

# businesscompanion

## trading standards law explained

### Section 4. Advertising and pricing requirements

#### In this section

Websites or brochures displaying package holidays are required to indicate the price of each package in a legible, comprehensive and accurate manner. All price indications, including those on websites, should make clear the basis for the price shown - for example, departure date or standard of accommodation.

You should include any non-optional extra charges in the basic price and should not show them as additions, unless they are only payable by some consumers - for example, single room supplements.

If the price displayed is not a fixed offer but liable to change before the consumer makes a booking, this should be made clear wherever it applies - for example, by a box or annotation on each page of the brochure or webpage. The way in which the price will be calculated must be clearly explained, and the consumer directed to where in the brochure or website the information is available.

If you reserve the right to increase prices after consumers have made their booking, this should likewise be consistently brought to the consumer's attention and the consumer directed to where in the brochure or website the information is available.

The PTRs restrict the ability of the organiser to increase prices after the consumer has booked. So, organisers may only alter the price of a package travel contract if that possibility has been reserved in the contract, and relates to these three scenarios:

1. Increase in transport costs due to changes in fuel prices or other power sources.
2. Changes in taxes or fees on travel services imposed by third parties not involved in performance of the package - tourist taxes, for example.
3. Exchange rates relevant to the package.

If a right is reserved to change the price for the reasons above, the contract must also allow for a price reduction if the same factors lead to cost reductions for the organiser.

Furthermore, the price cannot be changed unless the organiser notifies the traveller no less than 20 days before the start of the package. Price increases over 8% of the original package price are considered a significant change to the package and trigger the traveller's right to terminate the contract without a termination fee.

The Consumer Protection from Unfair Trading Regulations also prohibit 'misleading actions' and 'misleading omissions' that cause, or are likely to cause, the average consumer to take a different transactional decision, despite it being in the same time period.

We advise that advertisers should not provide information in a manner that is unclear or ambiguous. We have advised a number of larger organisers that their advertising should not falsely state that a holiday price will only be available for a very limited time, in order to elicit an immediate decision.

For example, one luxury resort chain offered a seven-night all-inclusive break to Jamaica for £1,465 per person in its summer sale. 'Save up to 60%... Hurry!' Only one day left,' the advert read.

However, the day after the 'sale' ended, the price dropped by £50 per person - and continued to run for another week - so there was no need for consumers to hurry after all as they added another seven days to the countdown clock.

Another company offered seven nights at a Florida hotel from £792 per person if booked by 17 August. The day after the sale, the same dates had dropped to £677 per person - a £230 saving for two people sharing.

"Complaints can often be traced back to problems with advertising"

The next important element is the availability of the advertised prices.

There are a number of requirements for those who advertise holiday prices. Price promotions should not contain false information about the price, 'the manner in which price is calculated' or the 'existence of a specific price advantage'.

The following are examples that may breach this requirement:

- advertising a price promotion for a product that is not in fact available at the advertised price
- comparing your current price to a reference price that is not genuine. For example, price promotions which aim to demonstrate good value by referring to another, typically higher, price

Examples of reference pricing are:

- 'was / now' prices, which compare an advertised price to a price the trader has previously charged for the product
- after-promotion prices or introductory prices, which compare the current advertised price to a price the trader intends to charge in the future
- comparing your own price to the higher price of a competitor but presenting the higher price as your own previous price
- excluding a compulsory charge from your headline price
- claiming a discount that is not in fact given to the consumer
- claiming a discount for all of your holidays when all holidays are not in fact included in the offer - for example, '10% off all package holidays booked before end of September' when holidays to Spain are excluded. In this particular example we would need to ensure that the advert was not misleading and we would enforce the rules of the Consumer Protection from Unfair Trading Regulations

If holidays are advertised at a "From" price, the new guidance from BEIS is that there should be a significant number of holidays available at this price. Previously brochure prices were able to be set where there were charter flights as flight prices rarely changed. Now package prices are based upon scheduled flights and hotel rooms, where prices may change right up to the point of departure. Investigations have revealed that hotel and flight prices may also change, depending on the popularity of the hotel and flight. For example, "cookies", recognising when travellers request prices on one website, then search others sites to compare, when returning to the original website the price is inevitably higher as it recognises the previous enquiry.

It is very difficult to know how genuine a "From" price can be. Operators will genuinely not know the

package price almost until departure.

In advising organisers regarding price promotions we always insist that the advert shall carry the statement that the holidays are always subject to availability.

We are also aware that some organisers advertising pricing promotions online, like to highlight their prices in 'real time availability'. There is nothing incorrect with this type of advertising as long as there is a clear statement as to the length of time these prices are available. The examples below show how consumers can be confused by the wording in some price promotions, specifically concerning the amount of availability at the advertised price.

The ASA provide more advice on price promotions, which can be obtained from [www.asa.org.uk](http://www.asa.org.uk)

### **Case study: Significant proportions**

These mock adverts give you an example of how confusion with advertising can sometimes cause problems for consumers:

Sample advert text:

**Fantastic fares to St Malo!**

Save £££s by travelling to St Malo with us!

From

**£235**

Car + 2 return!

There should be a 'significant proportion' at this price

Sample advert text:

**Enjoy a break in France**

Great value 4-day breaks this Autumn!

**£175**

Car + 2 return!

All the services should be at this price

Sample advert text:

**4 Nights in Jersey**

At our 4\* waterfront hotel

From only

**£299**

Per person

So there should be a 'significant proportion' at this price

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