

## New Consumer Protection Regulation for the UK

The purpose of this notice is to remind you about changes to UK Consumer Protection Regulation (CPR) that took effect on the 26-May2008.

The new regulations will apply to all businesses that deal with consumers and make representations about their products, including those that operate in the Premium Rate Services sector. All businesses should read and understand the regulations, and review their existing practices, to consider whether they comply. The regulations will amend and/or replace the existing patchwork of detailed sector-specific rules that currently govern unfair commercial practices and comparative advertising in the UK.

The new CPR is intended to protect consumers from unfair business practice. The regulations will apply at all stages in the contract or sale process, including pre-contract (such as advertising), contractual matters, and post-contract (such as after-sales service). The regulations set out rules for determining when commercial practices are unfair and fall into four categories:-

1. A general ban on conduct below a level which may be expected towards consumers. For a practice to be unfair, it must impair the average consumer's ability to make an informed decision, causing them to take a transactional decision that they would not have otherwise taken.
2. Misleading practices, such as giving false or deceptive messages, and omissions.
3. Aggressive sales techniques that use harassment, coercion or undue influence.
4. A list of 31 specific commercial practices that are banned in all circumstances. These practices are set out in the schedule to the CPR.

The regulations make a range of tools available to enforcement bodies, such as investigatory powers and the ability to bring civil and criminal prosecutions. In most cases, a breach of the regulations will be a criminal offence, punishable by a fine. In addition, any directors or managers responsible for the breach could be sentenced to up to two years in prison.

The new abstract concept of an 'unfair commercial practice' represents quite a shift from the existing regime. The main problem that businesses will face when dealing with the new Regulations will be assessing whether their current practices could be deemed as unfair. Given that the precise meaning of an 'unfair commercial practice' under the new CPR is open to interpretation, it may be wise for businesses to make a cautious risk assessment in conjunction with their legal counsel until the legal interpretation of the CPR is fleshed out by the courts.

A copy of the CPR can be found here:

[http://www.opsi.gov.uk/si/si2008/draft/ukdsi\\_9780110811574\\_en\\_5#sch1](http://www.opsi.gov.uk/si/si2008/draft/ukdsi_9780110811574_en_5#sch1)

See the following link for a PhonepayPlus briefing note:

[http://www.phonepayplus.org.uk/pdfs\\_news/UCP\\_Factsheet.pdf](http://www.phonepayplus.org.uk/pdfs_news/UCP_Factsheet.pdf)

Please contact [sales@targetmedia.nl](mailto:sales@targetmedia.nl) if you have any further questions.