Misleading Pricing and Discounts: Best Practices and Policy Recommendations

APEC Committee on Trade and Investment

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Executive Summary

Misleading or fictitious pricing are commercial practices where prices are artificially inflated by advertisers to create the illusion of an attractive offer, creating a false expectation of savings in consumers.

Ensuring truthful advertising remains a major challenge, as sales promotions must reflect genuine discounts based on real reference prices, providing consumers with a legitimate advantage under temporary and exceptional conditions. Deceptive pricing practices, particularly in e-commerce transactions, where misleading price promotions are more prevalent and harder to regulate, pose an urgent concern for fair competition and consumer protection.

Misleading pricing and discounts undermine market integrity, erode consumer trust, and distort fair competition by creating unfair advantages for businesses that engage in deceptive pricing over ethical competitors, manipulating consumer perception, and distorting market dynamics through inflated reference prices.

This paper examines misleading pricing and discount practices, with a particular focus on digital marketplaces, to support APEC's Competition and Consumer Protection Authorities in identifying best practices and developing policy recommendations to address these deceptive strategies.

Several APEC economies have implemented strong regulatory frameworks and proactive enforcement actions to combat misleading pricing, either through general fair competition provisions or specific pricing regulations. Case studies highlight the importance of robust legal measures, market oversight, and consumer education in addressing these concerns.

In that sense, this paper consolidates the best practices from APEC economies and presents policy-driven solutions that offer a practical guide for regulators, policymakers, and industry stakeholders to implement effective, evidence-based strategies that foster a fair, transparent, and consumer-oriented commercial environment.

To address these challenges, this paper proposes policy recommendations aimed at:

- Enhancing detection of misleading discounts through real-time monitoring.
- Establishing a standardized economic and legal analysis methodology for pricing practices.
- Introducing a legal framework that explicitly defines misleading pricing as an unfair commercial practice.
- Strengthening enforcement mechanisms to ensure compliance with pricing transparency laws
- Expanding consumer education initiatives to raise awareness of misleading discount strategies.

By adopting these measures, APEC economies can enhance market transparency, prevent deceptive pricing practices, and restore consumer confidence in fair competition and legitimate sales promotions.

Table of Contents

Executive Summary **1**
Table of Contents **2**
1. Introduction **3**
2. Background **4**
3. Regulatory Frameworks **5**
3.1 Australia 6
3.2 Canada 6
3.3 Chile 6
3.4 Malaysia 7
3.5 Peru 7
3.6 Chinese Taipei 8
3.7 United States 8
3.8 United Kingdom 9
4. Best practices in addressing misleading pricing and discounts **9**
4.1 Chile – SERNAC's monitoring of promotions in e-commerce events 9
4.2 Mexico – The "Who's who in prices" program 10
4.3 Mexico – Interactive tool for policies, terms, and conditions on digital platforms 10
4.4 Peru – INDECOPI's oversight guide on misleading discount promotions 10
4.5 Peru – INDECOPI's binding precedent for legal and economic criteria 11
4.6 United States – FTC's guides against deceptive pricing 11
4.7 UK – Guidance on misleading pricing 12
4.8 UK - Business companion portal 12
4.9 UK - Advertising Standards Authority (ASA) 12
4.10 Spain – Digital tools for price transparency 12
5. Policy Recommendations **13**
5.1 Enhancing detection of misleading discounts through real-time monitoring 13
5.2 Establishing a standardized economic and legal analysis methodology for pricing practices 13
5.3 Introducing a legal framework that explicitly defines misleading pricing as an unfair commercial practice 14
5.4 Strengthening enforcement mechanisms to ensure compliance with pricing transparency laws 14
5.5. Expanding consumer education initiatives to raise awareness of misleading discount strategies 15
References **16**

1. Introduction

With the expansion of e-commerce, the Asia-Pacific region has seen a notable rise in marketing and advertising strategies designed to position goods and services in the market. This trend is particularly evident during key commercial periods, such as Mother's Day, Christmas, and Cyber Days, where promotional campaigns are heavily conducted through digital platforms.

Misleading pricing and discount practices are commercial strategies conducted through sales promotions, both in physical stores and digital platforms, that create a false expectation of savings to incentivize consumer purchases. These deceptive strategies mislead consumers regarding the actual value of a product or service, constituting an act of unfair competition that distorts pricing transparency and erodes trust in legitimate sales promotions.

As digital commerce continues to grow, these practices present a significant challenge for APEC economies, requiring stronger regulatory frameworks, enhanced enforcement mechanisms, and increased consumer awareness initiatives.

According to the World Bank, most economies have adopted provisions prohibiting misleading commercial practices (in general) which include deceptive pricing and discounts provisions. However, only "81% of them require that sellers substantiate or have evidence for their claims about their products and services at the time they are making them" (World Bank, 2024, p. 21). This lack of stringent verification mechanisms enables businesses to use pricing strategies that do not accurately reflect real market value, leading to widespread consumer misinformation.

Misleading pricing often involves manipulating reference prices or presenting discounts in a deceptive manner. A reference price is a pricing strategy that signals value by comparing a current price to a typically higher one (The Guidance for Traders on Pricing Practices, 2018, p. 5). While this approach can be an effective marketing tool, it can also reduce consumers' willingness to compare prices across competitors, making them more susceptible to misleading promotions. Consumers generally do not track historical reference prices, making it difficult for them to assess whether a discount is genuine or artificially inflated (The Guidance for Traders on Pricing Practices, 2018, p. 14).

Some of the most common misleading pricing techniques include "was/now" pricing, where advertisers compare the current price with a previously charged price, even if the previous price was rarely or never actually used. Another common tactic is after-promotion or introductory pricing, where the advertised price is compared to a future price that the trader intends to charge, even though there is no guarantee the price will actually change.

These tactics can be particularly harmful in digital marketplaces, where consumers rely heavily on displayed discounts and comparative pricing to make purchasing decisions. Competition and Consumer Protection Authorities worldwide emphasize the importance of transparency and accuracy in price presentations. If consumers lose confidence in discount practices, this could lead to decreased trust in the market, reduced market efficiency, and unfair advantages for businesses engaging in deceptive pricing.

Addressing misleading pricing and discounting practices requires a multi-faceted approach that includes effective regulations, industry self-regulation, and informed consumer decision-making.

This paper provides a comprehensive analysis of regulatory frameworks, best practices, and policy recommendations to mitigate misleading pricing strategies and ensure a fair and competitive marketplace. It first explores the market trends that have enabled the rise of misleading pricing strategies, with a focus on their relevance in APEC economies. It then examines global and regional laws addressing misleading pricing practices, including relevant case studies that illustrate their application. The analysis continues by showcasing regulatory, self-regulatory, and business-led strategies that ensure pricing transparency. Finally, based

on the findings, this paper proposes recommendations for APEC's Competition and Consumer Protection Authorities, businesses, and consumers to mitigate the negative effects of misleading pricing.

The goal is to provide a practical framework for authorities, businesses, and consumers, equipping them with the necessary tools to understand, identify, and counter deceptive pricing practices while promoting fair competition in the marketplace. The persistence of misleading discount promotions demands coordinated efforts among regulatory authorities, industry stakeholders, and policymakers to protect consumers and ensure a fair and competitive marketplace.

2. Background

Misleading pricing and discount practices have evolved significantly, adapting to changing market dynamics and the expansion of digital commerce. Historically, these tactics were primarily used in physical retail environments, where sellers could manipulate reference prices or advertise fictitious discounts to attract consumers. However, with the rapid growth of e-commerce and digital platforms, these practices have intensified, affecting a broader and more global consumer base.

According to the Global Regulations, Institutional Development, and Market Authorities Perspective Toolkit (GRIDMAP), published by the World Bank, while 87% of economies worldwide require full price disclosure, "seven percent of high-income economies" have yet to establish this obligation (World Bank, 2024, p. 27). This highlights a gap that Competition and Consumer Protection Authorities must continue addressing to ensure fair pricing practices and protect consumer trust.

In today's omnichannel retail environment—both offline and online—pricing and discount strategies can easily create confusion and erode consumer confidence. Many businesses use reference pricing and aggressive discounting techniques, often presenting them as "unmissable opportunities" to buy at a lower price. This trend is particularly visible during high-consumption events such as Mother's Day, Christmas, and Cyber Days, where companies strategically highlight promotions using visual marketing techniques, such as oversized fonts for the word "SALE" or bold color contrasts to attract attention.

However, these sales promotions often do not represent real discounts or true economic benefits for consumers. Instead, many sellers artificially inflate reference prices to create a false perception of savings and encourage higher transaction volumes.

In 2021, a case in Peru demonstrated how misleading pricing can directly impact consumer trust. A company advertised a temporary and exceptional discount in its physical store, presenting a reduced price compared to its standard offer. However, a thorough economic investigation by INDECOPI revealed that the reference price had been artificially increased, making the discount misleading.

In response, the Commission on Unfair Competition of the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) from Peru established a binding precedent in 2022. This ruling included both economic and legal assessments applicable to unfair competition practices related to advertising. The precedent serves as a predictive tool for identifying misleading pricing strategies and guiding future enforcement actions.

In addition to it, in September 2024, the Australian Competition and Consumer Commission (ACCC) initiated legal proceedings in the Federal Court against two companies for alleged violations of Australian Consumer Law due to misleading sales promotions on hundreds of common supermarket products.

The ACCC found that reference prices had been artificially inflated by at least 15% to create the illusion of savings and boost sales. The misleading pricing claims were displayed in stores, on supermarket shelves, and online, often with a "previous price" label that only reflected

a short-term price increase before applying the discount. The case remains under investigation, but it highlights the prevalence of deceptive pricing strategies in both digital and physical retail spaces.

In November 2024, during Mexico's major shopping event, "El Buen Fin", multiple consumers reported false discounts and misleading promotions, particularly in large retail chains. Social media users shared evidence of products with artificially inflated prices before the sales event, only to be "discounted" back to their original price, creating the illusion of a bargain.

For example, one widely reported case involved an item that was originally priced at MXN699. Prior to the sales event, the price was raised to MXN899 pesos, only for a MXN200 "discount" to be applied, bringing it back to its original price. These tactics sparked consumer distrust and prompted the Federal Consumer Protection Agency (PROFECO) to encourage affected consumers to report such deceptive practices.

Another case that remains important to mention is the investigation into Temu launched by the European Commission in November 2024. The e-commerce platform received allegations of misleading pricing and promotional practices. Authorities flagged issues such as fake discounts, pressure-based sales tactics, and a lack of transparency regarding consumer rights. Authorities across Europe have expressed concern over this practice, warning that the company could face legal action if it fails to improve transparency and pricing integrity. Although this case does not specifically involve inflated reference prices, it could constitute a form of deceptive pricing practice.

Additionally, other misleading pricing and discount tactics have emerged, posing ongoing challenges for regulatory authorities. For instance, scarcity-based pricing is commonly used, where sellers claim that items are "almost out of stock" to create urgency and pressure consumers into rushed purchasing decisions. Another concerning practice is "gamified pricing", where consumers must participate in promotional games to unlock certain discounts, further distorting perceived value and influencing purchasing behavior.

These cases highlight the urgent need for stronger regulatory oversight in preventing misleading discount practices across different economies. As deceptive pricing continues to evolve (especially in digital marketplaces) it is essential for APEC's Competition and Consumer Protection Authorities to develop effective enforcement mechanisms and consumer education initiatives to ensure fair competition and maintain market trust.

3. Regulatory Frameworks

Misleading pricing and discount practices are deceptive commercial strategies that create the illusion of savings, leading consumers to make purchases they might otherwise avoid. These tactics not only mislead consumers but also undermine fair competition and disrupt market efficiency. Recognizing their harmful impact, many economies have established regulatory frameworks to combat such practices and safeguard consumer trust.

In this context, Competition and Consumer Protection Authorities assess pricing practices to determine whether they are fair or misleading. The guiding principle is that "the promotion should not, in any way, mislead, deceive, or take advantage of consumers" (The Guidance for Traders on Pricing Practices, 2018, p. 11).

A strong regulatory framework is crucial for ensuring effective enforcement. According to a World Bank survey, 96% of Consumer Protection Authorities have the authority to initiate investigations on their own, without relying on consumer complaints (World Bank, 2024, p. 62). This underscores the proactive role of enforcement agencies in identifying and addressing misleading pricing strategies before they cause widespread consumer harm.

By determining whether promotions mislead, deceive, or exploit consumers, these authorities play a critical role in maintaining pricing transparency and market fairness. A robust legal framework enables them to take preventive actions, enforce compliance, and hold businesses accountable for deceptive discount practices.

This section examines the global and regional laws governing misleading pricing and discounts, focusing on key economies in the Asia-Pacific region, including Australia; Canada; Chile; Malaysia; Peru; Chinese Taipei; and the United States, as well as Europe, specifically the United Kingdom.

3.1 Australia

In Australia, the Australian Consumer Law (ACL) prohibits misleading or deceptive conduct, including false representations about price reductions. The ACCC is responsible for enforcing these provisions.

In September 2024, the ACCC initiated legal action against major supermarket chains, alleging they engaged in deceptive discounting practices. The ACCC claims these retailers' advertised discounts on products after artificially inflating their prices, misleading consumers about the true value of the purported discounts. For instance, it was alleged that products were temporarily marked up before being promoted as discounted, a practice that deceives consumers into perceiving a bargain where none exists.

The ACCC estimates that both supermarket chains sold tens of millions of the affected products and derived significant revenue from those sales. The ACCC is seeking declarations, penalties, costs, and other orders, including community service orders that the companies must each fund a registered charity to deliver meals to Australians in need, in addition to their pre-existing charitable meal delivery programs.

This case underscores the ACCC's commitment to ensuring that consumers are not misled by illusory discounts and that businesses engage in fair trading practices.

3.2 Canada

In Canada, the Competition Act addresses false or misleading representations and deceptive marketing practices, including those related to pricing. The Act prohibits materially false or misleading representations made knowingly or recklessly, encompassing all forms of marketing, including pricing strategies. Enforcement of these provisions is the responsibility of the Competition Bureau, which has the authority to investigate and penalize businesses engaging in deceptive pricing practices. Additionally, the Act allows for restitution orders, requiring businesses to compensate consumers misled by false pricing claims.

A notable example of enforcement occurred in September 2024, when the Competition Tribunal ordered a company to pay nearly CAD39 million for engaging in deceptive marketing through "drip pricing." This practice involved advertising ticket prices lower than the actual cost at checkout due to a mandatory CAD1.50 online booking fee. The penalty corresponded to the revenue that the company earned from this fee between June 2022 and December 2023. This case underscores the Bureau's commitment to ensuring businesses display full prices upfront, preventing consumers from being misled by hidden fees.

By enforcing these regulations, Canada strives to uphold fair competition and protect consumers from deceptive pricing practices.

3.3 Chile

Chile's consumer protection framework is governed by the Consumer Protection Law which prohibits misleading or deceptive advertising, including false pricing information.

The National Consumer Service (SERNAC) is responsible for enforcing these provisions, ensuring that businesses provide accurate, clear, and verifiable pricing information to consumers. The law explicitly requires that pricing details must be presented in a complete, express, simple, truthful, and verifiable manner (Article 30).

The Law provides specific legal definitions regarding promotional pricing practices:

- "Offer" or "Discount" is defined as a "commercial practice consisting of offering goods or services to the public at reduced prices temporarily, in relation to the usual prices of the respective establishment" (Article 1°, N° 8).
- "Promotion" refers to "commercial practices, whatever the form in which they are disseminated, consisting of the offer to the general public of goods and services under more favorable conditions than usual, with the exception of those that consist of a simple price reduction" (Article 1°, N° 7).

Under Chilean law, if a business knowingly or negligently misleads consumers through false or deceptive advertising regarding price, payment methods, or credit costs, it constitutes misleading advertising, which is punishable by law (Article 28, d).

SERNAC has identified and addressed misleading discount practices during Cyber Day, particularly:

- Prior Price Inflation – Retailers artificially increase prices before the event, then advertise fictitious discounts that do not represent an actual price reduction.
- Failure to Honor Advertised Prices – Businesses promote discounted prices but do not apply them at checkout.
- Selective Discount Application – Certain discounts are not valid for all payment methods, despite being broadly advertised.

Also, the Chilean Authority has taken enforcement actions against companies engaging in these practices, reinforcing the importance of price transparency, compliance with advertised offers, and consumer protection in major sales events.

3.4 Malaysia

Malaysia's Consumer Protection Act 1999 (CPA) addresses misleading pricing practices to safeguard consumer interests. Section 9 of the CPA prohibits false or misleading representations regarding goods or services, including their price. Specifically, Section 12 mandates that any advertised price must reflect the actual selling price, ensuring consumers are not deceived by fictitious discounts or price misrepresentations.

The Ministry of Domestic Trade and Consumer Affairs (MDTCA) is responsible for enforcing these provisions. In recent years, the MDTCA has intensified efforts to combat deceptive pricing strategies, particularly in the e-commerce sector. For instance, during popular online sales events like 11.11, Black Friday, and 12.12, there have been reports of retailers misleading consumers through fake discounts. These tactics often involve inflating original prices to create the illusion of significant markdowns.

In response to such practices, the MDTCA has conducted enforcement actions. For example, in September 2023, the ministry raided a store in Seri Kembangan for selling rice at misleading prices.

3.5 Peru

In Peru, the regulation of misleading pricing and discount practices is primarily governed by the Law on Suppression of Unfair Competition (Legislative Decree No. 1044). Article 8 of this law defines a deceptive act as any act or omission in the course of business that is capable of misleading others regarding nature, method of manufacturing, characteristics, suitability, quality, quantity, price, or other attributes of products or services. Therefore, any sales promotion that deceives consumers regarding the actual value, price, or benefits of a product or service is considered an act of unfair competition under Peruvian law.

Additionally, Article 59 of the same law provides a broad definition of sales promotion, encompassing any activity aimed at promoting the marketing of products or services through incentives, discounts or similar mechanisms, “under exceptional and temporary conditions of

offer, which appear to be more advantageous with respect to the conditions of the ordinary or standard offer" (Legislative Decree No. 1044, article 59, h).

The enforcement of these provisions is overseen by the Commission on Unfair Competition of INDECOPI. This specialized body has the authority to initiate investigations ex officio, without the need for a prior consumer complaint, highlighting its proactive role in safeguarding market fairness and consumer rights. Violations of the law can result in significant penalties, including fines of up to 700 tax units, provided they do not exceed 10% of the violator's gross revenue.

By enforcing these regulations, Peru aims to protect consumers from deceptive pricing practices, promote fair competition, and maintain transparency in the marketplace.

In January 2022, INDECOPI established a binding precedent through Resolution No. 186-2021/CCD-INDECOPI, which outlines the criteria for advertising promotional prices or discounts. This resolution emphasizes that promotional offers must be exceptional, temporary, and calculated based on the product's ordinary selling conditions.

3.6 Chinese Taipei

Chinese Taipei's Fair Trade Act prohibits enterprises from using false or misleading price representations that could influence consumer purchasing decisions. Article 21 explicitly bans deceptive pricing claims in advertisements or any other commercial communications.

The Fair Trade Commission (CTFTC) enforces these regulations to prevent unfair business practices and protect market integrity. Businesses are prohibited from providing false or misleading information regarding price, quantity, quality, or product content. Additionally, they cannot sell, transport, export, or import goods with misleading price claims, and these restrictions extend to services.

The common misleading pricing practices are:

- False Discount Claims – Advertising a "special" discount as if it were the original price.
- Inaccurate Price Comparisons – Using inflated or fictitious reference prices to exaggerate discounts.
- Deceptive Lowest Price Ads – Claiming "lowest market price" without sufficient stock or with evidence of lower prices elsewhere.
- Hidden Charges and Undisclosed Conditions – Omitting additional costs or purchase restrictions upfront.

The enforcement of Article 21 serves as a deterrent against misleading pricing practices, reinforcing consumer confidence in the marketplace. By penalizing violators, the CTFTC strengthens market integrity and promotes a fair, transparent commercial environment.

The CTFTC pursued a company that falsely advertised an air purifier as having the "lowest market price", despite the same product being available for a lower price elsewhere. The Commission determined that this claim misled consumers and imposed a fine for violating Article 21 of the Fair Trade Act.

3.7 United States[1]

In the United States, the Federal Trade Commission (FTC) enforces regulations against deceptive pricing under Section 5(a) of the FTC Act, which prohibits "unfair or deceptive acts or practices in or affecting commerce." The FTC's Guides Against Deceptive Pricing outline specific practices considered misleading, such as:

- Former Price Comparisons: Advertising a price reduction when the former price is fictitious.

[1] This section is the result of desk research conducted by the author(s) and does not necessarily reflect the views of the United States.

- Retail Price Comparisons: Suggesting a price is lower than the customary retail price when it is not.

FTC has actively pursued cases where retailers have engaged in deceptive pricing. For instance, several major retailers have faced scrutiny for advertising inflated "original" prices to make discounts appear more substantial than they are.

3.8 United Kingdom

The United Kingdom addresses misleading pricing through the Consumer Protection from Unfair Trading Regulations 2008, which implement the Unfair Commercial Practices Directive. These regulations prohibit unfair commercial practices, including misleading actions and omissions related to pricing. Specifically, traders must not provide false information or deceive consumers about:

- The price of a product.
- The manner in which the price is calculated.
- The existence of a specific price advantage.

According to United Kingdom regulations, all traders must comply with these laws when they sell any goods or provide commercial services to consumers including digital platforms within the marketplace.

The Competition and Markets Authority (CMA) enforces these regulations, targeting practices such as "was/now" pricing, where the "was" price was not the original price, misleading consumers about the discount's legitimacy.

In conclusion, while the specifics of regulatory frameworks vary across economies, the overarching principle remains consistent: protecting consumers from deceptive pricing practices and ensuring fair competition. Effective enforcement of these regulations is crucial, as evidenced by the proactive measures taken by authorities in these key economies to investigate and penalize misleading pricing strategies.

4. Best practices in addressing misleading pricing and discounts

Misleading pricing and discount practices pose significant challenges for Competition and Consumer Protection Authorities worldwide, requiring a combination of regulatory enforcement, proactive oversight, and private sector self-regulation. To address these challenges effectively, economies have developed guidelines, legal instruments, and industry-led initiatives aimed at ensuring pricing transparency, consumer trust, and fair competition.

This section highlights the best practices implemented by Competition and Consumer Authorities and the private sector in different economies from Asia-Pacific and beyond. These practices serve as effective strategies in detecting, preventing, and sanctioning misleading pricing tactics, particularly in e-commerce and large-scale promotional events.

4.1 Chile – SERNAC’s monitoring of promotions in e-commerce events

SERNAC from Chile has taken a proactive approach to monitoring and addressing misleading discounts, particularly during large-scale e-commerce events like Cyber Day.

To prevent price manipulation, SERNAC has required companies to submit historical price information to ensure that discounts are genuine and not based on artificially inflated reference prices. Additionally, the agency has conducted market surveillance to identify misleading pricing patterns, issuing warnings and sanctions against non-compliant businesses.

This initiative strengthens consumer confidence in online promotions and serves as a preventive measure against deceptive discount strategies in major sales events.

4.2 Mexico – The "Who's who in prices" program

The Federal Consumer Protection Agency (PROFECO) is the institution responsible for safeguarding consumer rights and ensuring fair business practices in Mexico.

The Who's Who in prices (WWP) program, launched by PROFECO, offers weekly price comparisons for essential consumer goods, such as food, personal care items, medicines, and fuel. In collaboration with the Energy Regulation Commission (CRE), it also monitors gasoline, diesel, and natural gas prices, enhancing market transparency and allowing consumers to make informed purchasing decisions. This initiative encourages competition among businesses, discouraging price manipulation. Furthermore, QQP data has been utilized by the Federal Economic Competition Commission (COFECE) for market analysis and detecting anti-competitive behavior.

PROFECO also manages the Virtual Store Monitoring (VSM) program, which assesses Mexican e-commerce platforms to verify compliance with consumer protection laws. This oversight ensures that online retailers provide clear pricing, supplier information, contract terms, and data protection policies. Companies that adopt the E-commerce Code of Ethics commit to higher consumer protection standards, including alternative dispute resolution mechanisms and official registration with PROFECO.

Through the WWP and VSM programs, Mexico strengthens pricing transparency, fair competition, and regulatory accountability in digital and physical markets, equipping consumers with reliable information to make informed choices.

4.3 Mexico – Interactive tool for policies, terms, and conditions on digital platforms

The Federal Telecommunications Institute (IFT) of Mexico has developed an interactive tool that allows digital service users to analyze and compare the policies, terms, and conditions of major digital platforms. While not exclusively designed to detect misleading pricing or discounts, its functionalities can be highly useful in enhancing transparency in e-commerce and digital transactions.

The tool is based on an extensive analysis of terms, conditions, and privacy policies from 47 digital platforms, categorized into operating systems, terminal equipment, social networks, and service platforms (including e-commerce, transportation, entertainment, food delivery, video conferencing, dating, and mobile gaming).

Users can access the tool on its official website and select the type of platform they wish to review. The system then displays platforms whose policies, terms, and conditions have been analyzed and allows users to compare up to four platforms simultaneously.

The information is presented through interactive images, icons, tables, and explanatory texts, ensuring an intuitive and accessible experience. By improving consumer awareness of data handling, contractual obligations, and platform policies, this initiative contributes to strengthening transparency and accountability in digital marketplaces.

Although not specifically aimed at misleading discounts, this innovative tool provides valuable functionalities for digital transparency, helping users understand and compare platform policies. It represents an example of best practice in consumer protection, ensuring fair digital transactions and potentially supporting efforts to combat deceptive pricing practices in online platforms.

4.4 Peru – INDECOPI's oversight guide on misleading discount promotions

INDECOPI has developed the "Oversight Guide on Misleading Discount Promotions", a key regulatory tool designed to establish clear guidelines for businesses and prevent deceptive advertising in promotions and discounts.

This guide establishes clear criteria for evaluating misleading or fictitious pricing strategies, providing businesses, regulators, and consumers with a structured framework to identify, assess, and prevent deceptive sales promotions. It reinforces the principle that discounts must reflect genuine price reductions and that reference prices should not be artificially inflated to mislead consumers.

By implementing this oversight guide, Peru has taken a proactive approach to regulating sales promotions and enhancing pricing transparency. This initiative reinforces consumer trust, deters unfair business practices, and provides clear enforcement criteria to ensure fair competition in the marketplace.

4.5 Peru – INDECOPI's binding precedent for legal and economic criteria

The best practice in addressing misleading pricing and discount practices in Peru is the establishment of a binding legal precedent, which ensure uniform legal and economic criteria for assessing these cases. This approach enhances legal predictability, guiding both businesses and authorities on how such practices will be evaluated and sanctioned.

INDECOPI has set a mandatory legal precedent that establishes clear legal and economic criteria to assess misleading discount promotions. This precedent, issued by the Commission on Unfair Competition, serves as a benchmark for future cases, ensuring consistent enforcement and predictability in how misleading pricing strategies are addressed.

Some of the key elements of the binding precedent are:

- Definition of misleading discounts – The precedent classifies artificially inflated reference prices as a deceptive commercial practice.
- Criteria for determining misleading pricing – Establishes objective legal and economic parameters to assess whether a discounted price genuinely reflects a reduction or is based on manipulated reference pricing.
- Enforcement and sanctions – Provide a standardized legal approach that ensures businesses are held accountable for engaging in deceptive pricing strategies.
- Predictability for businesses and regulators – By setting clear legal standards, the precedent promotes compliance among businesses and efficient enforcement by regulatory authorities.

The establishment of binding precedents is a powerful tool in addressing misleading pricing practices, providing legal certainty, market predictability, and stronger enforcement mechanisms. Peru's approach demonstrates how uniform legal and economic standards can be used to deter deceptive pricing strategies while ensuring a fair and transparent marketplace.

4.6 United States – FTC's guides against deceptive pricing[2]

The FTC has developed the Guides Against Deceptive Pricing, which serve as interpretative guidelines for enforcing Section 5 of the FTC Act. These guides, while not legally binding, are frequently referenced by courts and enforcement agencies when assessing fraudulent pricing practices. The guidelines outline several forms of misleading price comparisons, including:

1. Former price comparisons – Advertising a product as being "on sale" based on a previously listed price that was rarely or never used in actual transactions.
2. Retail price comparisons – Comparing a product's price to a market value that may not accurately reflect its typical selling price.
3. Comparable value comparisons – Claiming that an item is priced lower than competitors' products without sufficient evidence to support the comparison.
4. Bargain offers requiring additional purchases – Promotions like "Buy One, Get One Free" must clearly disclose any hidden conditions that affect the actual savings.

[2] This section is the result of desk research conducted by the author(s) and does not necessarily reflect the views of the United States.

Although these guides do not have the force of law, they remain a widely accepted standard for identifying and preventing deceptive discounting strategies.

4.7 UK – Guidance on misleading pricing

The Guidance for Traders on Pricing Practices, developed by the Chartered Trading Standards Institute at the request of the Department of Business, Energy and Industrial Strategy (BEIS) and the Consumer Protection Partnership, is a key regulatory tool in the UK. It provides basic standards and best practices for traders, helping businesses comply with the Consumer Protection from Unfair Trading Regulations 2008.

This guidance document clarifies acceptable and non-acceptable pricing strategies, ensuring that reference prices, discount claims, and promotional offers are not misleading. It is a proactive measure that aids both enforcement authorities and businesses in preventing unfair commercial practices related to pricing.

4.8 UK - Business companion portal

A notable best practice in the UK is the Business Companion portal, which is a dedicated website that provides traders, businesses, and individuals with up-to-date information on consumer protection laws and fair-trading standards.

Managed by the Competition and Consumer Protection Authorities of England, Wales, Scotland, and Northern Ireland, this platform serves as a free, easily accessible resource that helps businesses comply with advertising and pricing regulations while ensuring consumer rights are protected.

The availability of transparent, well-structured guidance on pricing and discount practices helps businesses prevent unintentional violations, making self-regulation a practical and enforceable approach in addressing misleading pricing.

4.9 UK - Advertising Standards Authority (ASA)

The Advertising Standards Authority (ASA) in the UK is a self-regulatory body responsible for monitoring and enforcing advertising standards. It has developed two codes of practice that regulate advertising content, including pricing claims:

- CAP Code (Code of Non-Broadcast Advertising and Direct & Promotional Marketing)
- BCAP Code (UK Code of Broadcast Advertising)

These codes apply to advertisers, agencies, and media, ensuring that pricing representations in ads are accurate, fair, and non-deceptive. Compliance with these codes is mandatory, and the ASA has the authority to demand the removal or modification of misleading advertisements.

The ASA also works closely with the Competition and Markets Authority (CMA), referring to serious cases of misleading pricing for legal action when necessary.

This hybrid approach, combining self-regulation and legal enforcement, is recognized as the best practice in maintaining transparency in pricing strategies while reducing the burden on public enforcement agencies.

4.10 Spain – Digital tools for price transparency

While Spain is not part of the APEC economies, a noteworthy best practice is the Price Verification Tool launched by Minderest, designed to combat misleading discounts in large sales events like Black Friday.

This free tool allows consumers to track the price history of over 30 million products across 500 retail websites, helping them assess whether advertised discounts are genuine. It provides insights into previous price ranges and trends, empowering consumers to make informed purchasing decisions and avoid artificially inflated discounts.

This initiative demonstrates the potential of technology-driven solutions in enhancing price transparency and could serve as a model for APEC economies looking to implement similar consumer protection measures.

5. Policy Recommendations

While it is challenging to identify and regulate every pricing strategy in the marketplace, Competition and Consumer Protection Authorities must adopt proactive measures to effectively combat misleading pricing practices. This requires a holistic approach that includes regulatory action, enforcement mechanisms, and consumer empowerment.

To enhance market transparency and prevent deceptive discount strategies, this paper proposes five policy recommendations. By implementing these policy recommendations, Competition and Consumer Protection Authorities can strengthen regulatory oversight, enhance pricing transparency, and ensure that businesses engage in fair discounting practices.

A combination of technological innovation, standardized enforcement, legal clarity, and consumer education is necessary to combat misleading pricing and build a fairer marketplace.

5.1 Enhancing detection of misleading discounts through real-time monitoring

The implementation of real-time digital monitoring tools represents a powerful strategy to enhance the detection of misleading discount practices and strengthen regulatory oversight. Through automated data collection and AI-driven analysis, authorities can continuously track and analyze pricing patterns across multiple sales channels, including e-commerce platforms and digital advertising spaces.

These tools allow regulators to identify deceptive pricing trends, such as artificially inflated reference prices or fictitious discounts that mislead consumers into believing they are receiving greater savings than they actually are. By analyzing historical pricing data and real-time fluctuations, authorities can detect anomalies that indicate potential violations of fair pricing standards.

Moreover, AI-driven monitoring systems provide early warning mechanisms, enabling enforcement agencies to proactively address misleading promotions before they distort market competition. These systems can flag suspicious pricing behaviors and prioritize cases for further investigation, ensuring a more efficient allocation of regulatory resources.

Beyond individual enforcement actions, real-time monitoring fosters collaboration between Competition and Consumer Protection Authorities by facilitating the sharing of pricing data and violation reports across jurisdictions. Given the cross-border nature of digital commerce, an integrated approach to monitoring deceptive discounts strengthens international cooperation and ensures a cohesive enforcement response against unfair pricing practices.

5.2 Establishing a standardized economic and legal analysis methodology for pricing practices

A uniform methodology for assessing misleading pricing practices is essential to ensure consistent enforcement, legal predictability, and market fairness. By implementing standardized evaluation criteria, authorities can establish clear benchmarks that prevent businesses from engaging in manipulative discounting strategies and ensure that enforcement actions are objective, and data driven.

A key aspect of this framework is the economic impact assessment, which defines objective parameters for measuring actual consumer harm caused by misleading pricing and discounts. This assessment helps regulators determine the extent to which misleading pricing practices influence consumer purchasing decisions and distort market competition.

Additionally, clear legal benchmarks must be established to define reference price validation rules, preventing businesses from artificially inflating pre-discount prices to create illusory savings. By ensuring that promotional pricing is accurate and verifiable, these benchmarks promote greater transparency and accountability.

To support enforcement efforts, businesses should be required to maintain historical price records, allowing regulators to verify the legitimacy of discounts and assess whether promotions reflect genuine price reductions. This data transparency requirement is essential for ensuring that enforcement actions are backed by verifiable evidence rather than subjective claims.

Furthermore, the development of case study-based enforcement models can help regulators create binding legal precedents, ensuring coherence in judicial and administrative rulings. By documenting landmark cases and enforcement actions, authorities can provide guidance for businesses and authorities, reinforcing predictability and consistency in the application of pricing laws.

5.3 Introducing a legal framework that explicitly defines misleading pricing as an unfair commercial practice

To effectively address misleading pricing practices, economies should codify them as an explicitly unfair commercial practice, ensuring that regulatory frameworks provide clear legal grounds for enforcement while promoting market transparency and consumer protection. Establishing a clear distinction between reference prices and promotional prices in all advertisements and sales promotions is crucial to prevent businesses from manipulating price perceptions and misleading consumers about actual savings.

Strengthening price transparency laws is also necessary, requiring businesses to maintain and disclose historical price data when offering discounts. This measure would provide enforcement authorities with objective evidence to assess whether discounts are genuine and prevent price inflation tactics. Additionally, penalties should be proportionate to the economic impact of deceptive pricing, ensuring that businesses engaging in misleading discount strategies face deterrent consequences that discourage repetition of these practices.

5.4 Strengthening enforcement mechanisms to ensure compliance with pricing transparency laws

For any legal framework to be effective, enforcement mechanisms must be robust, proactive, and well-coordinated to prevent misleading pricing practices and ensure compliance with transparency laws. Competition and Consumer Protection authorities should be empowered with advanced investigative tools, such as data analytics and AI-driven price tracking, allowing them to identify, monitor, and penalize deceptive discount strategies with accuracy.

Additionally, streamlining legal procedures is crucial to accelerating enforcement actions. Consumer protection agencies must have the ability to swiftly investigate and address misleading pricing cases, minimizing bureaucratic delays that could allow deceptive practices to persist. Ensuring fast and effective legal responses will strengthen consumer confidence in the enforcement system and create greater deterrence for businesses engaging in misleading pricing strategies.

Finally, given the global nature of e-commerce, strengthening cross-border cooperation among regulatory agencies is essential. Many misleading pricing strategies occur across jurisdictions, making international collaboration a key factor in ensuring consistent enforcement in digital markets. Establishing information-sharing mechanisms and coordinated

enforcement actions would allow regulators to address widespread deceptive practices more effectively and imposed sanctions more effectively.

5.5. Expanding consumer education initiatives to raise awareness of misleading discount strategies

Consumer awareness plays a critical role in preventing misleading pricing tactics, as informed consumers are better equipped to identify deceptive discounts and make well-informed purchasing decisions. Strengthening educational initiatives can help mitigate the impact of deceptive pricing practices, ensuring that consumers recognize common misleading tactics and understand their rights in the marketplace.

A nationwide awareness campaign should be developed to educate consumers on how misleading discounts work and how to identify them in both physical and digital marketplaces. Providing interactive tools, such as price tracking apps, comparison websites, and online resources, would further enable consumers to assess whether a discount is genuine before making a purchase.

Collaboration with consumer advocacy groups and Competition and Consumer Protection Authorities could help to promote pricing transparency and hold businesses accountable for deceptive discounting strategies. Additionally, integrating pricing literacy into financial education programs would ensure that consumers develop a deeper understanding of how discounts, reference prices, and promotional claims are used in advertising, enabling them to make more informed and confident purchasing decisions.

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