

Response to

Price Marking - Public consultation on
proposed changes to the Code of Practice
for Traders on Price Indications

from UK Metric Association

0. Executive Summary

The current Code of Practice for Traders on Price Indications has been unchanged since 1988. Since 1988 a major change has taken place in the weights and measures used for trade in Britain. In 1988, the majority of goods that were priced with reference to measurement units were required to be measured using imperial-calibrated instruments and to be marked in imperial-based unit prices. Since the end of 1999 it is compulsory to use metric-calibrated instruments and to base price marking on metric units. Supplementary pricing using imperial units is permitted until the end of 2009 providing the supplementary labels are not more prominent than those using standard (metric) units.

Because the Code of Practice for Traders on Price Indications was not revised to be consistent with Weights & Measures regulation and the Price Marking Order 1999, a number of sharp practices have emerged that exploit potential confusion between standard and supplementary units. Such sharp practices are detrimental to the consumer since they impede the ability to compare prices between alternative vendors. They are also detrimental to traders since they distort the market and hinder the market from working efficiently.

The main sharp practices that have emerged are:

1. Advertisements displaying prices based on supplementary units
2. Price comparisons based on supplementary units
3. Advertisements and labels displaying prices based on metric equivalents of supplementary units e.g. 'per 454g'

UK Metric Association (UKMA) makes three recommendations to improve the price indications to be fairer to both consumer and trader:

1. Price based on quantity must support price transparency
2. Price marking expressed only in supplementary units should not be permitted
3. Price reductions or other comparisons expressed only in supplementary units should not be permitted

UKMA makes specific recommendations to modernise the Code of Practice for Traders on Price Indications in order to better protect the consumer against sharp practices. It is hoped that implementing these recommendations will ensure better price transparency for the British consumer and will reduce the number of complaints regarding price indications.

1 Background

1.1 UK Metric Association (UKMA)

This response to the consultation on proposed changes to the *Code of Practice for Traders on Price Indications* is submitted by UK Metric Association (UKMA). UKMA is an independent, non-political, single-issue organisation which advocates the full adoption of the international metric system (SI) for all official, trade, legal, contractual and other purposes in the United Kingdom. UKMA is entirely funded by members' subscriptions and donations.

UKMA regards the appropriate use of metric units as a clear and transparent form of consumer protection. Customers are best served through the application of four principles with respect to the use of measurement units:

- Standardised usage of units of measurement to allow accurate and transparent comparison of one offering with a competitive alternative
- Properly calibrated measuring instruments at the packaging stage or point of sale as appropriate
- Standardised unit prices if appropriate
- A consistent way to represent price and measurement when labelling or advertising goods.

1.2 Aims of Revising the Code of Practice

DTI has stated that the proposed changes to the code of practice have 3 main aims:-

- To bring the Code up to date, including advice on avoiding giving a misleading price indication on the internet and other innovative selling mechanisms;
- To clarify the guidance where new relevant legislation has been introduced since the code was issued in 1988 and on specific queries that have arisen; and
- To address some sharp practices, particularly on sales promotions.

DTI notes that price is the key to purchasing decisions, but that prices are not always easy to compare in a meaningful way. Furthermore it is noted that distorted or incomplete price information can prevent markets from functioning efficiently.

Additionally, consumer complaints result in costs estimated by the Office of Fair Trading to be of the order of £650k per year – although it is expected that this amount is an underestimate. This cost underlines the importance of establishing consumer-friendly price indication practices and ensuring that they are consistently applied.

1.3 Changes Since 1988

It is noted that the code was originally written in 1988 and that significant changes have taken place since then. Two very significant changes have been: a) retailing on the internet and b) the change to metric weights and measures in the retail sector.

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Updates to the Weights and Measures Act 1984 require that goods sold by quantity needed to be measured using metric units at the point of sale from the beginning of 2000. The Price Marking Order of 1999 requires unit prices (i.e. price per kilogram, metre, litre, square metre, etc) of goods sold by quantity to be displayed.

Supplementary indications, using imperial units, are permitted until 2009 providing they are not more prominent than the standard (metric) unit prices.

At the time of writing of the Code of Practice in 1988 the vast majority of goods were only sold and priced in imperial units. The Code of Practice did not, therefore, take account of possible confusion and sharp practices relating to parallel running of standard and imperial units of measurement.

UKMA recommends that the Code of Practice be revised to take into account the change from imperial to metric units and to deal with new sharp practices. Specifically, the Code of Practice should be revised to be consistent with the Price Marking Order of 1999.

2 New Sharp Practices

2.1 Advertisements displaying prices based on supplementary units

Since the beginning of 2000 it has been required to measure loose goods in metric units. Additionally it is required to provide pricing and unit pricing information in metric units. The updates to the Weights and Measures Act permit the use of supplementary (imperial) indications on price labels for a transition period running until the end of 2009. Supplementary indications must be no more prominent than metric ones.

However, certain traders have been using what appears to be a lack of rigour in framing the Price Marking Order to avoid giving metric indications on signs which are deemed to be 'advertisements', claiming that these are not covered by the PMO. This despite the Weights and Measures Act clearly stating the metric indications are the only legal ones. Despite Trading Standards Officers taking the contrary view, no action is to be taken against these traders. This practice continues solely because the businesses concerned see an advantage in using the (superficially lower) prices expressed in numerically smaller supplementary units as a selling point. This is clearly in breach of the spirit of the law, as those traders who follow the law rigorously are put at a disadvantage. The PMO needs to be tightened up, and the guidance should reflect this. This would ensure that customers and traders get fair treatment, and avoid the inevitable confusion. This practice is detrimental for to the consumer for the following reasons:

- a) If the consumer sees a price in an advertisement, he or she is likely to note the price given but less likely to notice the units of measurement. This means that the consumer could be misled if the supplementary unit price is given and they think it is the standard unit price.
- b) Even if the consumer notes that retailer X advertises using standard units while retailer Y advertises using supplementary units, an accurate price comparison is impossible without a detailed knowledge of conversion factors, a notebook and calculator.
- c) If the supplementary unit is smaller than the standard unit – as is often the case (pound versus. kilogram, sq yard versus square metre) – the customer may choose to buy from

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the retailer advertising in the smaller unit. This may be simply because the numerical value is lower rather than a proper assessment of unit price.

- d) If a consumer reads an advertisement with a price based on a supplementary unit, e.g. apples advertised with a price per pound in a supermarket, they will not have an easy way of checking whether the same price has been used at the checkout. The checkout receipt will show a price in metric units e.g. apples with a price per kilogram. Again this can only be checked if the consumer knows conversion factors well and can calculate the conversion.

The four issues described above prevent a meaningful comparison of price and should be addressed by a revision of the Code of Practice. Worse still, retailers who advertise using supplementary units may gain unfair competitive advantage over their competitors who advertise using standard units.

2.2 Price comparisons based on supplementary units

A similar set of problems occurs if supplementary units are used to express a price comparison made by an outlet for example, a filling station offering petrol at a reduced price expressed as say “39p off per gallon”.

The consumer will not be able to check the original price, the charged price, and the discount unless they refer to the standard units of measurement.

Price comparisons that make reference to a unit price can only be transparent if they make reference to standard units.

2.3 Advertisements and labels displaying prices based on metric equivalents of supplementary units e.g. ‘per 454g’

A third sharp practice is to use metric equivalent of supplementary units to indicate price. Like the other sharp practices, this makes it difficult for the consumer to compare the advertised price with those from a competitor. It is also hard for the consumer to check the advertised price against what is indicated on a checkout receipt.

3 Proposals for Protecting Consumers with Today’s Measurement Units

UKMA is convinced that the current Code does not reflect recent UK Weights and Measures regulations and therefore gives neither sufficient guidance to traders nor sufficient protection to law-abiding traders nor sufficient protection to consumers.

The option of abolishing the Code would leave the consumer with less protection and traders less guidance than is the case today. The objectives of the Consultation in terms of providing consumers with a transparent way of comparing prices and a level playing field for traders can only be met by a modernisation of the Code. UKMA thinks that three measures must be taken to avoid the sharp practices outlined above.

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When making price comparisons, always use prices in standard units of measurement. Do not use supplementary units of measurement in price comparisons. Ensure that the unit of measurement is clearly marked. Do not leave consumers to guess what unit of measurement is being used.

In section 1.2 (Comparisons with the trader's own previous price), add new subsection

1.2.X

In any comparison between your present selling price and the last price at which the product was offered, always use standard units of measurement. Do not use supplementary units of measurement in price comparisons. If the product was previously offered with reference to supplementary indications, ensure that the old price is converted into standard units.

4.3 Part 2: Actual Price to Customer

In section 1.2 (Indicating two different prices), add a new subsection

2.2.1

When indicating a price, ensure that the price is indicated in the standard units of measurement that apply at the point of sale. If a price is indicated in supplementary units of measurement, it must be in addition to, and not more prominent than, the standard units of measurement. For example, do not advertise a price based only on supplementary units of measurement in an advertisement, window display, website or shelf label when the goods are priced using standard units of measurement at the point of sale or checkout. I

5 Cost of Compliance

The above recommendations apply to advertisements, web pages, labels and other means of advertising price with reference of units of measurement. The price of publishing the price through the above media is identical whether consistent consumer-friendly standard unit prices or some of the sharp practices outlined in section 2. UKMA considers that there is no incremental cost for traders to implement the proposed additions to the Code.

If advertising price with reference to units of measurement is practised more consistently there should be a reduction in the number of consumer complaints that relate to measurement usage.

6 Conclusions

The current Code of Practice for Traders on Price Indications came into force and has become significantly out of date. Since 1988, Britain has changed from selling and measuring goods with imperial units to metric units. Since the current Code of Practice does not address the change in measurement units, there is a significant divergence between the requirements of the Price Marking Order 1999 and the way in which prices are indicated.

New sharp practices have emerged which exploit potential customer confusion between standard and supplementary units. Such practices are to the detriment of the consumer and to the detriment of a fair market. The British consumer is best served by a revision of the Code of

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Practice to be consistent with the Price Marking Order 1999 and to preclude known sharp practices.

If the changes to the Code of Practice do not result in fairer price indication practices, then UKMA recommends that the Price Marking Order 1999 is updated to eliminate remaining sharp practices.