asterisk-linked text can be given adequate prominence. Would reinforce rather than contradict existing qualification principles. Provide suggested wording that would achieve this.</p> <p>Focus should be on ensuring advertisers more closely adhere to existing guidance.</p> | <p>The previous guidance on this subject was not sufficiently clear. The purpose of this guidance is to provide more detail. Responses show that the level of prominence widely being used in ads is not considered sufficient by consumers.</p> |
| 1.2.5 | OB | <p>Believe guidance unjustifiably targets telecoms sector without explanation. Other sectors also feature similar pricing structures. Telecoms already subject to statutory requirements around price information from Ofcom. If guidance introduced as is, only appropriate to apply it to all sectors.</p> | <p>The consultation clearly states that this approach is not unique to the sector and the guidance could have relevance for other sectors. However, this is the sector where CAP and BCAP have seen evidence of presentation of information impacting consumer understanding.</p> <p>There are few other utility sectors that habitually offer services that include so many different elements to assess when considering the price. There are unlikely to be many 'extras' with other types of utilities contracts.</p> <p>With other types of subscriptions, it is well-established that the end of a free trial or initial contract term should be made clear to the consumer.</p> |
| 1.2.6 | OB | <p>Does not sufficiently account for Ofcom requirements – given that consumers will be given comprehensive information prior to entering into a contract, the level of prominence set out is not necessary in advertising and goes beyond legal requirements.</p> | <p>See 1.2.2</p> |
| 1.2.7 | OB | <p>Guidance contradicts established qualification guidance, which accepts qualifications need not be as prominent as the claim being qualified. Asterisking to a qualification on the next step of the qualifying ladder is also contrary to the existing guidance. Asterisking is a widely recognised form of qualification of a main claim and permits the qualification to be an extra step away on the qualifying ladder.</p> | <p>CAP and BCAP consider that the requirement to also use an asterisk to link information that is placed no more than one step below the initial price claim is unlikely to add to consumers' awareness of the information, provided the placement of the text is sufficiently prominent. CAP and BCAP have therefore removed this requirement.</p> |
| 1.2.8 | UW | <p>Disagree that proposed level of prominence is necessary, given the wider context of the telecoms sales journey and Ofcom rules on contractual information.</p> | <p>See 1.2.2</p> |

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| 1.2.9 | UW | Risk that consumers will struggle to absorb the amount of information in an ad, discouraging engagement with the market. | See 1.2.1 |
| 1.2.10 | UW | Suggest ASA assess the effects of the new Ofcom rules and test proposals with consumers (including the whole consumer journey) before proceeding. | Given the case set out in the original consultation document, CAP and BCAP do not consider there is reason to believe further consumer research is necessary. |
| | Other responses (including those that gave conditional or noncommittal views of the proposals) | Comments | CAP and BCAP's evaluation |
| 1.3.1 | S | Agree that price rise information should be presented in an appropriately prominent manner, but consider a more nuanced approach is needed rather than applying principles to all types of pricing model. | See 2.2.3 |
| 1.3.2 | VF | <p>Agree that existence or known possibility of a tiered price increase and nature of that increase constitute material information, and should be presented in a clear, intelligible, unambiguous and timely manner.</p> <p>However, guidance goes further than necessary in relation to tiered and variable contracts. Need to ensure that information displayed in a way that does not confuse the average consumer or inadvertently cause some information to be less prominent.</p> <p>VF's advertising complies with existing Codes and guidance, including qualifications guidance, by including asterisk immediately after price linking to a qualification.</p> | See 1.2.1 |

1. (a) Information indicating the presence or possibility of a price rise is either part of the price claim, or placed immediately adjacent to it.

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| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
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| 1(a).1.1 | ADS | Agree. | CAP and BCAP agree. |
| 1(a).1.2 | BT | Agree. | CAP and BCAP agree. |
| 1(a).1.3 | HO | <p>Agree, but consider example wording given may not be sufficiently clear.</p> <p>Must be clear that prices will increase, rather than simply change.</p> <p>Must include a clear date, if known, and not give impression price will stay the same for a full year if untrue.</p> <p>Must be clear that 'starting price' refers to obligatory contract cost, and not additional 'add-ons'.</p> <p>Suggested alternatives:</p> <ul style="list-style-type: none"> • £X per month, increasing from April 20XX • £X, subject to future increases • £X, but may go up • £X, unless we decide to raise it | <p>CAP and BCAP agree that the example wording should be amended to make clear that prices will increase, in relation to variable contracts, and provide precision on dates rather than just listing the year.</p> <p>Advertisers must also explain if the increase only applies to one element of the product.</p> |
| 1(a).1.4 | PRA | Agree. Increases should be as prominent as any price claim in an ad. | As per the stated principle, price rise information should be equally prominent to the price claim. |
| | Respondents disagreeing with the proposals | Comments | CAP and BCAP's evaluation |
| 1(a).2.1 | CMA | <p>Disagree. The principle should make clear that the price claim and the presence or possibility of price rise should be equally prominent.</p> <p>'Immediately adjacent' could be interpreted by industry as a lesser degree of prominence.</p> | CAP and BCAP agree. The principle has been amended to clarify that placing this information more than one step away (including asterisked in a footnote) is unlikely to give adequate weight to the significance of this material information. |

1. (b) If known, information about the nature of the price rise is featured prominently within the main copy of the ad. In static-format ads, no lower than one 'step' below the initial price claim and linked by an asterisk to the main price claim.

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| | Responses in agreement | Comments | CAP and BCAP's evaluation |
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| 1(b).1.1 | ADS | Agree. | CAP and BCAP agree. |
| 1(b).1.2 | BT | Agree that nature of price rise should be one step below price, but not that an asterisk is required to link price statement to that qualification. Could act as an interruption, confusing consumers as they pause to look for corresponding small print. | See 1.2.7 |
| 1(b).1.3 | BT | Believe that the position is contrary to Qualifications guidance. Approach is inconsistent, as information about potential (variable) price rises is not required to be linked by an asterisk. | It reads more naturally to incorporate the tiered information increase into the initial claim, but examples for both types of contract reflect the principle that the information should have equal prominence with the price claim. |
| 1(b).1.4 | HO | Agree. However, call for clarity that the qualification should remain immediately near to the price claim. There should be no scenario where the information is relegated to the footnote, unless that is the only place the price claim appears. | See 1(a).2.1 |
| 1(b).1.5 | HO | In the online context, approaches that require interaction, such as hovering over or clicking on, should not be considered sufficiently prominent. | CAP and BCAP agree that information the consumer has to 'hover' over to view unlikely to be sufficiently prominent and the guidance has been amended to make that clear |
| 1(b).1.6 | HO | Principle should be carefully taken account of in audiovisual ads. Consider on-screen clarification for a spoken price claim would not be sufficiently prominent. If a price claim features in voiceover, spoken clarification should follow immediately, and this should happen every time the price is said. Supers should never be an appropriate place unless this is the only place where price appears. | CAP and BCAP cannot mandate how the information is featured, but it should have equal prominence with the initial price claim. If spoken only, on-screen text could be sufficient if it is sufficiently prominent. The specific context of the ad must be taken into account. |
| 1(b).1.7 | HO | Concerned that the encouragement to use asterisks may be used by advertisers as an excuse to place their explanations of price increases less prominently than appears to be envisaged by CAP, on the basis of qualifications guidance. Ask that CAP ensure the guidance makes clear that 'a slightly lower level of prominence' is a high bar and that the caveat in the qualifications guidance that an asterisk "will normally allow a marketer" to account for | The relevant principle has been rewritten make clear that the use of asterisks laid out there is unlikely to apply here. |

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| | | lower prominence means that advertisers may not automatically rely on this general principle. | |
| | Respondents disagreeing with the proposals | Comments | CAP and BCAP's evaluation |
| 1(b).2.1 | CMA | Disagree. This information should be equally prominent to the headline price claim. More clarity needed on references to qualifying ladder. Queries whether use of the qualifications guidance 'step' model would allow for placement of information in footnotes in some circumstances. Do not consider placement of information in some of the examples is sufficiently prominent. | CAP and BCAP agree. Placement in a footnote would likely not be sufficiently prominent. The guidance has been revised to acknowledge this. |

1. (c) Descriptions of future price rises and terminology used are clear and simple to understand, and initialisms like RPI are written out in full the first time they are used in an ad, and appended with 'rate of inflation' to aid understanding.

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| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
| 1(c).1.1 | ADS | Agree. Believe additional clarification and detail should be added to ensure that all reasonable efforts are made to prevent the disadvantage of vulnerable groups in understanding of terminology – including those who have difficulty with reading or are not fluent in English. | CAP and BCAP will maintain the position that inflation terms should be written out in full with an explanation that they refer to inflation. However, it is beyond their remit to mandate that additional supportive resources are supplied. The guidance is designed to help advertisers avoid publishing ads that are likely to mislead the average consumer. When considering complaints, the ASA will have regard to the particular audience and context of the ad in question. |
| 1(c).1.2 | CMA | Agree on the basis that explanation appears at the same point as the term. Consumers may struggle to understand RPI and other inflation-linked terms. | The reference to 'appending' a qualifier about rate of inflation was intended to describe the approach recommended by the CMA, not that it should be placed at a lower level of prominence. CAP and BCAP agree that consumers may struggle to understand the initialisms. |

| | Respondents disagreeing with the proposals | Comments | CAP and BCAP's evaluation |
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| 1(c).2.1 | BT | <p>Disagree. "Consumer Price Index" and "Retail Price Index" can be shortened without inhibiting consumer understanding in most contexts.</p> <p>Support addition of "rate of inflation" where there is room to include it.</p> <p>Note that examples of small-format ads use initialisms only.</p> | <p>CAP and BCAP consider that small-format examples should have terms written in full.</p> <p>CAP and BCAP consider that consumers should be provided with as much information about the nature of the price rise as possible, which includes the full name of the rate used.</p> <p>As above, CAP and BCAP do not consider this information is likely to prevent the inclusion of other important information provided advertisers consider the necessity of other elements of their offer.</p> |
| 1(c).2.2 | CF | Disagree that terms need to be written out in full. | See 1(c).2.1 |
| 1(c).2.3 | OA | Disagree that terms should be written out in full. Have not seen evidence that consumers are confused by the abbreviation. It is impossible to provide all answers to such questions in an advert and so one has to strike a balance to provide consumers with sufficient information to make informed decisions while still enabling advertisers to create and publish compelling and complete adverts. | <p>See 1(c).2.1</p> <p>Consumer research indicates consumer understanding of initialisms is not strong.</p> |
| | Other responses (including those that gave conditional or noncommittal views of the proposals) | Comments | CAP and BCAP's evaluation |
| 1(c).3.1 | CMA | A term is more likely to achieve fairness if the stepped price is set out prominently in monetary terms, specifying the dates each increase will take place. | While CAP and BCAP agree that ideally, setting out future prices in absolute terms would be less likely to mislead consumers, given that the exact percentage rates are unlikely to be known this will be unachievable most of the time. Calculations using example percentages or the previous known rate are considered likely to confuse consumers in the context of an ad and unlikely to add to their understanding. Sample calculations are provided as part of Ofcom-mandated pre-contract information, in which context consumers will have more time to digest that they are only a theoretical illustration to |

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| | | | <p>help them understand the calculations and do not represent the actual amount they will pay.</p> <p>What is most important in the initial ad is that consumers are made aware that their monthly price could or will rise in future.</p> <p>At such a time when the rate is known, then ads will be less likely to mislead if they include the future monthly price figure in absolute terms.</p> |
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1. (d) Advertisers take care to distinguish the full contractual price ahead of the tiered increase from any other introductory discounts that may apply.

| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
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| 1(d).1.1 | ADS | Agree. | See 1(d).2.1 |
| 1(d).1.2 | BT | Agree. | See 1(d).2.1 |
| 1(d).1.3 | HO | <p>Agreed. Potentially more detailed guidance needed. Consumers would have to consider how many months would be spent at potentially three prices, at least one of which they must calculate by applying a percentage.</p> <p>Price rises during the discount period: discount price, discount price plus rise, post-discount price plus rise</p> <p>Price rises during the post-discount period: discount price, post-discount price, post-discount price plus rise</p> <p>Estimate of price will be important for enabling informed consumer choice.</p> | See 1(c).3.1 |
| 1(d).1.4 | HO | <p>With regard to price rises that occur within the discount period (e.g. a 6-month discount product taken in November), Hyperoptic note that consumers would never pay the stated post-discount price because it would already have risen by the time it was applicable to the customer.</p> | <p>It would likely be misleading to quote the discount price or reference price and state or otherwise imply that price would apply for the full discount period, or minimum contract term period, if that was not the case.</p> <p>The timing issues considered elsewhere are likely to affect such presentations.</p> |

| | Respondents disagreeing with the proposals | Comments | CAP and BCAP's evaluation |
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| 1(d).2.1 | OA | <p>Disagree. Principle is ambiguous. Not possible to distinguish because later price is subject to inflation and unknown at the time.</p> <p>The advertised is the full price prior to any annual increase. Disagree with characterisation of post-increase price as 'full price'.</p> <p>An introductory price (e.g. half price for 6 months) is not functionally the same as the price applicable prior to a mid-contract price increase. An introductory price is a discount price available to new customers for a limited promotional period of time. A mid-contract price increase changes all current prices.</p> | <p>The salient point is that consumers should be made aware that the price is going to change – and when and how if know, in the clearest possible way. If the package is being offered with an introductory discount, followed by a mid-contract price increase then advertisers need to take steps to ensure all of those changes are clear.</p> <p>On reflection, the principle about introductory discounts does not add anything and has been removed. The above is better reflected elsewhere.</p> |
| | Other responses (including those that gave conditional or noncommittal views of the proposals) | Comments | CAP and BCAP's evaluation |
| 1(d).3.1 | CMA | <p>More clarity needed. Guidance should not suggest that some mandatory elements could be less prominent than others. A unitary price would make transparency much easier to achieve in practice.</p> <p>Examples include other mandatory charges in small print, which they believe should be more prominent.</p> | <p>CAP and BCAP consider that the proposed principles are in line with existing guidance on compulsory charges.</p> <p>The existing guidance states that a single price for the various elements is beneficial for the consumer to see and that advertisers should present all compulsory elements together (up-front costs, line rental, on-going costs) avoiding undue emphasis on any one element.</p> <p>A price rise is not one of those compulsory elements, it is a condition that will be applied to part or all of the cost made up of them. Including prominent price rise information does not give it undue prominence relative to the elements described in the compulsory charges guidance.</p> <p>The purpose of the consultation is not to consider the prominence of other types of information.</p> |

1. (f) Advertisers are mindful of the time of year the ad is being published, relative to the timing of any compulsory or potential annual inflation-linked increase (usually April) to avoid misleading consumers.

| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
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| 1(f).1.1 | ADS | Agree. The proximity of changes should be made clear to consumers within adequate time of the price increase itself. | CAP and BCAP agree. |
| 1(f).1.2 | BT | Agree. | CAP and BCAP agree. |
| 1(f).1.3 | CMA | Agree. Caution that advertisers should not interpret the principle to mean that less care can be taken at other times, as the relevant regulations apply at all times to all ads. | The purpose of this principle is to highlight that advertisers should pay attention to how soon the price rise is likely to occur when advertising offers. |
| 1(f).1.4 | CMA | May be helpful to provide further detail on what measure advertisers should take when publishing ads closer to the time of a price increase. | See 1(f).1.5 |
| 1(f).1.5 | HO | <p>Agree. Acknowledge that it is challenging for CAP to impose a strict timeframe for when such ads would be considered so close to the price rise as to be misleading.</p> <p>Propose that where a customer would not reasonably be likely to receive more than one bill based on the advertised price, the ad should not be used. Particular attention should be paid to the New Year period, as this is a busy time for take up of new contracts (January sales) and also very close to the timing of mid-contract increases.</p> <p>Some telecoms providers use the January ONS rate of inflation as the benchmark for a rise in March or April. From the release of that information, the rate of increase becomes a known amount.</p> <p>Any ads published between the release of the data and the imposition of the price rise (subject to the above principles on fair timing) should specifically state the full percentage increase and the actual cost of the increased monthly bill.</p> | CAP and BCAP agree that once the inflation rate on which an advertiser bases their inflation-linked increase has been published, then an ad is highly likely to mislead if it does not include the known monthly price that the consumer will pay once the price rise is applied. |
| 1(f).1.6 | OA | Agree, but consider difficult to interpret. Unnecessary in relation to OA's current practices. Have a cut off date in mid-February after which any consumer signing up to a new plan won't be subject to the price rise that year. Ads published after that date explain this in small print. | See 1(f).1.3 |

| 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? | | | |
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| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
| 2.1.1 | ADS | Agree. While the two types of contracts differ, consumers are best served by the same high level of information provided across all contract types. | CAP and BCAP agree. |
| 2.1.2 | CAS | Agree. | CAP and BCAP agree. |
| 2.1.3 | CMA | Agree. | CAP and BCAP agree. |
| 2.1.4 | CF | Agree. | CAP and BCAP agree. |
| 2.1.5 | CS | Agree. | CAP and BCAP agree. |
| 2.1.6 | GN | Agree. | CAP and BCAP agree. |
| 2.1.7 | HO | <p>Agree. Current disparity between introductory discounts, which should be up front, and price after mid-contract increase, which is less prominent, despite greater complexity of these products.</p> <p>Variable nature of contract is equally material information. Fact that consumers have right to exit if price is raised does not make this any less important.</p> <p>Research shows negative consumer views on prices changing mid-contract.</p> <p>Labour involved in switching contracts can be a preventative burden on consumers.</p> | CAP and BCAP agree. |
| 2.1.8 | PRB | <p>Agree. Even if the customer has the right to terminate a variable contract, there can be barriers to doing so.</p> <p>If variable contract advertising is allowed lower prominence, it could be used to look more attractive than a tiered offer, even though subsequent increases may negate the difference.</p> | CAP and BCAP agree. |
| 2.1.9 | PRC | Agree. More concerned with unclear tiered contracts than variable ones where there is a right to exit, but does not mean principles should be weaker than what is proposed. Principles should be strengthened, at least in relation to tiered contracts. | See 2.2.3 |
| 2.1.10 | W | Agree. Information about mid-contract price rises, or potential for them, is material regardless of the nature of the clause that provides for price rises, and any future statutory rights the consumer might have. If tiered contracts were to be held to a higher transparency standard, this could | CAP and BCAP agree. |

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| | | <p>risk depriving consumers of opportunity to make an informed decision between different pricing models.</p> <p>Guidance must allow providers who use fact they do not employ mid-contract rises as a marketing asset to be clear about this differentiation.</p> | |
| | Respondents disagreeing with the proposals | Comments | CAP and BCAP's evaluation |
| 2.2.1 | BT | <p>Agree that both types should have same level of prominence. However, believe that further information is required in instances where providers have the right to vary the price during the contract.</p> <p>Many consumers do not leave contracts after price rises, even if they have the right to. State that customers on variable contracts experience higher increases on average than those on contracts that increase in line with inflation.</p> <p>They have the price increase built into their business plan. In practice, price rise is almost always implemented.</p> <p>Believe that the fact the price is more likely to rise than not should be communicated to consumers.</p> <p>Recommend alternative wording:</p> <p><i>All prices may increase, and typically increase each year by between x and y %</i></p> <p>Or:</p> <p><i>All prices may increase, and typically increase each year by an average of x %</i></p> <p>Or, if there are additional terms attached to the potential price increase:</p> <p><i>"Prices may rise each year by up to 10% or the Retail Price Index rate of Inflation, whichever is greater"</i></p> | <p>CAP and BCAP have not seen evidence that variable contract providers have on average higher increases or that they are more likely to rise than not.</p> <p>They consider that a sufficiently prominent statement that prices may rise is the best option in relation to these types of contracts.</p> <p>The guidance makes clear that if any element of the potential price calculation is known, then that should be disclosed, no more than one step below.</p> |
| 2.2.2 | OB | <p>Agree. However, as elsewhere, prominence requirements for tiered contracts are excessive.</p> | <p>CAP and BCAP consider the level of prominence for both tiered and variable information to be equivalent and appropriate to adequately convey the significance of the information in question.</p> |

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| | | Examples in appendix do not treat both types of contract at the same level of prominence in practice, as qualifications in relation to tiered contracts are qualified one step below and linked by an asterisk, while information about variable price rises is one step below without asterisk. Take this to indicate that level of prominence set out in the tiered examples is not necessary. | That notwithstanding, having considered further, CAP and BCAP are not convinced that the risks of including full examples are outweighed by the benefits in any case. They were designed to be broadly reflective of the kinds of elements of information included in real telecoms ads, but this can prove distracting for practitioners and lead to other issues that are not the focus of the consultation. Isolated examples of wording are sufficient, rather than fully mocked-up ads. |
| 2.2.3 | S | Disagree. 'One-size-fits-all' approach is not appropriate or proportionate. Information about the right to vary a price, which may not ever be exercised, and to which the consumer has the statutory right to a remedy, does not require the same level of prominence as an agreed increase that will take place. Variable pricing could be indicated in a less prominent manner without giving rise to a risk of the consumer being misled by the advert, for example, in close proximity to the headline price (rather than "[as] part of the price claim, or immediately adjacent to it"). | The ability to exit the contract does not negate the need to prevent consumers being misled into entering it. The consumer is required to be alert to notifications that prices will change and then go through the labour of finding a new contract, which may act as a disincentive. CAP and BCAP consider that it is justifiable to require the same level of prominence about price rise information for both types of contracts, as set out in the consultation. |
| 2.2.4 | UW | Disagree. Clear distinction between the two types of contracts. Price rises in a variable contract are contractual changes and consumer has right to be informed and terminate without penalty. A statement to prices may rise during the contract does not provide any material information to the consumer. Ofcom has no price information requirements for these contracts, presumably because the right to terminate without penalty is deemed sufficient to deal with price changes. | See 2.2.3 |
| 2.2.5 | VF | Disagree. Innate difference between the contract types. Variable increase may or may not occur, and if it does then the consumer is sufficiently protected by statutory Ofcom conditions. Decisions to increase prices are not taken lightly, but unfortunately increased costs must be passed on in part to the consumer. Asterisk linking to a footnote is sufficiently prominent to convey information about tiered increases. Equal prominence not needed for wording on variable rises due to rights afforded to the consumer to terminate without penalty. | See 2.2.3 |
| 2.2.6 | VF | It is usual practice for providers to include a contract term allowing for variation of the contract, such as a price increase. Where a provider's | CAP and BCAP understand this is likely to refer to mobile contracts that contain a tiered increase to the monthly price, where the roaming |

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| | | contract also allows for tiered price increases, proposed guidance would mean ads would have to include the proposed wording for both tiered and variable pricing in the heading and sub-heading. This could cause confusion to the consumer and will not reduce complexity. May contradict requirements set out in consumer protection laws on transparency, fairness and clarity of message. | charges are also subject to a variable clause in the event of wholesale changes to charges in specific countries. They understand that Ofcom have specific requirements on how information should be provided to consumers in such cases, and an individual who is likely to experience significant disadvantage due to their particular circumstances resulting from an increase in roaming charges in a particular country, would have the right to exit the contract without penalty. Due to the specificity of the situation, it would be disproportionate to require additional information to disclose the possibility of this in an ad. |
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| 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)? | | | |
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| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
| 3.1.1 | ADS | The public are often unaware of formal, official terms and their definitions, and they are liable to cause confusion. Initialisms even more so. | CAP and BCAP appreciate the terms may not be familiar to all consumers, but the inclusion of the full terms plus an explanation is a compromise and best option. It is better that consumers are provided with the full description of the rate that will be used (if known), which they can then find out more about, rather than just referring to inflation. |
| 3.1.2 | ADS | Advisable to remove such terms where possible and use adaptations or signposts to further explanation. Telephone sources should be available for print ads. | See 1(c).1.1 |
| 3.1.3 | ADS | Consider use of such terms may constitute an aggravating factor as per question 4. | See 4.1.1 |
| 3.1.4 | CCP-ACOD | Use of acronyms can cause further confusion. | CAP and BCAP agree. |
| 3.1.5 | CAS | Agree with approach set out in principle. | CAP and BCAP agree. |
| 3.1.6 | CS | Writing out terms in full will help consumers undertake further investigation if they wish to find out more about the terminology. Consider whether consumers should also be signposted toward sources of independent consumer advice where such terms are used. | |
| 3.1.7 | CS | Writing out terms in full will help consumers undertake further investigation if they wish to find out more about the terminology. | CAP and BCAP agree. |
| 3.1.8 | HO | Agree that basis of increase should be made clear. This should include specifically referencing inflation, increase above inflation that will be | CAP and BCAP agree. |

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| | | <p>added, and the first month when the increased price will be applied to the customer's bill.</p> <p>Believe inflation measures should always be written out in full including in smaller-format ads; to do otherwise would imply there is no consumer detriment in not doing so.</p> <p>Research shows consumers are unfamiliar with terms like CPI and what they affect.</p> | |
| 3.1.9 | PRC | Agree terms should be written out in full with explanation that they are measures of inflation. | CAP and BCAP agree. |
| 3.1.10 | W | Cite research that shows public struggle to understand these terms. Support recommendations to write out terms in full and define as rates of inflation. | CAP and BCAP agree. |
| 3.1.10 | W | Even where consumers are informed, inflation is very hard to predict and it is unrealistic to ask this of consumers. Monitoring recommended to assess impact of this principle on advertising and consumer understanding. | CAP and BCAP will, as always, carry out a review of the impact of the guidance in due course after publication. |
| | Respondents disagreeing with the proposals | Comments | CAP and BCAP's evaluation |
| 3.2.1 | CF | Terms CPI and RPI are widely understood and there should be no requirement to explain them further. | See 1(c).2.1 |
| 3.2.2 | OB | <p>Consumers understand CPI and RPI as they are often used in mainstream media. Current economic climate means consumers are particularly likely to be familiar with references to inflation and what that means in practice.</p> <p>Practical limitations of certain media also mean use of abbreviations is necessary.</p> <p>Ofcom regulations ensure that customers are aware of the nature of these terms due to the regulated information provided at the pre-sale phase.</p> | <p>Increased discussion of cost of living does not necessarily translate to greater understanding of these concepts and their impact. Various pieces of research suggest that consumer understanding is not strong.</p> <p>Ofcom information is provided after the consumer's transactional decision to enquire further, so is not relevant to the argument.</p> |

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| 3.2.3 | S | <p>The average consumer will either know what CPI and RPI mean, or be able to easily find this out, and be sufficiently circumspect to familiarise themselves with the terms before making a transactional decision, if they felt they were relevant to them.</p> <p>Consider there is no need to prescribe specific measures regarding the use of these terms.</p> | See 1(c).2.1 |
| 3.2.4 | VF | <p>Average consumer more likely to understand these terms than previously given the current economic climate. Where not restricted by space, VF set out initialism in full. However, in space-limited media it is necessary to use initialisms.</p> | See 3.2.2 |
| | Other responses (including those that gave conditional or noncommittal views of the proposals) | Comments | CAP and BCAP's evaluation |
| 3.3.1 | BT | <p>Despite increased references in the news, believe there is still limited awareness among members of the public of what CPI and RPI stand for and how they affect inflation. The same is true of the full terms.</p> <p>The key terms to aid consumer understanding are 'increase' and 'rate of inflation'. Writing out CPI or RPI in full does not increase understanding.</p> | See 3.1.1 |
| 3.3.2 | BT | <p>Recommend CAP and BCAP carry out consumer research in this area before enforcing suggested approach.</p> | See 1.2.10 |
| 3.3.3 | CMA | <p>Consider RPI is not a good measure of inflation. Cite statement from UK Statistics Authority.</p> <p>It can overestimate inflation and have the effect of increasing the amount the trader is charging above inflation, which contradicts the presumed justification for it and may constitute an unfair contract term.</p> <p>Consider that average consumer can be presumed to understand what CPI refers to, provided it is written in full and explained explicitly and prominently with worked examples.</p> | The specific rate of inflation used by providers is not within the scope of the consultation. |

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| 3.3.4 | CMA | Consider that at the very least a trader who wishes to use this practice should set out some illustrative examples of how the monthly price might change in circumstances where the CPI is at a range of percentages. | See 1(c).3.1 |
| 3.3.5 | CS | Consider whether consumers should also be signposted toward sources of independent consumer advice where such terms are used. | See 1(c).1.1 |
| 3.3.6 | CS | CPI is the term consumers are most likely to encounter and therefore suggest explore if it is worth only using CPI. | See 3.3.3 |
| 3.3.7 | GN | Consumers are unlikely to have a detailed understanding of these terms or the difference between them. Suggest using 'inflation' as a more general term. | See 3.1.1 |
| 3.3.8 | HO | Believe ads should also include a current forecast of inflation and source, in a footnote or equivalent. | See 1(c).3.1 |
| 3.3.9 | PRC | Note that RPI is flawed and is no longer used as a national statistic. | See 3.3.3 |
| 3.3.10 | PRC | If using RPI, ads should also make clear that the index tends to be around two percentage points higher than the more widely used CPI. | CAP and BCAP disagree that including a note that RPI is higher on average would be feasible. |
| 3.3.11 | UW | CAP should test consumer understanding of these terms before taking a decision. | See 1.2.10 |

4. Do you agree with the aggravating 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?

| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
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| 4.1.1 | ADS | <p>Agree that all factors necessitate the use of additional information.</p> <p>Size of ad is relevant, but should not act as a reason to obfuscate information.</p> <p>Additional information should be provided through multichannel communication options. Ideally, Ofcom and Government webpages with terminology guidance, with requirements for online ads to link to them.</p> <p>Recommend addition of two more factors:</p> | <p>CAP and BCAP amended the original question, which incorrectly referred to 'mitigating' factors. Most respondents understood the question as it was intended and responded accordingly, or did not answer as the meaning was unclear.</p> <p>CAP and BCAP have removed the aggravating factors and replaced them with clearer statements that ads stating "fixed", "£X for X months" or similar wording implying an initial price will endure for the full contract will be likely to mislead if the price will rise before the term is up.</p> |

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| | | <p>Barriers or difficulties faced by vulnerable groups which are alleviated through the provision of information in a different format, such as those who experience difficulty reading.</p> <p>Significant changes to the consumer landscape, regulatory frameworks or the consumer market which the contract relates to, information about which should be made clearly available to the consumer.</p> | |
| 4.1.2 | BT | <p>In relation to “smaller size of ad”, agree on the understanding that additional action would involve placing further information one click away and signposting it.</p> <p>Agree with all other factors.</p> | That was not the intended interpretation. This point is no longer relevant as aggravating factors have been removed. |
| 4.1.3 | CMA | Consider all factors listed as those that have the scope to mislead if not transparent. Additional action should not be necessary in those circumstances because information about contractual price rises should always be transparent and prominent in and of itself. | CAP and BCAP agree. This speaks to the reason to remove this section. |
| 4.1.4 | CF | Agree. | See 4.1.1 |
| 4.1.5 | CS | Consider some of the examples are likely to cause the claims to be more likely to mislead. | See 4.1.1 |
| 4.1.6 | GN | Agree factors listed could prompt advertisers to act differently. | See 4.1.1 |
| | HO | <p>Agree. Some could raise complex issues in interaction with common industry practice, which CAP should take account of.</p> <p>End of contract term should be clear and should avoid wording that could confuse price rise date with end of contract. Current social media examples do not include the minimum term.</p> | CAP and BCAP disagree that consumers are likely to be confused between the price rise date and the end of the minimum term, provided both are featured clearly and prominently. |
| 4.1.7 | HO | <p>Ads for broadband services often use language such as ‘fixed’ to describe prices in contracts that are subject to mid-contract rises.</p> <p>Consider that in both the tiered and variable models any qualification relating to a price increase (even when at a suitable level of prominence) is highly likely to contradict a ‘fixed’ price claim, and request that this is addressed in the guidance.</p> | See 4.1.1 |
| 4.1.8 | HO | Where a telecoms service and a finance plan for a device are sold under a single monthly payment that covers a charge for each element, the price rise would affect only the telecoms service portion of the monthly charge (as the payment for the device is subject to financial regulations). | CAP and BCAP agree that ads should make clear where the increase only applies to one part of the contract. This has been amended. |

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| | | <p>As the increase does not apply to the whole headline price, information about how the price will be calculated must therefore be clear about how the price of the package is split.</p> <p>The minimum contract term for a device finance plan is usually longer than the attached telecoms service contract term.</p> <p>Consider that it should be made clear to consumers (with the same degree of prominence as the information about calculating price rises) how the monthly price is split and how long each term is for.</p> | |
| 4.1.9 | HO | <p>Not justifiable to omit information on the basis of limited space if that information would be required in the body copy of any other type of advertising. Information that could justifiably appear in a footnote could appear one click away in shorter format ads, if sufficiently signposted.</p> <p>If advertisers decide to sell products with mid-contract price rises then they must acknowledge that some forms of advertising may be unsuitable for conveying the information required to market these products.</p> <p>Recommend specific guidance on a range of common pricing and sales models in the industry, to provide more detailed guidance on how the guidance will affect them.</p> | CAP and BCAP agree. |
| 4.1.10 | HO | <p>Providers who offer broadband and mobile services commonly sell bundled tariffs that combine these services at a relative discount. They might also offer incentives to take out multiple services outside a formal bundle agreement, such as boosting mobile data and fixed broadband speeds for households who take both services separately.</p> <p>Some providers with these offers apply a tiered price structure to mobile, but a variable price structure to broadband: their mobile customers do not have the option to leave when the price changes but their broadband customers do.</p> <p>Dependencies between bundle elements may act as a disincentive to exiting a variable contract, as other benefits will be lost or fees will be liable on the accompanying contract. This potential consequence should be made clear to consumers, through wording such as the below:</p> | <p>Ofcom pre-contract guidance requires providers to supply information about non-coterminous linked contracts and the impact that terminating one contract will have on others. CAP and BCAP consider such information should be included in the ad as well.</p> <p>The examples recommend that ads should indicate that rises will apply each year, where the contract is longer than a year. However, CAP and BCAP do not consider it is necessary to explicitly indicate to consumers that rises will layer on top of each other.</p> |

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| | | <p>“Combined benefits only applicable when both services are taken. Prices of broadband service may change, at which point you may exit the broadband contract without paying a termination fee. However, exiting the contract will disapply the combined benefits from your mobile contract.”</p> <p>Most telecoms contracts have 18 or 24 month terms, meaning majority of customers opting for tiered services will experience two sets of price rises.</p> <p>Price claims would need to refer to both dates, e.g. “£X, rising every April”</p> <p>Forecasts would need to clearly be for the first increase and mention that a second will follow the next year with a different CPI rate</p> <p>Explanations of the increase would need to note that the second increase layers on top of the first, as it may not be self-evident to some consumers</p> <p>Where a discount, bundle, or device finance plan is part of the advertised package, the specific considerations applying to those pricing models would combine with these issues and require further care.</p> | |
| 4.1.11 | PRB | Agree. Particularly “£30 for 24 months”, which will be misleading if the price increase before 24 months. | See 4.1.1 |
| 4.1.12 | PRC | Agree. | See 4.1.1 |
| 4.1.13 | W | Agree. Suggest that the guidance makes clear to providers that mid-contract price information should be prioritised even when there are constraints on advertising space. It should always be available at point of promotion, prior to entering into consumer journey, and providers should not be able to point to price rise information provided later in the consumer journey as a way of skirting the guidance. | See 4.1.1 |
| | Respondents disagreeing with the proposals | Comments | CAP and BCAP’s evaluation |
| 4.2.1 | OA | Larger quantity of compulsory information: rationale is unclear. If ad already requires significant compulsory information, this means that there is already a large quantity of supporting text that a consumer would likely consider important enough to read, making it a suitable place for pricing information. There would be less space in the body copy of the advert itself to include additional wording explaining the nature of price | See 4.1.1 |

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| | | <p>rises and so it would be much less practical to include long form wording explaining the nature of price rises in the body of the advert.</p> <p>Additional emphasis on price: agree in principle, and there is a challenge to be had when advertising six months half price offers when annual price increases are due in less than six months.</p> <p>Shorter length of ad: Disagree with this being an aggravating factor. See answers elsewhere.</p> <p>Feel the principles do not provide sufficient guidance on what is acceptable when space or time is very limited, such as in a short radio advert. In such scenarios we would propose that the voiceover read 'Annual price rises apply see website [or similar]'</p> <p>Emphasis on minimum contract term in close proximity to price: broadly agree with this sentiment and would propose that the same objective could be achieved by using the word 'from' in front of the price, where space allows.</p> <p>Where the advert does not say "for 24 months" or similar it should be sufficient to use an asterisk to explain that there is a 2 year contract during which there will be annual price rises. It is only when there is a time period claimed in such a way that it implies that the same price applies for the whole period that it should be necessary to qualify that one step down from the claim with wording such as 'annual price rises apply'.</p> | |
| 4.2.2 | OB | <p>Test for misleadingness remains the same, and ads must be assessed on their individual merits.</p> <p>Quantity of information and duration of an ad are considerations for any advertiser. Provided the advertiser has qualified the price with suitably prominent qualifications for the consumer not to be misled, there should not be an issue. Do not agree that these circumstances should always necessitate greater prominence.</p> <p>Where there is a larger quantity of compulsory information, there is less emphasis on price, and so greater prominence of any qualification may be unnecessary.</p> <p>In shorter or smaller ads, qualifications are less likely to be lost, and so there may be less need for greater prominence of those qualifications.</p> | See 4.1.1 |

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| | | Provided qualification is sufficiently prominent, fact price or term is emphasised should not in itself require greater prominence. If matter of price or term is of interest to consumer and it is clear there is a qualification, then they are likely to engage and understand. | |
| 4.2.3 | S | Disagree. Unclear what further action is expected or possible. | See 4.1.1 |
| 4.2.4 | VF | Disagree. See answer to q. 1 | See 4.1.1 |
| | Other responses (including those that gave conditional or noncommittal views of the proposals) | Comments | CAP and BCAP's evaluation |
| 4.3.1 | UW | Unclear what is meant by the question. | See 4.1.1 |

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?

| | Responses in agreement with the proposals | Comments | CAP and BCAP's evaluation |
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| 5.1.1 | ADS | Information should strike a balance between accessibility and depth. Prioritisation of information can conflict with consumers finding the clearest information on their potential purchases. It would be ideal for all relevant information to be on one page to ensure that the consumer is sufficiently informed, however in some cases this could cause confusion due to the size or complexity of information. In the absence of additional information on the page, there should be a further source available to allow consumers to get full details. These should be multichannel and easy to access. | See 1(c).1.1 |
| 5.1.2 | BT | Agree. | CAP and BCAP agree. |
| 5.1.3 | CF | Agree. | CAP and BCAP agree. |
| 5.1.4 | CS | Agree, provided clearly visible and states that it applies to every product, service and contract advertised. | CAP and BCAP agree. |

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| 5.1.5 | GN | Agree. Could be linked using an asterisk or similar. | CAP and BCAP agree. |
| 5.1.6 | HO | <p>In principle, it is reasonable that a common piece of information may be more effectively communicated when presented once, if it is prominent and clearly signposted. However, any such approach should meet the same “slightly lower level of prominence” principle as all other forms of advertising, and there are some commonly used elements that could make this more challenging.</p> <p>Many websites present deals in table format, with key information such as price and speed made very prominent compared to other elements. Example is more low-key than many presentations are likely to be in practice, with fewer elements to distract the consumer.</p> <p>Vital that the clarification be immediately proximate to the price claims. Do not consider that the information could ever be sufficiently prominent if it were not visible at the same time as the price claims. This may require repeating the statement throughout the page; a mobile provider may present several rows of tariff ‘cards’ to scroll past, which means that a single instance of clarifying information would not be visible when looking at most of the price claims.</p> <p>Even more care required with mobile websites.</p> | CAP and BCAP agree. The information should be visible in same frame, without the need to scroll down. |
| 5.1.7 | OA | Agree. Propose using asterisk to link to standard wording at the bottom of each page. Providing detailed breakdown of how prices could change over the course of a contract in a digital environment would require significant investment. Likely to be unworkable for many operators. | CAP and BCAP agree that the bottom of the page only is unlikely to be prominent enough. |
| 5.1.8 | OB | Agree. | CAP and BCAP agree. |
| 5.1.9 | S | <p>Agree, but must be applied consistently, including in illustrative examples.</p> <p>Multi-offer webpage examples require advertisers of variable contracts to include more information in the body copy than those advertising tiered contracts. Consider this is disproportionate and unfair.</p> | That is because in most cases all that is known is that ‘prices may vary’, whereas for a tiered increases there will price and end date, followed by further information about the nature of the rise. |
| 5.1.10 | UW | Agree. | CAP and BCAP agree. |
| 5.1.11 | VF | Agree. Requiring each product listing to contain this information would be repetitive and detract from other material information that a customer needs to make a transactional decision. | CAP and BCAP agree. |
| 5.1.12 | W | Agree that identical price rise information should not have to appear many times in close proximity, but require greater clarity on this principle. | See 5.1.7 |

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| | | <p>Caution that providers may use it to continue poor practices:</p> <p>Listing multiple deals in one ad offering the information to link to further information or asterisk price rise information for less prominence.</p> <p>Using asterisks on webpages to link to information at the bottom of the page.</p> <p>Guidance must be clearer and emphasise that information must be just as prominent as where there is a single offer.</p> | |
| | Respondents disagreeing with the proposals | Comments | CAP and BCAP's evaluation |
| 5.2.1 | CAS | Disagree. Information should be provided in relation to individual offers on multi-offer pages. | CAP and BCAP consider that provided the qualification is sufficiently prominent and linked, it should not be necessary to place it next to every single individual offer. |
| 5.2.2 | CMA | Disagree. The information should be as prominent as the headline price including on multi-offer pages. | See 5.2.1 |
| 5.2.3 | PRA | Disagree. | See 5.2.1 |
| 5.2.4 | PRB | Disagree. Information should be prominently placed next to the headline price. | See 5.2.1 |
| 5.2.5 | PRC | <p>Disagree. If advertisers are pressed for space, they have the alternative of increasing their initial prices, but then keeping them constant.</p> <p>Any signposts to further information on a website must be functional links.</p> | See 5.2.1 |

| 6. Do you have any other comments or suggestions in relation to the proposals? | | | |
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| | Responses | Comments | CAP and BCAP's evaluation |
| 6.1.1 | BT | <p>More clarity needed on a number of points:</p> <p>TV advertising. Believe superimposed text guidance suggests that writing out CPI and RPI in full is not helpful to consumer understanding.</p> <p>Guidance could have significant impact on TV advertising, including preventing ads due to the hold-time requirements for price information.</p> | <p>CAP and BCAP disagree with the point about superimposed text guidance, which refers to avoiding jargon and over-technical language. The terms are technical but the best option is to write them out in full with an explanation</p> <p>Where products feature TV contracts in an arrangement where terminating one contract would affect a telecoms contract, they would be in scope.</p> |

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| | | <p>TV contracts. Not clear if guidance will apply. Consumers do not have the right to exit TV contracts in the same way as they are regulated differently.</p> <p>Contracts with a 30 day or one month minimum term that are subject to a price rise (either CPI/RPI+ or variable). Where bundled with a separate longer term contract and there is either a technical or contractual dependency between the two products, meaning they cannot easily be separated, the potential to increase the cost of the TV package or airtime plan should be made clear in line with CAP guidance. At present, advertisers are taking an inconsistent approach.</p> <p>Contracts that increase by a set percentage every year (not in line with inflation). Should be incorporated into the monthly price point, absolute figure can be given for each stage of the contract.</p> | <p>CAP and BCAP agree that if a contract will increase by a set known amount not linked to inflation, then the full figure a consumer would pay after the rise should be made clear.</p> |
| 6.1.2 | CCP-ACOD | <p>Need to take account of needs of consumers who have additional communication or language requirements when considering format and language.</p> | <p>See 1(c).1.1</p> |
| 6.1.3 | CMA | <p>Industry should take particular account of ensuring contract terms and notices are transparent and fair in law the longer their duration.</p> <p>Consider that partitioned and in particular variable pricing in fixed term contracts risks being unfair under the CRA and/or the CPRs for a number of reasons.</p> <p>Consider CAP and Ofcom should reconsider the approach to contracts, requiring fixed term deals to have fixed, unitary prices.</p> <p>Consider ads should give consumers the ability to easily calculate price increases.</p> <p>The examples given do not use sufficiently clear language.</p> <p><i>“Monthly price will increase every April by the Retail Price Index rate of inflation + 3.6%”</i></p> <p>It is unclear on its face whether the 3.6% is 3.6% of the initial price, the go-to price after the RPI increase is applied, or 3.6% of the RPI.</p> | <p>The inherent nature of the contracts themselves is beyond the scope of the consultation and the remit of CAP and BCAP. These types of contract terms are currently permitted by Ofcom.</p> <p>Under the CPRs, the relevant test is whether an ad is likely to mislead a consumer into taking a transactional decision they otherwise would not have made, not whether an ad is fair.</p> <p>As above, it should not be necessary to make explicit that subsequent annual increases will layer on top of each other.</p> |

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| | | Even if it was clear, the consumer is still unable to calculate the actual rise, so it would be preferable if structures with increases by unknown future amounts were not used. | |
| 6.1.4 | CS | Guidance should be extended to include business to business advertising. | As stated in the guidance, the principles are likely to apply to business-to-business advertising as well, depending on the context. |
| 6.1.5 | GN | Would like to see CAP and BCAP take a more concrete, definitive approach in this area, with less focus on the 'likelihood' and 'potentiality' of noncompliance. Believe this enable industry to better understand how the proposals could affect their advertising. | Under the CPRs, CAP and BCAP cannot prescribe or proscribe a specific approach. The guidance is phrased in terms of the likelihood of an ad breaching the Code. |
| 6.1.6 | HO | Agree principles do not conflict with Ofcom's General Conditions. Note that complying with General Conditions does not in itself ensure compliance with the CPRs or Advertising Codes. | CAP and BCAP agree. |
| 6.1.7 | HO | In instances where savings claims are used, the substantiation to support the claim should take into account any price rises (including inflation forecasts where relevant) rather than just the advertised price. The possibility of a saving to be negated by a subsequent price rise is material information that should be made clear to consumers. As a variable contract provider could not know the future price of their own service, it would not be possible for them to substantiate a savings claim calculated on the life of the contract. | Savings claims are outside the scope of the consultation. They must always be sufficiently substantiated. |
| 6.1.8 | HO | Guidance should give specific consideration to the financially vulnerable. Unknown price rises increase the risk of financial harm. Those on lower incomes and in significant financial difficulty are also more likely to have lower educational attainment and ability to calculate future price increases. A forecast price is essential to ensure such vulnerable consumers do not make a transactional decision they otherwise would not have. Savings claims likely to be of particular appeal to this group, and so observations on presentation of these claims are particularly relevant. Should go significantly beyond the minimum requirements set down in the proposals, to prevent disproportionate financial harm. | See 1(c).1.1 |
| 6.1.9 | OA | Mobile industry is very competitive, with networks looking to differentiate themselves on number of factors in addition to price. Also common to | CAP and BCAP disagree that the principles would result in information about price rises taking undue precedence over information about device credit plans. |

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| | | <p>offer subscription to other services, accessories, gift cards or handset driven promotions.</p> <p>If required to provide detailed information about the presence and nature of price rises in ads (particularly smaller format ones), this would lead to all companies prioritising price due to lack of space. This would constrain their ability to offer a range of services in advertising.</p> <p>Examples work because they are relatively simple and focus on price. Need to account for range of elements realistically representative of mobile advertising.</p> <p>Need to account for the prevalence of device finance plans. Customers prefer to see an overall monthly price of the combination of the monthly device payments plus the monthly airtime payments so that they can budget and to compare the overall cost with offers from other providers. FCA Regulations require operators to provide further information in relation to device financing pricing in the small print. Operators commonly do this by way of an asterisk.</p> <p>Proposed approach would impose more onerous requirements for price rise information than FCA requirements on device finance information. Information on a regulated loan likely to be seen as more important, by consumers and the FCA, than full information on the nature of price rises.</p> <p>Proposed approach would necessarily require operators to split out the monthly price into its two constituent elements in the copy, and explain that annual prices and how they are calculated only apply to the specific airtime element – this would unnecessarily clutter and complicate the advert.</p> | <p>Information about the identity of the credit provider and whether they are regulated by the FCA is unlikely to be of greater importance to consumers than information about a future price increase.</p> |
| 6.1.10 | OA | Need to include more information in body copy will also impact ability to offer introductory discounts. | See 1.2.1 |
| 6.1.11 | OA | Consider there is a lack of evidence to support new guidance. | See 1.2.10 |

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| | | <p>It may be that the current rules are not being consistently implemented or enforced across the whole industry. The ASA should perform a market review to establish whether mobile operators are consistently implementing the current guidance before making a decision on whether the current rules are effective.</p> <p>Consumer research cited in consultation document does not attribute barriers to take-up to complexity of product itself. Doesn't demonstrate consumers are being misled or that greater transparency is needed in telco ads in contrast to other comparable industries.</p> | <p>Consumer research¹ cited in the consultation indicated that the belief that engagement may result in unexpected costs was a factor associated with hesitance to take up new services. Consumers may fear they will be unable to identify hidden future costs due to an expectation of lack of transparency in the market, and stay put with their current contract.</p> <p>Consumers felt that the number of components in telecoms contracts could be overwhelming and that descriptions of broadband packages were complex and might obscure the inclusion of irrelevant add-on products.</p> |
| 6.1.12 | OA | <p>Believe telecoms sector is being disproportionately targeted without sufficient justification. Disagree that telecoms contracts are notably more complex than other types of utilities contracts. Energy contracts are particularly complex and create greater uncertainty as to future pricing due to wholesale cost fluctuations, and also have a greater potential for consumer harm due to the costs involved being an order of magnitude larger.</p> | See 1.2.8 |
| 6.1.13 | OA | <p>Principles appear to be inconsistent with established CAP guidance relating to asterisks and where space is limited, information being 'one click away'.</p> <p>Qualification guidance states that asterisk may 'normally' account for one step on the qualifying ladder. Not clear why an asterisk to footnote could not work in relation to certain information relating to pricing.</p> <p>Believe there could be a useful distinction drawn between headlines that claim a price for a fixed period and ads that do not claim that a price is fixed for any specific period. If the headline claims a price for a fixed period (ie £35 for 24 months*), then an asterisked disclaimer could potentially contradict rather than qualify, hence why a reference to the applicability of Annual Price Rises could appear in the main copy in such a case, but it would not be necessary otherwise.</p> <p>Where space is limited, propose an approach that is consistent with the current guidance; that the fact that annual price rises apply be</p> | See 1.2.3-1.2.5 |

¹ [Gigabit Take-up Advisory Group - Which? Consumer Insight](#)

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| | | <p>prominently flagged in body copy, which could be done immediately or by use of an asterisk, with information on the precise nature and detail of those price rises available one click away.</p> <p>Principles go further than is reasonably required to comply with CPRs. Do not adequately consider contextual factors, such as consumers familiarity with mid-contract price rises, format, and other types of factors advertisers want to draw attention to in ads.</p> <p>If headline claim implies a price is fixed, justifiable to place price rise information directly adjacent to headline price. But do not believe CPRs require information about nature of price rise to be placed in body copy, even in that circumstance.</p> <p>Recommended position set out in the Consultation document appears to dismiss the practical difficulties arising from space-limited ads. Simply not enough space in a banner ad, even for this information.</p> <p>More clarity needed on guidance for non-static ads.</p> | |
| 6.1.14 | OB | Any guidance should only come into effect once industry has had reasonable time to digest and implement it, to account for long lead times in certain types of media and marketing campaign. Suggest implementation period of at least 6 months. | The guidance will be subject to an appropriate implementation period decided by CAP and BCAP. |
| 6.1.15 | PRA | <p>Consider that advertising should only be allowed where the full cash value of future terms can be displayed as large and prominent as the initial price. Significant financial harm to the consumer.</p> <p>Consider that contracts that can or will increase in price by an unknown amount should never have been allowed.</p> | See 6.1.3 |
| 6.1.16 | PRB | <p>If the initial 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.</p> <p>For contracts with a known minimum price increase, the ad should include the average price over the term of the contract with the minimum price increase.</p> <p>Some customers may find it easier to understand a monetary amount rather than a percentage increase.</p> | See 1(c).3.1 |

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| 6.1.17 | PRB | 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. | See 1(f).1.5 |
| 6.1.18 | PRB | Qualifier for variable contracts should not be placed in brackets as this implies a lower level of importance. | CAP and BCAP do not consider that brackets imply lower importance in this instance provided the text is at a sufficiently prominent level. |
| 6.1.19 | PRB | <p>Known increases within contracts should be taken into account when ranking prices on a price comparison website.</p> <p>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.</p> <p>Prominence principles should also apply to any ad or website that makes a price comparison, including dedicated price comparison websites.</p> <p>The minimum monthly price, averaged over the contract term, should be shown alongside the initial price, otherwise the price comparison is misleading.</p> | Natural listings on price comparison websites are outside remit. |
| 6.1.20 | PRC | Believes guidance position is not as strong as guidance on compulsory charges (e.g. line rental). | See 1(d).3.1 |
| 6.1.21 | PRC | <p>Future effective price is highly material, particularly with currently increasing rates of inflation. While the future rate cannot be known ahead of time, ads should use an estimate, for example using the highest reasonable estimate of future CPI.</p> <p>Considers guidance has not taken sufficient account of Ofcom's revised General Conditions.</p> <p>Principles should align with Ofcom Section C1 by requiring ad to give concrete examples of the effect of plausible concrete CPI values, on the monthly price. Guidance could even be stronger than Ofcom</p> | See 1(c).3.1 |

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| | | requirements, seeing as current CPI figures are much higher than CPI back in April 2022. | |
| 6.1.22 | PRC | Not entirely accurate to say initial period pre-rise is analogous to introductory discount. There might be two annual price rises, in an 18 or 24 month contract. As such, more prominence and concrete information is required compared to a proper introductory discount period. | See 4.1.10 |
| 6.1.23 | S | <p>Focus on technical complexity and range of product choices/elements is misplaced. Consider this is not the root cause of the 'harm' CAP and BCAP are seeking to address. This complexity does not mean that the price information for a telecoms contract is inherently confusing, consumers are able to make choices for their needs and still distinguish between prices.</p> <p>Instead, the root cause of 'harm' that CAP and BCAP are seeking to address, and which warrants the guidance being issued, is the range of pricing models in use in the telecoms sector, in particular the presence of the 'tiered pricing' model which is unique to the sector.</p> <p>The variable model is used in many other types of subscription services, and it is not necessary or appropriate for providers of such services to include information about their right to vary the price within the body copy. Consumers have to the right to exit or not renew.</p> <p>Disagree with CAP and BCAP that "...[the] principles of any resulting guidance may also have relevance to other types of contracts that involve mid-term price increases...". Would agree with this statement if it applied to instances where tiered pricing or a multitude of pricing models is present.</p> | It is reasonable to say that a range of elements may contribute to consumers' ability to understand material information. It is not a symptom of one or other particular type of price rise clause. |
| 6.1.24 | VF | Any further guidance should not apply retrospectively to contracts already in place that have been advertised, sold and operated in accordance with current advertising requirements, regulation and legislation. | The guidance would be applied to advertising from the date of implementation. |
| 6.1.25 | W | <p>Caution that transparency alone is not sufficient to address the complexity of consumer harm surrounding mid-contract price increases. Not matter how transparent the communication, consumers face challenges to understanding and predicting mid-contract price rises.</p> <p>Separately calling on providers to rethink their practices, whether increases are justified during a cost of living crisis, and give consumers</p> | See 6.1.3 |

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| | | the ability to leave without penalty when prices are raised mid-contract, regardless of whether they can be said to be transparent. | |
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