

Reference pricing

ASA announcement on research into consumer understanding of reference pricing in advertising – March 2018



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Executive summary

Retail ads often compare the current price of a product to a higher price, known as a 'reference price', which can be the price at which the product was previously sold, a price recommended by a manufacturer or a competitor's price. New, independent research commissioned by the Advertising Standards Authority gives the ASA, retail advertisers and consumers confidence that the standards in place for reference pricing meet consumers' expectations and protect them from being misled. While the research provides a richer insight into consumers' understanding of reference pricing, including what they assume these prices are based on, it does not present a need for regulatory change. Importantly, the research finds that a reference to a higher price can suggest to consumers that an advertised product is 'better value' or 'good value' at the lower price. This can influence consumers' decisions to purchase or enquire further about a product, so it's essential that such prices are based on their likely assumptions about them.

Generally, our research and the review of existing evidence indicate that:

- Reference prices in ads can create a positive first impression of the value of the lower price that is being offered in an ad.
- Consumers' initial understanding of reference pricing techniques used in ads is limited.
- While they may struggle to articulate them, consumers have implicit assumptions about the meaning of reference prices in ads. They rely on these when making decisions about the value of an advertised offer and, in turn, whether or not to purchase an advertised product.
- Context is important and can affect consumers' expectations about the reference pricing used in individual ads. If these expectations are not met, there is a risk of them being misled.
- Consumers want the pricing information in ads to be transparent so they can be confident that an advertised saving is genuine.
- Consumers expect an external regulator to protect consumers from reference prices that are likely to mislead.

Our research showed the following specific points about consumers' understanding of these common reference pricing techniques:

- Sales channel / distribution – participants expected that the channel through which the lower price was advertised, e.g. retail website, was the same channel through which the higher price had been offered. Within channels, they also expected reference prices to have been charged widely across outlets as opposed to only in a few.
- Sale period vs non-sale period – participants generally expected a sale period of a product to be shorter than, or no more than equal to, the non-sale period.
- Sales made – when only small numbers of sales had been made at the higher price, some participants expressed concern that they would have felt cheated if they had been among the few who had paid the higher price.
- Recency – some participants assumed the reference price would have been charged recently, often immediately before a price reduction. However, recency of a price was not sufficient where there was a perception that the price had been artificially increased before the start of the offer, thereby inflating the impression of savings.
- Recommended retail prices (RRPs) – participants were confused by RRP, with a majority assuming they represented a usual selling price.

The findings set out above confirm that the ASA's rulings and CAP advice, which have always been based on the average consumer's understanding, are consistent with the assumptions that consumers make about reference pricing in ads and help to prevent consumers and responsible businesses from being disadvantaged by misleading reference pricing. The research will be taken into account by the ASA in its assessment of the use of reference pricing in future casework, and will be used to complement the guidance offered by the Chartered Trading Standards Institute (CTSI).

Background

As the UK's independent advertising regulator, the ASA ensures that ads across UK media comply with the advertising rules (the Advertising Codes). In the context of reference pricing, this means we have to be confident in consumers' understanding of reference prices in ads, and that their use is unlikely to mislead consumers.

This paper accompanies the publication of ASA commissioned research on consumer understanding of reference pricing – undertaken by Research Works. It reviews our position on the use of reference prices in ads in light of the findings from this research. This position is based on our interpretation of the Advertising Codes, which contain specific rules about the use of prices and price comparisons in advertising.¹

When assessing whether the use of a price in an ad has the potential to mislead consumers, we take into account the [CTSI's Guidance for Traders on Pricing Practices](#) (referred to here as the 'CTSI Guidance'). This guidance replaced the Department of Business Innovation & Skills' Pricing Practices Guide. The CTSI Guidance adopts a principles-based approach, illustrated with examples of best practice, allowing room for interpretation.

The research will serve the ASA when considering complaints about price claims in advertising by complementing the CTSI Guidance and providing valuable insights into the decision-making process of consumers.

Existing research

Our research on reference pricing builds on an existing body of evidence relating to how reference prices affect consumers. Key points from existing research are –

- Consumers are generally accepting of the concept of reference pricing², making it important to ensure that companies are transparent and honest when using reference prices in their advertising.
- Consumers report being more likely to buy something if the price of the product is reduced and they feel they are 'getting a bargain'.³ Showing a reference price together with a reduced price reinforces consumers' assumptions that the reduced price is a bargain or a genuine discount.⁴
- Reference prices create 'anchors' which consumers use as starting points for estimating the value of an advertised product. This may increase consumers' perception of the value of the product and any associated savings.⁵ Anchoring has been shown to work

¹ Advertising Standards Authority, *UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code)* and *UK Code of Broadcast Advertising and Direct & Promotional Marketing (BCAP Code)* Section 3: Misleading Advertising

² Office of Fair Trading (2010), *The Consumer's View of the Advertising of Pricing*, p.11, p.34

³ Office of Fair Trading (2010), *Advertising of Prices*, p.39-40, p.84

⁴ *The Consumer's View of the Advertising of Pricing*, p.79

⁵ Office of Fair Trading and Ahmetoglu, G., et al. (2010), *Pricing practices: Their effects on consumer behaviour and welfare*, Annexe F

even on unrelated numbers, and to persist after consumers have been made aware of the effect and its implications.^{6 7 8}

- When presented with more complex or confusing presentations of reference prices, consumers are less willing or able to assess the validity of the advertised pricing information. This means they show more reliance on mental shortcuts, such as the anchors that reference prices may provide.⁹
- Consumers are affected by the framing of information, for example by ‘recommended retail prices’ (RRPs) and ‘was’ prices¹⁰, and find it difficult to discount that information even after being told it is untrue.¹¹
- If information necessary to make an informed decision is not upfront, or is presented in a confusing or hidden manner, it adds complexity to the decision making process. If presented with increased complexity, consumers tend to adopt rules of thumb or mental short-cuts to simplify complex decisions and save time.¹² This can leave them open to external influences and errors in judgement.^{13 14 15 16 17}
- The above effects play a role in advertising that uses reference prices, creating the potential for consumers to misunderstand what they see and for advertisers to mislead. It means that when considering the effects of advertisements on consumers, it is important to take into account the way information is presented as well as the content of the information itself.¹⁸

This paper reviews the ASA’s position on what is acceptable when using reference pricing techniques in advertising. It sets out findings from our study on consumer understanding of, and response to, reference pricing techniques and the implications of this. It places our research alongside existing evidence, including studies by the Office of Fair Trading (OFT), the Competition and Markets Authority (CMA) and the Financial Conduct Authority (FCA).

⁶ Ariely, D., Loewenstein, G. and Prelec, D. (2003), “Coherent Arbitrariness”: *Stable Demand Curves Without Stable Preferences* (found in Financial Conduct Authority, *FCA Occasional Paper 26: From advert to action: behavioural insights into the advertising of financial products*, p.22)

⁷ Tversky, A. and Kahneman, D. (1974), *Judgment under Uncertainty: Heuristics and Biases* (found in Financial Conduct Authority (2017), *FCA Occasional Paper 26: From advert to action: behavioural insights into the advertising of financial products*, p.22)

⁸ Chapman, G. and Johnson, E. (2000), *Incorporating the Irrelevant: Anchors in Judgements of Belief and Value* (found in Financial Conduct Authority (2017), *FCA Occasional Paper 26: From advert to action: behavioural insights into the advertising of financial products*, p.22)

⁹ *Pricing practices: Their effects on consumer behaviour and welfare*, p.6, p.26

¹⁰ *ibid*

¹¹ Financial Conduct Authority (2017), *FCA Occasional Paper 26: From advert to action: behavioural insights into the advertising of financial products*

¹² Office of Fair Trading and Ahmetoglu, G., et al. (2010), *Consumer Harm and economic efficiencies*, Annexe C

¹³ *ibid*

¹⁴ *Pricing practices: Their effects on consumer behaviour and welfare*

¹⁵ Office of Fair Trading and Ahmetoglu, G., et al. (2010), *The impact of price frames on consumer decision making*, Annexe G

¹⁶ Financial Conduct Authority (2013), *FCA Occasional Paper 1: Applying behavioural economics at the Financial Conduct Authority*

¹⁷ Competition and Markets Authority (2015), *Pricing Practices in the Groceries Market*

¹⁸ *FCA Occasional Paper 26: From advert to action: behavioural insights into the advertising of financial products*

Our findings

Consumer understanding – initial responses to reference pricing

Our research found that consumers, irrespective of gender, age and socio-economic group found it challenging to engage with the detail of pricing techniques used in ads. They were reluctant or unable to assess the validity of the advertised pricing information and expressed an expectation that it was the role of an external regulator to make sure that reference pricing was accurately presented and fair to the consumer. This meant that often, they did not examine in detail the pricing information presented in ads.

When prompted, participants set out the assumptions they used to help them interpret specific offers. However, as became evident through the research, the use of reference pricing techniques did not always match the assumptions of participants. These assumptions affect consumers' decision making process, and where those expectations are not met, there is a risk for consumers to be misled.

Reference pricing techniques

When deciding on whether a reference price is likely to mislead, the ASA considers, among other things:

- Where the price was offered – e.g. was it sold for the higher price online, in-store, etc.
- For how long the product was sold at the reference price
- The number of sales made at the reference price
- The pricing history of a product, and how recently the reference price was charged and
- If an RRP is used, does it differ significantly from the price at which the product is generally sold

Set out below are the findings for each of these factors and the implications for the ASA when assessing future ads.

- **Sales channel - where the product was sold at the higher price (online, in store etc); and**
- **Distribution - the number of stores that charged the reference price for the product.**

The research indicated that consumers had an expectation that the reference price had been offered through the same channel e.g. online retail website, as the new, discounted price. Participants expressed surprise when a product was advertised at a discounted price online, but had not been sold at the reference price online. They also expected that retailers' in-store reference prices would have been charged widely across their stores instead of only a limited number of them.

Current guidance: The CTSI Guidance advises that price comparisons are made with reference prices that have been charged in the same outlet are less likely to mislead.

The ASA considers where an ad has appeared and where the advertised product has been sold at the higher reference price when assessing the likelihood of consumers being misled. We have generally found an ad misleading if the higher reference price is not the usual selling price through that sales channel, or was only charged at a limited number of outlets, particularly if no further context is given.

ASA response on sales channel and distribution: We note the consumer expectations around sales channels and the number of outlets that charged the higher reference price, which is in line with the ASA's approach. Selling products only at a small number of stores to claim a saving against a higher price is unlikely to be acceptable.

- **Sale period vs non-sale period**

Consumers had expectations about the length of time a product had been on sale at a higher price compared to the sale price. As shown in previous studies, a significant proportion of our sample expected the sale period of a product to be shorter than, or no more than equal to, the non-sale period.¹⁹ Some consumers assume there is a defined period for which a product must have been sold at a price before it can be quoted as reference price.

Current guidance: The CTSI Guidance suggests that price comparisons are less likely to mislead if they are made for a period that is the same or shorter than the period during which the higher price was offered.

The ASA takes the length of time for which a product was sold at the higher reference price into account when assessing the likelihood of it misleading consumers. If the higher reference price was not charged for a longer period of time than the promotional price, we have generally considered the reference price to be misleading.

ASA response on duration of sale price vs non-sale price period: The consumer expectations shown in the report are in line with the ASA's expectations. As with the number of sales made, this is one of the factors to be taken into account when considering reference price claims. The ASA will also consider other factors around prices prior to the sale price for example cyclic pricing or claims that imply a usual selling price. Promotional prices are likely to be found to mislead if they are charged for longer than the higher price.

- **Sales made - the number of sales that were made for a product.**

The research showed consumers are surprised when only a small number of sales have been made at a quoted reference price. They were concerned that they would have felt cheated if they had been among only few who had paid the higher reference price.

¹⁹ *The Consumer's View of the Advertising of Pricing*, p.6, p.31-32, p.88-89

Current guidance: The CTSI Guidance suggests that if the retailer can provide evidence to show significant sales at the higher reference price or demonstrate the higher reference price was a realistic selling price, a reference price is less likely to mislead.

This also reflects the ASA's approach. Generally, we consider that, if only small numbers of sales have been made at that price, it is insufficient to establish a usual selling price.

ASA response on sales made: This is one of the factors the ASA takes into account when considering reference price claims, and the results of the research reaffirm that consumers think the number of sales made at the higher price can be important. Where advertisers cannot demonstrate significant sales at the higher reference price, or that the higher reference price was a realistic selling price, we are likely to find an ad to be problematic.

- **'Recency' - the pricing history of a product, and how recently the reference price was charged.**

The research showed that many consumers think a higher price displayed in an ad has been charged recently, often immediately before the start of the sale. However, recency can interact with other techniques. If the price had been increased immediately prior to the start of an offer, there was a perception that this had been done to artificially inflate the savings, exaggerating the value of an offer.

Current guidance: The CTSI Guidance cautions against the use of price comparisons with higher prices that were not the most recent price at which a product was sold.

The ASA takes the recency of a quoted reference price into account when assessing whether it is likely to mislead consumers. We have often considered such a price to be misleading if it was not the most recent price at which the product was sold, particularly if no further context is given. Equally, if the pricing history indicates that the price was increased for a short period of time immediately before a promotional price reduction, the ASA has found this to misleadingly exaggerate the saving.

ASA response on recency: Consumers' expectations about the recency of the higher price are in line with our current position. If the higher price is not the most recent one, it is likely that an ad seeking to rely on that higher price will be found to breach the Code. If an ad is likely to be taken as implying that the higher price is the usual selling price of the product, we would also expect advertisers to be able to demonstrate that is the case.

- **Recommended retail price (RRP)**

The research showed some confusion among consumers about the meaning of RRPs. Only a minority of participants correctly identified the meaning of RRPs, with a majority assuming that they represented a usual selling price. The presence of other prices (such as an additional strikethrough price) may contribute to the impression that the 'RRP' was a previous selling price. Previous research has shown that assumptions were split between RRPs representing a manufacturer's recommendation vs. a usual selling price. It has also

shown that consumers expected that RRPs should be regulated and administered by somebody other than merely the retailer itself.²⁰

Current guidance: The CTSI Guidance acknowledges that there have been calls to prohibit the use of RRPs, advising that extra care should be taken when using RRPs and referring to CAP guidance on the issue.

The CAP and BCAP Codes contain specific rules concerning the use of RRPs, requiring that quoted RRPs should not differ significantly from the price at which a product is generally sold.

ASA response on RRPs: The research demonstrates the difficulty in using RRPs as reference prices in a way that does not mislead. Most participants expected they would be administered independently and assumed the RRP represented a usual selling price. The research reinforces the ASA's current position that quoted RRPs should not differ from the price at which a product is generally sold, and showed the care that must be taken when using RRPs.

Concern

Most ads explored in the study succeeded in creating a positive first impression of the value of the offer. However, when provided with more context or additional information about the selling and pricing history of a product, participants often revised their initial assessment. The additional information or context changed their perception of the value of the offer. This suggests that if a reference price is not communicated clearly, consumers are at risk of being misled.

Furthermore, many thought that the ASA should be concerned about how reference pricing techniques had been used in the ads. They wanted an external regulator like the ASA to protect consumers from savings claims that are not genuine. They also wanted transparency in ads, to allow them to judge reliably whether a sale price and associated saving was genuine.

This reinforces the findings from previous research, which showed that most consumers would like to see more control over the way prices can be advertised. This is particularly true for RRPs, which consumers expect should be regulated and administered by an organisation independent of the retailer.²¹

²⁰ *ibid*, p.80

²¹ *The Consumer's View of the Advertising of Pricing*, p.12, p.30, p.43-44, p.80

Conclusion

Consumers are generally accepting of the use of reference prices in ads and use them, consciously or unconsciously, when deciding whether an advertised offer provides good value. While most consumers do not have a detailed understanding of the techniques used in ads that feature reference prices, they have certain expectations towards the information that is being provided. It is therefore essential that consumers can have confidence in reference pricing and that such prices are based on their reasonable assumptions about them.

The research commissioned by the ASA shows that the application of particular pricing techniques can vary significantly from ad to ad, reinforcing the importance of assessing the specific circumstances of each ad when deciding on whether or not a certain reference price is likely to mislead consumers. Advertisers must not mislead consumers and this requires them to consider how consumers are likely to interpret an ad, and the pricing information contained in it.

The ASA's role is to ensure that consumers are protected from misleading advertising. ASA rulings and the advice provided by CAP have always been based on the average consumer's likely understanding of an ad when taken as whole and viewed in its proper context. These principles are echoed in the CTSI Guidance for Traders on Pricing Practices. We are satisfied that the standards and regulatory positions currently in place to control reference pricing in ads continue to work well to prevent misleading advertising and protect consumers and responsible businesses.

This research has provided an important insight into levels of consumer understanding and the circumstances in which they may be at most risk of being misled. Alongside and complementing the CTSI Guidance, the research will serve the ASA in future rulings considering the use of reference pricing by providing a more nuanced understanding of consumers' decision-making process.


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