**ACS Submission: Chartered Trading Standards Institute: Draft Pricing Practices Guide**

ACS (Association of Convenience Stores) welcomes the opportunity to provide evidence to the Chartered Trading Standards Institute consultation on retail price and promotion practices. ACS represents 33,500 local shops across the country including Co-operative Group, Spar, Costcutter, Budgens and thousands of independent retailers.

The convenience sector is worth £37.7 billion to the UK economy and accounts for over one fifth of the total UK grocery market. The bulk of the convenience store market (75%) is made up of non-affiliated independent and symbol group retailers (Spar, Costcutter, Londis). The sector employs over 407,000 people in mainland UK.[1]

Convenience stores trade in all types of locations and serve every type of customer. The average spend in a convenience store is £6.45, the average shopper visits their local convenience store 3.8 times per week and 17% of customers are buying product on special offer.[2]

Convenience retailers want to provide their customers with good value through fair pricing and promotions. The grocery market is highly competitive at the current time as customers have become less loyal to individual retailers and more focused on prices. Therefore, it is estimated that 40% of groceries by revenue sold in the UK are currently sold on promotion[3]. This makes pricing practices guidelines highly important to retailers.

ACS welcomes clear guidance on pricing and promotions that address the needs of both small businesses and large businesses operating in the UK. Straightforward guidance can provide reassurance to all parties that customers continue to receive a fair deal, without the need for complex or burdensome processes for businesses.

We welcome the recommendations of the CMA following the super complaint from Which? and are committed to communicating the final best practice guidance to convenience retailers. ACS has answered the relevant consultation questions below:

*Section: Introduction*

**Q1a: Is the introduction sufficiently clear in explaining that this guidance is addressed to businesses?**

**Q1b: Does it provide sufficient information to explain what the guidance does and does not cover?**

[1] ACs Local Shop Report 2015 pg 8, 12
[2] ACS Local Shop Report 2015 pg 18
[3] Competition & Markets Authority. July 2015.

The introduction makes clear that this guidance is addressed to all businesses that trade in the UK. It sets out that the guidance is not related to business to business transactions, but could define the guidance as relating to a businesses' commercial activity more prominently at the start of the introduction.

A footnote in the introduction suggests that the guidance is relevant to online businesses. The guidance should explicitly state in the introduction how this relates to omni-channel businesses or businesses that use social media for promoting their products.

*Section: Evaluation of your Pricing Practice considering Reasonable*

*Consumer Expectations*

**Q2a: Does this section provide businesses with a clear test to apply to their pricing practices?**

**Q2b: Do you agree that the test and definitions are an accurate reflection of the law?**

Yes. By providing a clear set of questions about the pricing practice, this section of the guidance provides a clear test that a business could be reasonably expected to understand.

**Q2c: Does the guidance help businesses to understand how to frame their price promotions a) when they are addressed to or are only likely to reach the average consumer and b) when they are aimed at or likely to reach specific groups that are not the average consumer?**

The test detailed in this section of the guidance is suitably robust when dealing with the defined average consumer, who is "reasonably well informed, reasonably observant and circumspect".

*Section: Quick Guide to Pricing Practices*

**Q3a: Do you agree that this section provides a useful checklist for small businesses?**

This section does provide a useful checklist for businesses when applying price promotions because it links directly into the Unfair Trading Regulations 2008. However, the guidance does not stipulate that this section is specifically aimed at small businesses, nor are small businesses referenced at all in the guidance.

Focus on pricing practices in the past have tended to focus on larger retailers due to their wider range of products and often more complex pricing and promotion strategies that result. Smaller convenience stores are less likely to be involved in such practices, for example 'price matching' schemes with competitors. Smaller retailers also have less resource to invest in adopting and communicating their pricing practices.

**Q3b: The text has been written to be applicable to all sectors and pricing practices. Are there any sectors for which the text is not fit for purpose? Are there any practices for which the text is not fit for purpose?**

The text appears to be applicable to the convenience sector as well as wider retail. Given the variety within the retail sector, clear principles could be applied to all without the need for separate detailed information based on retail business model.

Clarification could be made on some practices within the text. The guidance must acknowledge that prices on perishable goods, such as food and plants, can be reduced by price at any time without reference to other points in the guidance.

The Pricing Practices Guidelines remain a useful tool for retailers in promoting fair trading practices within the convenience sector. It is essential that retailers remain aware of their responsibilities to not give false or misleading information to customers with regard to pricing or promotions. Grocery retailing remains a highly competitive sector, and clear guidance on acceptable practices remains important to ensure customers receive a fair deal, and retailers are not unfairly disadvantaged by misleading pricing by competitors.

**Q3c: Are there any further points about pricing practices that should be added to this list for SMEs?**

No.

*Section: Price Promotions*

**Q4a: Do you agree that the detailed guidance accurately reflects the principles of the CPRs?**

The CPRs (Consumer Protection from Unfair Trading Regulations 2008) is a principles-based body of regulations. Therefore, it sets out broad concepts rather than set determinations. The guidance is well-aligned with this approach and both the regulations and guidance stem from an understanding that pricing practices are unfair if they cause the consumer to make a different transactional decision than they would have otherwise made if they had access to all relevant facts and circumstances. The fact that there has been little enforcement activity in this area suggests that the Pricing Practices Guidelines are effective in promoting fair trading practices.

We would like further clarification how Primary Authority Schemes could work in relation to Trading Standard Pricing Practices Guidance. ACS operates a Primary Authority scheme through Surrey County Council for our members. This includes assured Fair Trading advice[4]. There may be opportunities to highlight best practice information in this guidance. Using Primary Authority Scheme for the draft pricing practices guide may also increase awareness amongst retailers and the enforcement community.

**Q4b: Are you aware of any widespread pricing practices that have not been covered by the principles described in this section? If so, please provide outline details.**

**Q4c: Does the guidance cover the situation where there is a legal obligation to give unit price information and situations where the presentation of that information could be confusing or of no use to the consumer?**

N/A

*Section: Illustrative Examples*

[4] ACS Fair Trading Assured Advice Guide

**Q5a: Do you support the approach taken, of providing examples that more likely to comply or less likely (or unlikely) to comply given that only a court can decide on the facts of an individual case?**

Yes. The approach taken of providing examples in plain English style serves to reinforce understanding on what leads to compliance and what leads to non-compliance.

**Q5b: Are you aware of any widespread and potentially non-compliant pricing practices that have not been covered by the examples in this section? If so, please provide outline details**

New means of pricing and promotions through online and social media are not covered by the guide. The guide must be updated to cover these areas to ensure a level playing field across all retailing and respond to the increased provision of online shopping by many retail operations. Consumers should be confident that pricing practices are consistent and fair regardless of location of sale.

*Section: Actual Examples - Court Cases and ASA Rulings*

**Q6a: Businesses – will you find these examples helpful? Are there any other recent examples that you think could be included? If so please provide outline details.**

Yes. Businesses, especially small businesses, will find these practical examples useful in understanding the principles of the guidance.

*AND FINALLY*

**Q7: Has the guidance provided you with sufficient insight into the principles to enable you to review your own pricing practices and those of your competitors (should you wish to complain about them)? If not, which principles or practices need further explanation?**

The guidance is useful in communicating to all retailers their responsibilities around pricing promotions and in raising awareness and improving understanding of the support available.

**Q8: Do you think that the document strikes the right balance for business between using plain language to explain principles while also incorporating precise legal references?**

The core principle that the average business owner must have the necessary amount of information to allow them to determine their pricing methods is central to protecting against poor or misleading practices. This must be plain and easily accessible. The guidance strikes a good balance between using plain language and addressing the specifics of pricing practices through technical references.

**For more information on this submission, please contact Steve Dowling, ACS Public Affairs Assistant, at steve.dowling@acs.org.uk / 01252 533009**