

dti

UNFAIR COMMERCIAL PRACTICES DIRECTIVE

An Overview

**Peter Deft
CCP Directorate
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I'll Cover

- Purpose & Key Features
- Structure
- The DTI's Consultation paper
- Next steps

Purpose of Directive

1. To achieve a high common level of consumer protection in the EU
2. To improve the functioning of the internal market

Key Features

- ❑ **General duty on businesses not to trade unfairly**
 - Fills gaps in existing legislation and sets standards against for new practices
 - Put in place a much more comprehensive and systematic framework for unfair trading trading
- ❑ **It uses the principle of maximum harmonisation – but certain exemptions**
 - Laws which impose a lower or higher level of protection will need to be amended or repealed

What is its scope?

Directive applies to:

- Business-to-consumer commercial practices
- Practices that impact on decisions involving a involving a commercial choice (transactional (transactional decision)
- Our consultation paper sets out 28 laws that that may potentially fall within the Directive's Directive's scope

Exemptions from maximum harmonisation

- Directive without prejudice to:
 - Authorisations regimes and conditions that attached to authorisation regimes
 - Contract law

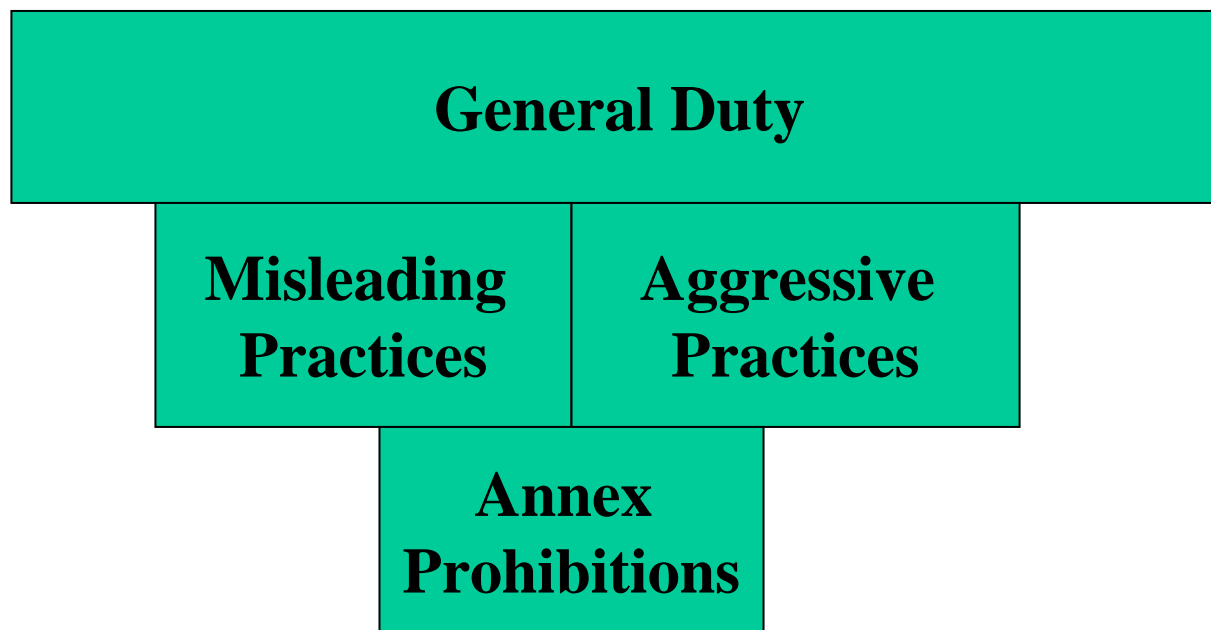
- **But the exemption for authorisation regimes does not mean that utility companies are not subject to the UCPD**

Structure of Directive

Substantive Articles in 3 parts:

- General Clause [the general duty]
- Misleading actions and omissions; and aggressive commercial practices
- Annex (of misleading and aggressive practices)

Structure



Consultation paper

Broadly divided into 3 parts

- Interpretation – sets out understanding of the provisions of the Directive and how they are expected to operate in practice
- Enforcement – Directive underpinned by civil law law enforcement but consulting on introducing criminal sanctions and private law right of redress
- Existing legislation – consulting openly on how we we should deal with overlapping legislation. Government's committed to simplification wherever sensible and appropriate

Next steps

2005 Consult on policy options for implementation (14 Dec – 8 March 2006)
2006)

2006 Start drafting guidance; Publish Government's response to consultation (Spring)

Publish draft regulations and guidance for for consultation (Autumn)

2007 Make regulations (Spring)

Laws come into force (December)

Any questions?

Peter.Deft@dti.gsi.gov.uk

020 7215 0341