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Letter from Chris Wootton, Chief Financial Officer, Frasers Group, to ASA

To:
The Rt Hon the Baroness Morgan of Cotes
Chair
Advertising Standards Authority

cc.
Guy Parker
Chief Executive Officer
Advertising Standards Authority

28 August 2026

Dear Baroness Morgan

ASA's approach to RRPs

I am writing to express my serious concerns as to the ASA's approach to RRPs, and the impact that is having on both retailers and consumers in creating unreasonable and we say unlawful barriers in the way of vigorous price competition in the market. At a time when the cost of living crisis is rightly at the forefront of public concerns, it seems extraordinary that the ASA seems intent on making it harder for traders to promote genuine price discounts to consumers, and in doing so is supporting retail price maintenance by brands and/or unfair anti-competitive arrangements.

At Frasers Group, we are focussed on delivering the best possible value to our customers, acting as the 'consumers' champion'. Our customers know that when they buy from us, they will be getting the (or amongst the) lowest prices available. We do not want to engage in "rip-off discounts" or "phoney bargains", in the words of the Prime Minister's recent Press Release on 'everyday fixes' on the cost of living. We show bona fide discounts against genuine and realistic RRPs which we verify using our in-depth knowledge of the market for the wide variety of brands and products we sell.

Consumers these days are extremely 'savvy', with the ability to carry out price comparisons at the touch of a button on their phones, and the fact that consumers keep coming back to us reflects their satisfaction with our approach to discount pricing. As such, we believe our use of RRPs is not only lawful – as confirmed by the recent Emma Sleep High Court decision against the CMA[1] – but helpful and beneficial to consumers in identifying good value purchases.

[1] CMA v. Emma Matratzen GmbH and Others (Case No: FS-2024-00004)

Contrary to some of the recent commentary on RRPs, there is nothing inherently objectionable about them. RRPs have been used across the market, including by major brands - recommending at what price their products should be sold. RRPs have been a standard basis of pricing in a number of sectors, including sporting and leisure goods, for as long as anyone can remember. Indeed, the Guidance for Traders on Pricing Practices issued by the Chartered Trading Standards Institute states that "*The initials RRP have historically been used in the UK, and their meaning is likely to be understood by most consumers*". It also refers to the establishing of RRPs by reference to what is a "*realistic selling price for the product*".

This type of approach is further supported by the court judgment in the recent Emma Sleep case, which is an important and authoritative decision on the circumstances in which reference pricing is permissible. In that case:

- The High Court found that the key question was whether a reference price is 'genuine' or 'realistic', using the multi-factorial approach reflected in the CTSI Guidance. The High Court rejected an approach based on the specific ratio of sales made at the higher/lower price.
- In particular, the genuine belief of the trader as to the realistic nature of the reference price was relevant, taking into account products and prices offered by competitors.
- The High Court found that low or even no sales at a reference price does not mean that a reference price will necessarily be misleading or deceptive.
- Accordingly, the High Court rejected the CMA's proposition that a reference price must be the 'usual' price for it not to be misleading,
- The High Court also found that regulatory guidance does not, of itself, provide a valid legal basis for regulatory action.

The ASA's approach to RRPs is in sharp contrast to this decision (which has endorsed our own position in relation to discounting against RRPs). I refer in particular to the ASA's recently (re)published guidance on the use of RRPs: Prices: Recommended retail prices (RRPs) - ASA | CAP. This Guidance highlights what we say are the fundamental flaws in the ASA's approach to RRPs. In summary:

- The ASA requires traders to establish that the RRP is the price at which the product is "generally sold in the market".
- This test is not found anywhere in, and goes beyond, the underlying law on misleading actions within the Digital Markets, Competition and Consumers Act 2024.
- This test is unacceptably vague, and makes it very difficult for traders to know whether use of an RRP will be permissible (the Guidance accepts that the 'generally sold' test can vary based on product and sector).

- This test also puts a huge burden on traders, having to compile data from 'across the market' in order to establish each and every RRP they use, some of this data being held by third parties.

- Application of this test risks conflicting and inconsistent rulings by the ASA in relation to different uses of RRPs by traders.

- This test produces perverse outcomes, as expressly stated in its guidance, including:
    - You can't use an RRP even when the brand/retailer has advertised and sold the product at that price – which is the very essence of RRPs.
    - You can't use an RRP if you are the only seller of the product – even if the RRP is shown to be a genuine/realistic price.
    - You can't use an RRP for products that have not yet launched – which effectively endorses price fixing/discourages price discounting for new products.
    - You can't use an RRP unless you can show sales at that price (not just advertising) – which data will generally be held by third party brands/retailers which may be difficult for a trader to obtain.

This will all result in traders potentially avoiding use of RRPs altogether, which is to the detriment of consumers as it makes it more difficult (and less attractive) for traders to promote genuine price discounts, all in the middle of a cost-of-living crisis. In the meantime, and perversely, nothing effective appears to being done by regulators in relation to retail price maintenance (actually keeping prices higher) and 'price gouging' by brands and businesses.

A notable example of this price maintenance would be the pricing of replica football kits. In the recent World Cup period the prices of the official England shirts were uncannily uniform at £134.99 across the board. Clearly £134.99 is a vast amount of money for the average shopper to pay, in relation to a product that they may regard as an essential supporter's purchase. It is clearly disproportionate to the true cost of production and normal levels of profit. Plainly that maintenance of the price is achieved through pressure on retailers and clever distribution policies to limit stock to those who play ball - which renders that market less competitive.

I therefore ask, on behalf of Frasers Group, that the ASA carefully reconsider its approach and guidance in relation to RRPs, as the CMA appears to be doing in relation to its guidance on referencing pricing following the Emma Sleep decision (having removed the relevant guidance from its web site). In our view the current position is clearly untenable.

I look forward to hearing from you on this matter.

Yours sincerely

Signed by:
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Chris Wootton
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Frasers Group