

## Key principles for comparison tools

Faced with an abundance of information online, consumers are increasingly relying on shortcuts such as comparison tools in their decision-making process. Comparison tools can indeed empower consumers and bring transparency to the markets. Consumers value the possibility offered by comparison tools to compare products/services to find better deals and the user experience they provide.

In order to ensure that comparison tools provide transparent and trustworthy service to consumers and ensure fair competition among operators, a number of principles need to be respected.

The principles outlined in this document and which have been developed together with stakeholders seek to provide directions to operators as to how to respect the relevant EU legislation and offer better services to consumers. The first series of principles seek at ensuring the compliance of the comparison tools with the relevant legislation, notably the Unfair Commercial Practices Directive. The second series of principles seek to further improve the user-friendliness and transparency of comparison tools.

The Principles have a holistic approach and cover all types of comparison tools. They have been drafted to be flexible enough to apply horizontally irrespective of the type of the products compared and sectors involved. Given their general and horizontal nature, it may be that, depending on the type of the comparison tool, not all principles are applicable (e.g. user reviews aggregators). The principles are also accompanied with best practices (“in practice” section) which provide concrete and practical examples as to how each principle can be implemented.

For the purposes of this document the term 'comparison tool' (CT) should be understood as including all digital content and applications developed to be used by consumers primarily to compare products and services online, irrespective of the device used (e.g. laptop, smartphone, tablet) or the parameter(s) on which the comparison is based (e.g. price, quality, user reviews). To the extent that operators of search engines, travel or ticket booking sites, e-commerce platforms acting as a marketplace for several traders develop functions or applications dedicated to the comparison of products and services, these functions or applications are also covered by the term 'comparison tool'.

***Organisations who have endorsed<sup>1</sup> the principles have agreed to disseminate, implement them and/or support their implementation by comparison tools operators.***

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<sup>1</sup> C.f. Annex I on Page 8 of this document

## Section I. Ensuring compliance with the Unfair Commercial Practices Directive

The Unfair Commercial Practices Directive contains various provisions which apply to comparison tools. One of the key criteria which needs to be fulfilled for the Directive to apply, is whether a comparison tool qualifies as "trader" within the meaning of the Directive. A "trader" is "any natural or legal person" who "is acting for purposes related to his trade, business, craft or profession and anyone acting in the name of or on behalf of a trader", in connection with a "business-to-consumer commercial practice" (any commercial practice "directly connected with the promotion, sale or supply of a product to consumers"). Situations involving an intermediary acting "on behalf of a trader" may arise, for instance, when a comparison tool gives the possibility for consumers to directly purchase the products compared or displayed (i.e. without rerouting the consumer to the manufacturer or another reseller), or when there is a material connection with a trader, such as advertising or sponsorship. It can also be the case when a comparison tool is provided to consumers as a service in return for remuneration. In such situations, the comparison tools are bound to professional diligence and to the applicable legal requirements provided by the Directive in each case.

In order to comply with the Directive, comparison tools should ensure that comparisons are carried out fairly and do not mislead consumers. Articles 6 and 7 prevent traders from providing false or deceiving statements and omitting material information *inter alia* about the price and/or the availability of products, if this causes or is likely to cause the average consumer to take a transactional decision he would not have taken otherwise. Article 6(1)(c) and (f) also require clarity on whether a comparison tool is independent, operated or (directly or indirectly) sponsored by a trader. In this context, "*falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer*" is prohibited in all circumstances by point 22 of Annex I.

This implies properly informing consumers about the availability and the price of the products and services compared (also when the trader is located in a different country than the consumer) as made available by the seller of the product or service, how the comparison is done, which elements are included in the price indicated for all the products or services compared, what are the commercial relations between the comparison tool and the traders ranked, such as whether it actually belongs or is linked to a trader and is used to advertise its products, or whether it derives some revenues from certain of the traders whose offers are compared. As a consequence, traders should ensure that the information given on the products compared is accurate and that the comparison is performed in a transparent and impartial manner.

The principles under Section I. have therefore been developed to help ensure compliance of comparison tools operators with the relevant provisions of the Directive. Beyond the Unfair Commercial Practices Directive, it is also necessary that comparison tools comply with other relevant legislation.

*Please note that this document cannot provide a formal interpretation of community law and are not an exhaustive interpretation of the trader's obligations under the Unfair Commercial Practices Directive or sector-specific legislation. Whilst these principles have been shared with national authorities, in accordance with the Unfair Commercial Practices Directive and its transposition into national legislation, national courts and authorities will continue to perform a case-by-case assessment of whether a claim is misleading either in its content or in the way it is presented to consumers taking into account its impact on the average consumer's purchasing decisions.*

## **1. Impartiality of the comparison and identification of advertising**

Advertising should be clearly identifiable by consumers. In this respect, advertising and sponsored results must be prominently differentiated from organic comparison results. Consumers must be clearly informed when a contractual or any other type of relationships between the comparison tool operator and a trader is affecting the impartiality of the results displayed. When the default ranking is affected by a contractual or any other type of relationships between the CT operator and the manufacturer/seller/provider/any other organisation, it should be clearly marked and consumers should also be given the option to rank the offers in an impartial way (e.g. by ascending price).

In practice:

- There should be a reference to “advertising” or “promoted link” whenever the default ranking is affected by a contractual or any other type of relationships between the CT operator and the manufacturer/seller/provider/any other organisation. This is for instance the case when a premium fee is paid by the manufacturer/seller/provider/any other organisation so that its offer(s) appear(s) more prominently/higher on the ranking page.
- Similarly, product reviews featured on the website and which have been posted by the manufacturer/seller/provider/any other organisation or have been paid for by them should be clearly indicated as being advertising.
- Other types of advertising (e.g. banners) should be explicitly marked as such and separated visually from the results.

## **2. Transparency about the business model**

Comparison tools should be transparent about their business and financing models, including owners, shareholders, material connections with manufacturers, sellers or providers of the goods and services featured. Any material connection to traders whose products/services are compared on the comparison tools should be adequately disclosed.

In practice:

- Transparency about the business-model should include giving general information on whether the incomes of the comparison tool stem, for example, from:
  - advertising appearing in specific sections on the website (whether in relation to the offers compared or not)
  - pay-per-click
  - pay-per-order/commission
  - referencing manufacturers/sellers/providers in the comparison tool
  - selling to other businesses data collected on its users.
- Additionally, it should also be mentioned whether the comparison tool is (partly) owned by, or affiliated to, a manufacturer/seller/provider/any other organisation whose products and services are compared on the comparison tool.
- Such information should be displayed in a clear, simple and meaningful manner and easily accessible from all pages of the website, e.g. in the “About us” or “FAQ” section of the website or the app.

### **3. Accuracy of the information provided, including price and availability**

Comparison tools should ensure that all the information they provide is accurate and in particular that information regarding price and availability corresponds exactly to the offer as made available by the seller of the product or service. In no case should availability information give a false impression of scarcity. CTs should provide consumers, in accordance with existing legal obligations – and where such obligations do not apply, to the extent possible – with the final product price, including applicable taxes, charges, surcharges, additional fees and delivery costs, and with a detailed breakdown of these charges.

In practice:

- Comparison tools should ensure that the information is updated regularly and frequently, to reflect the changes in the offers as made available by the seller of the product or service. They should act promptly to correct inaccuracies once they become aware or are notified of them.
- Prices, particularly those which may enter into force for long term contracts after initial discounts, as well as conditions applicable for loyalty periods, have to be clearly stated. Consumers should be informed about the differences between a promotional offer and the normal price.
- When offers are ranked by ascending prices, then final prices should serve as the criteria for such a ranking.
- It is to be clearly indicated whether availability information reflects availability on the comparison tool itself or overall availability. Additionally, this could be completed with the time of the last update on the search result page.
- Since delivery costs may not always be known to the comparison tool operator, the operator should undertake best efforts and provide, to the extent possible, indicative information by mentioning, for example, the standard shipping costs applicable.

### **4. Data collection, ranking, comparability and coverage**

Criteria used for the rankings should be clearly and prominently indicated, as well as, where relevant to ensure that consumers are not misled, general information about any specific methodology used. When the products or services compared are not identical, differences in their characteristics should be clearly mentioned. Comparison tools should give a clear indication of the completeness and coverage of the comparison.

In practice:

- Comparison tool operators should explain in a general and understandable manner how they collect data about the products and services compared.
- The criteria on which the different rankings are based (e.g. ranking based on price, comments/marks from users or a personalised set of criteria etc.) should be clearly indicated. The criteria of the default ranking should be prominent, provided in a succinct way directly on the search results page.
- A comparison tool should display the same information in a uniform manner for all the products compared to ensure comparability.

- When additional services are included, this should be clearly indicated as well as whether they are offered by the traders or the CT itself. Optional services should be offered with an opt-in mechanism.
- The coverage of the comparison should be specified in terms of sectors, number of sellers and geographical scope. In case of highly diverse markets (e.g. fast moving consumer goods, electronic goods), the comparison tool should seek to give the number of products and suppliers compared. In the case of highly concentrated markets (e.g. energy or telecoms, international transport), the comparison tool should clearly indicate which providers it covers. This information should be prominently provided, for instance on the landing page.
- The existence of any important exception to the coverage of the CT in terms of major market players particularly in highly concentrated markets should be made known to consumers.
- Comparison tools providing comparison of tested products (e.g. qualitative comparisons) should indicate prominently how many products have been tested or analysed in a given range of products.

### **5. Transparency and trustworthiness of user reviews and user ratings**

Comparison tools should take measures to ensure the trustworthiness of user reviews and ratings, and provide an overview of the methodology used to the extent that this is necessary to ensure that consumers are not misled. If a review is posted by an endorser who is getting paid or getting services in exchange for talking about a product or if a review has been procured in a way that may influence the reviewer's opinion about the product, this needs to be made clear to consumers.

In practice:

- Comparison tools displaying user reviews should explain that the reviews are user-generated and how they are created, posted, ranked and sorted.
- Comparison tools displaying user reviews should take steps to discourage fake reviews and ensure they are trustworthy. This could include, for instance, automatic quality control, requesting the reviewer to be registered, to verify his/her IP address or to require proof that the person has actually used the object of the review. However, the control of reviews should be carried out with respect to users' rights to anonymity in compliance with EU/national data protection laws and should not discourage online engagement or create barriers for consumers to post reviews.
- All reviews, even negative ones, provided they respect legislation against defamation and comply with the terms of service of the site, should be published and should not be pushed at the bottom of reviews to ensure the full and transparent information of consumers.
- Sponsored reviews should be distinguished, visually and structurally, from organic results. Such reviews should not be counted in for aggregated review scores.
- Posting of reviews by traders, or by third parties on request of the trader (e.g. e-reputation companies), are totally "fake" reviews and banned in all circumstances as the practice amounts to 'falsely representing oneself as a consumer'.

## **6. Display of contact details**

Comparison tools should display their contact details, including postal address and e-mail address.

In practice:

- Contact details should be given in a dedicated “contact us” section.

## **Section II. Further improving transparency and user-friendliness**

The following principles seek to further improve the transparency and user-friendliness of the comparison tools beyond legal requirements.

### **7. Complaint handling and access to redress mechanisms**

Comparison tools should handle complaints relating to inaccuracies and other problems in connection with the comparison service itself in a speedy and efficient manner. When the comparison tool offers the possibility to purchase via the website/application, the operator should have an efficient complaint handling policy and provide consumers with easy-to-find information on available redress mechanisms for the sectors it covers<sup>2</sup>.

In practice:

- Information on how to complain about problems in connection with the comparison itself should be easy to find.
- In relation to redress mechanisms, the comparison tool should describe the complaint handling mechanism and provide the contact details of the relevant alternative dispute resolution body or bodies.
- Comparison tools could also indicate a phone number to be contacted for when the consumer experiences a problem.

### **8. Relevance of the information and display**

Information provided by comparison tools should be relevant for assessing and comparing offers from a consumer perspective.

In practice:

- Information should be written in simple language, avoiding complex legal and technical terms.
- To improve the user-friendliness of the CT, it would be useful that this information is layered in case the consumers wish to look for more granular details.

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<sup>2</sup> Without prejudice to existing legal requirements

- Similarly, the comparison tools could also provide consumers with the possibility to personalise the search, for instance by including multiple evaluation criteria, filters and simulation functions.
- The comparison tool could put in place a uniform and easy point of recognition (design, layout, icon, etc.) that informs consumers when compared products are not identical.

### **9. User-friendliness and accessibility**

Comparison tools should strive to employ a user-friendly and simple to use interface. Comparison tools should incorporate features that make them more accessible to the vulnerable, the disabled and the elderly.

In practice:

- Comparison tools websites should also follow existing international guidelines or standards on accessibility.
- Practical solutions should be implemented by the CT operator to help consumers find the necessary information covered in these principles, irrespective of the device used.
- To improve the user-friendliness of the comparison tools, sellers could be given the possibility to react to reviews posted by users.

## **Annex I: List of Organisations endorsing the Principles**

### National authorities:

Federal Ministry of Labour, Social Affairs and Consumer Protection, Austria  
Ministry of Economy, Bulgaria  
Ministry of Economic Development, Italy  
Ministry of Economy, Slovak Republic  
Autoridade Nacional de Comunicações, Portugal  
Médiateur National de l'Énergie, France\*

### Comparison tools:

7Pixel  
Allegro Group  
LeGuide  
Pricewise.nl  
Rastreator.com  
Seznam.cz  
Skyscanner  
Trustpilot  
Verivox  
Yelp

### Consumer organisations:

Adiconsum, Italy  
BEUC\*  
Consumers' Protection Union of Serres, Greece  
APC Romania / Consumers Protection Association, Romania  
DECO, Portugal

### Business organisations:

AIM  
BusinessEurope  
eCommerce Europe  
EMOTA  
ETTSA  
Eurocommerce  
HOTREC  
Independent Retail Europe  
Leaseurope  
British Retail Consortium  
Danish Chamber of Commerce

*\*These organisations endorse these principles but consider impartiality requirements should be stronger. Comparison tools should be impartial in the way they compare offers. They also emphasise that compliance with these principles should be closely monitored and that the introduction of binding measures at national or European level should not be ruled out.*