# CMS Scotland - Kernel

## A step change in UK consumer law enforcement: what do Scottish food and drinks businesses need to know?

### Introduction

Businesses in the food and drinks sector must comply with mandatory consumer law rules. These are a set of rules that prevent businesses from deploying unfair trading practices when marketing and selling goods and services to consumers.

New rules effective from April 2025 give the Competition and Markets Authority (the **CMA**) stronger powers to enforce this area of law directly – including the power to impose significant financial penalties on business found to have violated consumer law rules.

#### New powers for the CMA

These new powers were introduced under the Digital Markets, Competition and Consumers Act 2024 (the **DMCCA**). From April 2025, the CMA now has the power to directly investigate and enforce consumer laws using its own administrative processes without the need to prosecute these cases before the courts.

The investigation and enforcement processes under the DMCCA give the CMA broad powers to investigate suspected breaches of consumer law (e.g. by compelling businesses to provide information and documents, conducting interviews with executives and staff, etc.).

Under this new regime, if the CMA finds that consumer law has been infringed:

- it can impose significant financial penalties, up to the **greater** of:
  - 10% of the infringing business' global turnover; or
  - £300,000;
- it can also impose behavioural requirements on infringing entities, requiring them to change their business practices in order to ensure compliance; and
- businesses that are the subject of such infringement findings face reputational damage and the loss of consumer trust.

Clearly, such adverse consequences are significant and are a key reason why many businesses, including in the food and drinks sector, are now more carefully considering their compliance with consumer law requirements.

The CMA is already using these new powers. At the end of 2025, it announced eight investigations directed at 100 businesses for potential consumer law infringements. The food and drink sector was not immune from this action, e.g. with food and drink delivery companies and online voucher companies (common partners of food and drinks businesses) amongst those targeted.

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### What do food and drinks businesses need to do to comply?

The DMCCA made some important changes to the substantive compliance requirements that food and drink businesses need to ensure they are on the right side of. In the main, the DMCCA restates many longstanding consumer law rules from the Consumer Protection from Unfair Trading Regulations 2008 which many consumer-facing businesses will already have been familiar with. For example, misleading actions and omissions when selling products or services to consumers remain illegal.

The DMCCA did introduce several new compliance requirements that food and drinks businesses should consider carefully. We highlight two particularly meaningful developments below.

### Drip pricing

Drip pricing is the practice of promoting an initial price for a product but adding mandatory additional costs to complete the purchase, a practice that has been commonplace in online purchasing of goods and services. A customer is shown an initial price but then additional fees are "dripped" in as consumers progress their transaction. The concern is that consumers are effectively duped into considering a product or service based on a lower initial price, but ultimately pay a higher price once additional fees are added.

The DMCCA made such practices illegal. Any invitation to purchase (i.e., any consumer-facing communication containing the price of goods or services, e.g. an advert) must meet new stringent requirements as regards the price information that is provided. The general position is the total price, including any fees, taxes, charges, or other payments that a customer will necessarily incur if they purchase the product must be clearly displayed.

As explained, the intention is to increase transparency in pricing and protect consumers from hidden "dripped" fees. Particularly in the online sales environment, food and drink sector businesses therefore need to carefully consider their approach to pricing, and communicating with customers to make sure they are not risking complaints and adverse CMA attention.

### Fake reviews

Dishonest online reviews have been a concern for consumer law enforcers such as the CMA for some time. The DMCCA now expressly prohibits various practices related to "fake" reviews. Key prohibitions include:

— **Straightforwardly fake reviews** – i.e., consumer reviews that claim to be, but are not, based on a customer's real experience.

— **Concealed incentives** – reviews that conceal the fact that they have been incentivised (e.g. payments or gifts).

— **False or misleading consumer review information** – the publication of customer review information in a false or misleading way (e.g. supressing negative reviews, cherry-picking positive quotes, etc).

Importantly, the DMCCA also puts a proactive obligation on businesses that publish customer reviews to take proportionate steps to tackle illegal "fake" review practices like those highlighted above.

Any food and drink business which solicits and/or publishes online reviews from its customers should carefully consider whether its approach is compliant with these new and wide-ranging requirements. Again, this is an area where the CMA has already taken proactive enforcement action.

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