



# COMMERCIAL BULLETIN

Your guide to the latest legal updates  
from the team at Radius Law.

MAY 2025

# Nº 89

## CORPORATE & COMMERCIAL

### Half-secret commissions

The legality of commission payments payable to brokers is currently a hot issue for the English Courts.

Recently, the Court of Appeal<sup>1</sup> considered a case concerning an energy broker who had agreed to act in the Customer's **'best interests and save them money'**.

It's established law<sup>2</sup> that in such circumstances, the Broker owes fiduciary duties to the Customer and accordingly:

- the broker must not allow its interests to conflict with those of the Customer;
- the broker must obtain **informed consent** from the Customer for any commission that it receives from a supplier;
- to obtain informed consent the customer must be provided with **all the material circumstances of the nature and extent** of the broker's interest.

When a customer is only informed that a commission is payable but not given any other details, this is known as a **half-secret commission**.

This case was a half-secret commission case. The customer had been informed that a commission would be payable, but did not know that the commission would be added to the unit cost of the power payable by it or that the broker would be paid a large upfront commission payment.

While the customer's claim ultimately failed for other reasons, the Court of Appeal ruled that the broker had not met its duty to obtain informed consent in this case.

However, this is an evolving area of law. Recently, the Supreme Court has heard the legal challenge to the Court of Appeal's decision in *Johnson v FirstRand Bank*<sup>3</sup>. We eagerly await the judgment.



### SUPPLY CHAIN MANAGEMENT

How general counsel and legal departments can impact sustainability

28th May, 2025

10:00 – 11:00

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## Martyn's law

On 3 April, the Terrorism (Protection of Premises) Act 2025<sup>4</sup>, 'Martyn's Law,' received Royal Assent. It aims to enhance security measures across the UK, mandating who is responsible for addressing terrorist threats at certain premises and events.

Businesses must identify if they have 'qualifying premises,' generally defined as public venues with a capacity of 200 or more individuals. Duties vary based on premises size, with enhanced measures for those accommodating 800 or more individuals.

The Government has indicated that Martyn's Law will take up to 24 months to implement and that more guidance will be provided.

## CONSUMER

### Jackpot win.

The High Court has ruled<sup>5</sup> in favour of Corrine Durber in her dispute with Paddy Power over a jackpot win. Durber had played an online game that indicated she had won the jackpot prize of almost £1.1 million, but Paddy Power claimed it was a software error and pointed to its exclusion clauses for such errors.

The Court ruled the exclusion clauses cited by Paddy Power were unenforceable. The following factors were relevant in the Court's decision:

- the exclusion terms were unusually onerous and had not been prominently brought to her attention;
- there was an inconsistency between the gameplay rules and the terms and conditions;
- the terms provided Paddy Power with a wide discretion on whether to award a win without any obligation to act reasonably. The terms were therefore unfair and in breach of the Consumer Rights Act.



## Consumer law changes.

We have previously reported on the sweeping changes to Consumer Laws by the Digital Markets, Competition and Consumers Act ('DMCCA')<sup>6</sup>.

Parts of the DMCCA were implemented at the start of the year. More recently, in April, **new prohibitions on drip pricing and fake reviews** were implemented, together **with new measures to protect consumers from unfair trading**, and **new enforcement powers for the regulator, including blockbuster fines**. Further changes will be implemented in 2026.

Let's have a closer look at some of the April changes.

## Unfair commercial practices

The DMCCA amends and supplements the list of commercial practices that are always considered unfair to reflect the fact that consumers and traders increasingly interact online. There are now 32 commercial practices that are always considered unfair, including making a fake review.

Many of these have been largely replicated, but in some cases the wording has been slightly tweaked, resulting in a wider application.

Contravention of the requirements of professional diligence			Unfair if likely to cause the consumer to take a different transactional decision
Misleading practices		Aggressive practices	
Actions	Omissions		
Omission of material information from an invitation to purchase			Always unfair
32 Banned Practices			

## Drip pricing

Drip pricing is the practice of adding hidden fees to the advertised price of a product or service as the consumer progresses through the transaction.

In any advertisement, the trader must provide:

- the total price, including unavoidable fees and taxes, or how the total price will be calculated if it cannot be easily calculated in advance;
- optional delivery charges and related taxes.

## Fake reviews

Any business that displays or makes available reviews on their websites or other media must:

*"take reasonable and proportionate steps as are necessary to prevent the publication of fake reviews, concealed incentivised reviews and fake or misleading consumer review information."*

The official guidance recommends that all applicable businesses:

- Publish a policy on reviews;
- Conduct regular risk assessments;
- Take proactive steps to identify fake reviews;
- Investigate and take corrective action when fake reviews are identified.

## New enforcement powers

The CMA can now enforce its decisions without going to court and can levy fines of up to 10% of global turnover.

## Guidance.

In April, official guidance was issued on [unfair commercial practices](#), [fake reviews](#), and the [CMA's approach to Consumer Protection](#).

## COMPETITION

### Competition fine for employment practices

The CMA [fined four major UK sports broadcast and production companies for anti-competitive practices](#) on 21 March 2025. ***This is the first decision on competition law issues in employment practices.*** Offences included non-poaching agreements, wage-fixing agreements, and sharing sensitive information about employee terms.

## BRIBERY & CORRUPTION

### Modern slavery statements

On 24 March, the UK Government released [new statutory guidance for businesses](#) regarding their obligations under section 54 of the Modern Slavery Act 2015. This section requires businesses with an annual turnover exceeding £36 million, that supply goods or services, to produce a yearly statement outlining the steps they have taken to address slavery risks in their supply chains.



Transparency in Supply Chains  
(TISC)  
Statutory guidance

## DATA SECURITY

### First fine issued against a Data Processor

***In March, the ICO issued its first fine against a data processor, Advanced Computer Software Group, £3.07 million*** for security failings following a ransomware attack. Advanced is a data processor that works on behalf of the NHS. The ICO identified that Advanced had failed to implement multi-factor authentication across all its systems. Hackers exploited this security weakness, putting the data of 79,404 people at risk.

## Government publishes Cyber Governance Code of Practice.

The Department for Science, Innovation and Technology (DSIT) has released its [Cyber Governance Code of Practice](#), along with [supporting materials](#). The Code advises boards and directors of medium and large organisations on managing cyber risks and minimising attack impacts.

## EMPLOYMENT

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### LEGISLATION, GUIDANCE AND CONSULTATIONS

#### Increases to statutory compensation payments and injury to feelings awards

From 6 April, compensation payments increased, as follows:

- Maximum compensatory award in an unfair dismissal claim – the lower of £118,223 or 52 weeks’ gross pay
- Cap on a week’s pay for the purposes of calculating statutory redundancy pay/basic award in unfair dismissal claim - £719
- Maximum statutory redundancy payment/basic award in an unfair dismissal claim - £21,570.
- Awards for injury to feelings in discrimination cases (“Vento” bands) are now:
  - Lower band awards range from £1,200 to £12,100
  - Middle band awards range from £12,100 to £36,400
  - Upper band awards range from £36,400 to £60,700, with the most serious cases capable of exceeding £60,700.

#### ACAS and Government issue guidance on new right to neonatal care leave

On 6 April eligible employees acquired the right to leave and pay whilst their baby is in neonatal care.

[ACAS](#)<sup>7</sup> and the [Government](#)<sup>8</sup> have now issued guidance to employers, which explain:

- what neonatal care is,
- who is eligible
- the information employees must disclose and
- the rights of parents who take leave.

In addition, ***the Government guidance explains what records employers must keep and how to get help with statutory payments.***

#### ACAS guidance on neurodiversity

ACAS has issued new [guidance](#)<sup>9</sup> on neurodiversity at work, which recommends that employers:

- review the recruitment process to make it more neuroinclusive;
- raise awareness of neurodiversity, including by training and supporting managers; and
- have a neurodiversity policy.



Separately, **the Government launched a new [expert panel](#)<sup>10</sup> of academics to advise on improving employment prospects for those who are neurodivergent and on making workplaces more inclusive.** The panel will provide recommendations in the Summer.

### **[Consultation](#) on ethnicity and disability pay gap reporting and call for evidence on equality law**

The Government is seeking views from employers and other stakeholders on ***whether the existing regime in relation to gender pay gap reporting that applies to employers with 250 or more employees, should be expanded to include ethnicity and disability pay gaps***<sup>11</sup>.

Consultation closes on 10 June.

In addition, the **Government has issued a [call for evidence](#) on possible equality law reforms**<sup>12</sup>, which will ***influence the Equality (Race and Disability) Bill***. It closes on 30 June.

## **NEW CASES**

### **Equality and Human Rights Commission issues interim guidance for employers following the Supreme Court's ruling that "sex" means "biological sex" for the purposes of the Equality Act 2010**

The Supreme Court (SC) recently decided<sup>13</sup> that, in the Equality Act 2010 (EqA), the words "sex", "woman" and "man" refer to biological sex. The SC emphasised that trans people are protected from discrimination and the decision does not reduce that protection.

Although the case was not an employment case, it has implications for employers. The Equality and Human Rights Commission (EHRC) has issued an interim update<sup>14</sup> on the implications of the judgment, as follows:

- In workplaces, it is compulsory to provide sufficient single-sex toilets, as well as sufficient single-sex changing and washing facilities (where needed).
- Trans women should not be permitted to use the women's facilities and trans men should not be permitted to use the men's facilities.
- Where facilities are available to both men and women, trans people should not be put in a position where there are no facilities for them to use.
- Where possible, mixed-sex toilet, washing or changing facilities in addition to sufficient single-sex facilities should be provided.
- Where toilet, washing or changing facilities are in lockable rooms (not cubicles) intended for the use of one person at a time, they can be used by either women or men.

The EHRC will consult in mid-May on an updated Code of Practice, which should be ready by the end of June.

# ANNUAL CONFERENCE

BUSINESS & LAW UPDATE FOR  
THE AUTOMOTIVE SECTOR

14 MAY, 2025

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## Cases, laws, decisions referred to in this Bulletin

1	<a href="#">Expert Tooling and Automation Limited v Engie Power Limited [2025] EWCA Civ 292.</a>
2	Wilson & Another v Hurstanger Ltd [2007] EWCA Civ 299
3	Johnson v FirstRand Bank Limited [2024] EWCA Civ 1282
4	Terrorism (Protection of Premises) Act 2025
5	<a href="#">Durber v. PPB Entertainment Ltd QB-2022-000760</a>
6	Digital Markets, Competition and Consumers Act 2024
7	ACAS guidance on neonatal care leave and pay <a href="https://www.acas.org.uk/neonatal-care-leave-and-pay">https://www.acas.org.uk/neonatal-care-leave-and-pay</a>
8	Statutory Neonatal Care Pay and Leave: employer guide <a href="https://www.gov.uk/employers-neonatal-care-pay-leave">https://www.gov.uk/employers-neonatal-care-pay-leave</a>
9	ACAS guidance on neurodiversity at work <a href="https://www.acas.org.uk/neurodiversity-at-work">https://www.acas.org.uk/neurodiversity-at-work</a>
10	<a href="https://www.gov.uk/government/news/employment-prospects-for-neurodiverse-people-set-to-be-boosted-with-launch-of-new-expert-panel">https://www.gov.uk/government/news/employment-prospects-for-neurodiverse-people-set-to-be-boosted-with-launch-of-new-expert-panel</a>
11	<a href="https://www.gov.uk/government/consultations/equality-race-and-disability-bill-mandatory-ethnicity-and-disability-pay-gap-reporting/consultation-document.html#contents">https://www.gov.uk/government/consultations/equality-race-and-disability-bill-mandatory-ethnicity-and-disability-pay-gap-reporting/consultation-document.html#contents</a>
12	<a href="https://www.gov.uk/government/calls-for-evidence/equality-law-call-for-evidence">https://www.gov.uk/government/calls-for-evidence/equality-law-call-for-evidence</a>
13	<a href="#">For Women Scotland Ltd v The Scottish Ministers [2025] UKSC 16</a>
14	<a href="#">An interim update on the practical implications of the UK Supreme Court judgment</a>



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