

Price Indication Regulations – Examples of Bad Practice

July 2023

1. Indicating prior price which was not lowest in previous 30 days before price reduction

As per Regulation 4 of S.I. No. 597/2022 - European Union (Requirements to Indicate Product Prices) (Amendment) Regulations 2022, when making an announcement that a product has been reduced in price, traders must show the prior price of the product in this announcement. This is the lowest selling price applied to the product in at least the last 30 days before the price reduction has been applied.

The CCPC has observed that traders frequently did not indicate this prior price in their price reduction announcements i.e. the previous selling price indicated is not the lowest price applied to the product in at least the last 30 days before the price of the product was reduced.

Example: A product is priced at €1649 from 23 December 2022 to 24 January 2023. On 25 January 2023 until 8 February 2023, the price of the product is increased to €1949. On 9 February 2023, the price is reduced to €1579 with an indicated prior price of €1949 in the price reduction announcement, despite the lowest price in the previous 30 days before this reduction being €1649:

22 Dec 2022	23 Dec 2022 – 24 Jan 2023	25 Jan 2023	26 Jan – 8 Feb 2023	9 Feb 2023
€1949	€1649	€1949	€1949	€1579

- Price from 23 December 2022 to 24 January 2023 = €1649
- Price increased to €1949 from 25 January 2023 to 8 February 2023
- Price reduced to €1579 on 9 February 2023 with an indicated prior price of €1949 in the price reduction announcement.

2. Increase followed by immediate decrease in price and indicating the increased price in price reduction announcements

As per Regulation 4 of S.I. No. 597/2022 - European Union (Requirements to Indicate Product Prices) (Amendment) Regulations 2022, the prior price is the lowest selling price applied to a product in at least the last 30 days before the price of that product is reduced.

If a trader increases the price of a product for a single day before immediately reducing the price back to its previous price, the trader cannot use this briefly increased price as the prior price in its price reduction announcement as this is not the lowest price in at least the previous 30 days before the application of the reduction.

Example: The price of a product is €1019 from 4 January to 10 January 2023. On 11 January 2023, the price is increased for one day to €1399 before reducing to €959 on 12 January 2023. The price is then increased again to €1399 for one day on 8 February 2023 before reducing back down to €959 on 9 February 2023:

4 – 10 Jan 2023	11 Jan 2023	12 Jan 2023	13 Jan – 7 Feb 2023	8 Feb 2023	9 Feb 2023
€1019	€1399	€959	€959	€1399	€959

- Price from 4 January to 10 January 2023 = €1019
- Price increased to €1399 on 11 January 2023
- Price immediately reduced to €959 from 12 January to 7 February 2023
- Price increased to €1399 on 8 February 2023
- Price immediately reduced again to €959 on 9 February 2023 with an indicated prior price of €1399

3. Indicating a reduced selling price which is higher than the correct prior price

As per Regulation 4 of S.I. No. 597/2022 - European Union (Requirements to Indicate Product Prices) (Amendment) Regulations 2022, the prior price is the lowest selling price applied to a product in at least the last 30 days before the price of that product is reduced.

The CCPC observed that traders indicate a reduced selling price in their price reduction announcements which was in fact higher than the prior price i.e. the selling price is higher than the lowest price applied to the product in at least the previous 30 days before the application of the price reduction.

Example: A product is priced at €629 from 25 November 2022 to the 6 December 2022. The price is reduced to €499 for the period 7 December 2022 to 28 December 2022. The price is then raised back to €629 from 29 December 2022 to 3 January 2023. The price is then reduced to €599 on 4 January 2023 with the price reduction announcement on this date indicating a prior price of €629, despite the lowest price in the previous 30 days before this reduction being €499:

25 Nov – 6 Dec 2022	7 Dec – 28 Dec 2022	29 Dec 2022	30 Dec 2022 – 3 Jan 2023	4 Jan 2023
€629	€499	€629	€629	€599

- Price from 25 November 2022 to 6 December 2022 = €629
- Price reduced to €499 from 7 December 2022 to 28 December 2022
- Price increased back to €629 from 29 December 2022 to 3 January 2023
- Price reduced to €599 on 4 January 2023 with an indicated prior price of €629

4. Fluctuating a price between the prior price and reduced selling price and advertising a price reduction

As per Regulation 4 of S.I. No. 597/2022 - European Union (Requirements to Indicate Product Prices) (Amendment) Regulations 2022, the prior price is the lowest selling price applied to a product in at least the last 30 days before the price of that product is reduced. Where a trader applies consecutive reductions to the selling price of a product as part of a sales campaign, the prior price is the lowest selling price applied to the product in at least the last 30 days before the first price reduction. As such, the prior price remains the same for all successive price reduction announcements during the campaign, provided the price reductions are applied gradually without interruption as part of the same sales campaign.

If a trader intermittently increases the price, each reduction is not without interruption and therefore such reductions are not successive and would be considered part of a different, separate sales campaign. The prior price in these circumstances is therefore the lowest price during at least the past 30 days, including the reduced price during the previous sales campaigns.

Example: The price of a product from 23 December 2022 to 3 January 2023 is €36. The price is increased from 4 January to 11 January 2023 to €45 before reducing back to €36 for one day on 12 January 2023. The price is again increased to €45 from 13 January to 18 January 2023 and once again reduced to €36 on 19 January 2023. The price is raised back to €45 from 20 January to 25 January 2023 before again decreasing to €36 from 26 January 2023, wherein the price reduction announcement featured a prior price of €45:

23 Dec 2022 – 3 Jan 2023	4 Jan 2023	5 Jan – 11 Jan 2023	12 Jan 2023	13 Jan – 18 Jan 2023	19 Jan 2023	20 Jan – 25 Jan 2023	26 Jan 2023
€36	€45	€45	€36	€45	€36	€45	€36

- Price from 23 December 2022 to 3 January 2023 = €36
- Price increased to €45 from 4 January to 11 January 2023
- Price reduced back to €36 on 12 January 2023
- Price increased back to €45 from 13 January to 18 January 2023
- Price reduced again to €36 on 19 January 2023
- Price increased again to €45 from 20 January to 25 January 2023
- Price reduced back to €36 on 26 January 2023 with an indicated prior price of €45

5. Indicating prior price that had not applied to product for an excessively long period of time

Under Section 43(2) of the Consumer Protection Act 2007, a commercial practice is misleading if it would be likely to cause the average consumer to be deceived or misled in relation to any matter set out in Section 43(3) and to make a transactional decision that the average consumer would not otherwise make. This includes the provision of false, deceptive or misleading information in relation to the existence or nature of a specific price advantage.

The CCPC observed that some traders apply a price reduction for an excessively long period of time compared to the period during which the product is sold without a price reduction.

Example: A product is priced at €79.99 for 2 months. It is reduced to €49.99 and remained unchanged at this price for 10 months. The product is then the subject of a price reduction announcement with an indicated prior price of €79.99:

- Price for 2 months = €79.99
- Price reduced to €49.99
- Price unchanged at €49.99 10 months later, price reduction announcement indicates a prior price of €79.99

6. Indicating a prior price which did not apply to product

Under Section 43(2) of the Consumer Protection Act 2007, a commercial practice is misleading if it would be likely to cause the average consumer to be deceived or misled in relation to any matter set out in Section 43(3) and to make a transactional decision that the average consumer would not otherwise make.

This includes the provision of false, deceptive or misleading information in relation to the existence or nature of a specific price advantage, including a representation that a product was previously offered at a different price or at a particular price. Where announcing a price reduction, the trader must have actually offered the product for sale at the prior price indicated in that statement.

Furthermore, traders may use other types of practices for promoting price advantages, such as price comparisons, but not in such a way that the average consumer may perceive the comparison as a price reduction. The CCPC has observed traders indicating a recommended retail price in price reduction announcements and presenting this price as having previously applied to the product in question.

Example: A product is reduced from €1699 to €1499 on 24 December 2022. The price reduction announcement on this date features only a recommended retail price of €2799. The product was never previously offered for sale at this price i.e. the recommended retail price.