

EN
E-001624/2024
Answer given by Mr Reynders
on behalf of the European Commission
(5.11.2024)

Dynamic pricing is not illegal under EU consumer protection rules.

Dynamic pricing by dominant undertakings can be captured by Article 102 of the Treaty on the Functioning of the European Union (TFEU) where it would amount to the imposition of excessive prices. However, whether pricing is excessive depends on the relationship between a dominant undertaking's costs and profits rather than on its pricing mechanisms. The Commission has in the past investigated excessive pricing by dominant undertakings including in the pharmaceutical and energy sectors.¹ In both cases the Commission accepted commitments by the dominant undertaking that allowed bringing prices to lower, competitive levels. The Commission remains vigilant as regards possible excessive pricing abuses and stands ready to intervene in appropriate cases also in light of its priorities.

EU consumer law requires traders to adequately inform consumers about prices and to refrain from misleading practices. For example, attracting consumers by advertising lower prices than the trader offers in reality, or increasing the price during the completion of the individual booking can constitute practices prohibited by the Unfair Commercial Practices Directive 2005/29/EC². National authorities and courts are competent to assess the infringements of EU consumer law.

The Staff Working Document on the Fitness Check of EU consumer law covers various consumer problems in the digital environment, including issues related to event tickets, but the latter is not a main focus.³ The report does not set out specific measures. The Commission will continue monitoring the situation and may consider measures should evidence emerge about difficulties in the application of the current rules.

¹ Case AT.40394 – Aspen; and case AT. 39816 – Upstream gas supplies in Central and Eastern Europe.

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1585324585932&uri=CELEX%3A02005L0029-20220528>

³ See the press release of 3 October 2024: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_4901.
Commission Staff Working Document – Fitness Check of EU consumer law on digital fairness, SWD(2024) 230 final.