

RPI:

***ARRIVEDERCI E
BUON VIAGGIO?***

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Radcliffe Chambers

Carli: average of price relatives

Dutot: ratio of averages

Jevons: n^{th} root of multiplied price relatives

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Carli

$$I_{t,0} = \frac{1}{n} \sum_{i=1}^n \frac{p_{i,t}}{p_{i,0}}$$

where $I_{t,0}$ is the price index, n is the number of price quotes, and $p_{i,t}$ is the price of item i at time t .

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Dutot

$$I_{t,0} = \frac{\sum_{i=1}^n \frac{P_{i,t}}{n}}{\sum_{i=1}^n \frac{P_{i,0}}{n}}$$

where $I_{t,0}$ is the price index, n is the number of price quotes, and $p_{i,t}$ is the price of item i at time t .

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Jevons

$$I_{t,0} = \sqrt[n]{\prod_{i=1}^n \frac{p_{i,t}}{p_{i,0}}}$$

where $I_{t,0}$ is the price index, n is the number of price quotes, and $p_{i,t}$ is the price of item i at time t .

RPI bad, CPI good

- DWP 8 July 2010
a more appropriate measure of pensioner inflation experience
- UKSA Assessment March 2013
[RPI] and its derivatives have been assessed against the Code of Practice for Official Statistics and found not to meet the required standard for designation as National Statistics

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- Johnson Review commissioned by UKSA January 2015

RPI is not a credible measure of consumer price change

and

Carli is statistically flawed and can result in an upward bias in recorded inflation ... there are basic statistical flaws and biases in using the Carli formula ... RPI is upwardly biased because of its use (the “formula effect”)

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- National Statistician March 2016

I believe that the RPI is not a good measure of inflation and does not realistically have the potential to become one. I strongly discourage the use of RPI for as a measure of inflation as there are far superior alternatives.

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- Paul Johnson *Times* 24 March 2017

So, if the RPI is no good – and let me repeat it really is no good – what about the CPI?

Why do we still have RPI?

- Statistics and Registration Services Act 2007 section 21
- Problem of index-linked gilts

Back to 2010

- EBS: CPI excludes owner occupied housing costs (OOH) and better representation of consumer consumption patterns – both now of doubtful validity?
- *R. (FDA) v. SoS for Work and Pensions* [2013] 1 W.L.R. 444

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Inevitably, there will be different opinions as to the best way of compiling such an index, including the identification, pricing and weighting of its constituent items. Provided that the Secretary of State acts rationally and takes all appropriate (and no inappropriate) matters into account, it is a matter for him which such index he chooses. (FDA §47)

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Post-2010 announcement consultation

- Statutory override?
- Regulations under PA 95 s. 68?

Both ruled out leaving “*something of a lottery*”

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- *Security and Sustainability in Defined Benefit Pension Schemes* (February 2017)
- *Should the Government consider a statutory override to allow schemes to move to a different index, provided that protection against inflation is maintained?*
- *Should this also be for revaluation as well as indexation?*

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- **The cases**
- *QinetiQ* [2012] P.L.R. 131
- *Arcadia* [2014] 067 P.B.L.R. (018)
- *Barnardo's* [2015] P.L.R. 501; [2017] P.L.R. 2 (PTA applied for)
- *BA* (Morgan J. reserved judgment awaited)
- *Thales* (Warren J. judgment tomorrow, 31 March)

Construction

- Is there a power to switch?
- If so in what circumstances?
- In whom is it vested?

Section 67

- *Aon v. KPMG* [2006] 1 W.L.R. 97

Exercise of the power

“Leading Counsel opined that the only core legal principle was that the Trustees must take into account relevant factors and ignore irrelevant factors. The Court would only interfere if the Trustees had failed to take account of a relevant factor or taken into account an irrelevant factor or if the decision were perverse or irrational.”

What is the purpose for which the power was granted?

- *Re Courage* [1987] 1 All E.R. 528
- *Edge v. Pensions Ombudsman* [2000] Ch. 602
- *MNRPF Trustees v. Stena Line* [2015] P.L.R. 239
- *Barnardo's* [2015] P.L.R. 501 at §78 (and *c.f.* IR12)

Factors

- Suitability of RPI and other indices
- No duty to maximise members' benefits
- Scheme funding position
- Employer covenant
- Interests of the employer

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- Member expectations
- Differential treatment of members
- *Quid pro quo?*
- Irrationality? No challenge in *BA* on this ground

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- Why should a scheme stay with RPI?
- Should we choose CPIH – which index will the next annual Revaluation Order use?
- Should we wait for IHP (currently WIP at the ONS)?

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Ombudsman

- *Scargill* (PO 8572, 21 September 2016)
- *Frankham* (84749/2, 22 January 2013)
- “... *increases will match the inflation rate as measured by the September Retail Prices Index, up to a maximum of 5% for all time.*”

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Mr. A. (PO 2708, 21 March 2014)

“Your pension is guaranteed to increase by 5% or the increase in the headline Index of Retail Prices (‘RPI’) if that is lower. If you joined the scheme before 21 May 1983, the guaranteed increase is ‘RPI’.”

*Grazie mille e buongiorno,
Signore Carli*

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