

Avoid unfair business practices

A factsheet on your rights under the Australian Consumer Law

As a consumer, you are protected against unfair practices by businesses.

Misleading or deceptive conduct

Misleading or deceptive conduct relates to advertisements, promotions, quotes, statements and representations that create a misleading impression among the majority of consumers about the price, value or quality of consumer goods or services.

Silence

A business can break the law if it does not share important information about a product or service.

For example, if a salesperson knows that a consumer buying a mobile phone lives in an area with limited or no mobile coverage, and does not tell him, the salesperson has engaged in misleading or deceptive conduct.

Predictions/opinions

Promises, opinions and predictions can be misleading or deceptive if the person making the statement knew it was untrue, did not care if it was true or not, and/or had no reasonable grounds for making it.

Disclaimers and fine print

A business cannot rely on fine print as an excuse for misleading or deceiving you. Any important facts about a good or service should be clearly and prominently displayed.

False or misleading representations

A business cannot make false or misleading representations about goods or services concerning:

- the price or value, standard, age, place of origin, quality or grade
- the composition style, model or history of goods
- testimonials from people buying or using them
- the availability of repair facilities or spare parts
- the sponsorship, approval, performance characteristics, accessories or benefits of use
- a buyer's need for them
- any guarantee, warranty or condition on them.

It is also illegal for a business to offer rebates, gifts or prizes without intending to provide them, or not providing them as offered.

Bait advertising

A business cannot advertise goods or services at a discounted price if it does not have a reasonable supply for consumers to buy.

For example, an electronics retailer runs a major advertising campaign for 42 inch televisions at a discounted price, for a week long sale. The retailer usually sells about 20 of these televisions a week, even at full price. However, for the week of the campaign, the retailer only has two televisions in stock and refuses to put a television on order for a consumer at the discounted price.

This would be considered bait advertising because the retailer ran an advertisement that was likely to encourage customers to come into the store, but did not have enough televisions to meet expected demand.

Wrongly accepting payment

A business cannot accept payment for goods or services if they do not intend to supply them, or if they cannot supply them in a timely manner.

For example, a landscaper agrees to provide yellow paving stones and accepts payment, knowing that only grey paving stones are available.

Country of origin of goods

A business cannot make false or misleading claims about whether goods were made, produced or grown in a particular country.

This includes:

- 'made in' or 'manufactured in' a particular country
- 'produce of', 'product of' or 'produced in' a particular country
- use of a logo, for example a 'Made in Australia' logo
- claims that goods, or ingredients or components, were 'grown in' a particular country.

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For example, if the packaging of a product claims that it is 'Produce of Australia' it means that all of the significant ingredients of that product, and the production or manufacturing of the product, must have occurred in Australia.

Multiple Pricing

Multiple pricing is when a business displays an item with more than one price. For example, the price on the shelf may be different to the one advertised in the catalogue. If this happens, the business must sell the item at the lower price or withdraw the goods from sale until the price error is corrected.

Single Pricing

A business is not allowed to promote or state a price that is only part of the cost, unless also prominently advertising the total price.

For example, a catalogue advertisement for a lounge suite states the cost as "6 easy payments of \$300". The total price of \$1800 is displayed, but it is in fine print at the bottom of the advertisement and is obscured by the picture of the lounge. The single price of \$300 is not as prominent as the \$1800 and is therefore unlikely to be legal.

What is unconscionable conduct?

Unconscionable conduct is a statement or action so unreasonable it defies good conscience.

Examples of unconscionable conduct include a business:

- not explaining a contract properly to a consumer that they know does not speak English
- inducing a person to sign a blank or highly unfavourable contract

- taking advantage of the circumstances of a consumer, such as a remote location,
- using high pressure tactics such as refusing to take no for an answer.

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For more information, contact your local consumer protection agency.
For language assistance call 13 14 50 (ask for an interpreter in your language).

Australian Capital Territory

Office of Regulatory Services T. (02) 6207 0400

New South Wales

NSW Fair Trading T. 13 32 20

Northern Territory

Consumer Affairs T. 1800 019 319

Queensland

Office of Fair Trading T. 13 QGOV (13 74 68)

South Australia

Consumer & Business Services T. 13 18 82

Tasmania

Office of Consumer Affairs & Fair Trading T. 1300 654 499

Victoria

Consumer Affairs Victoria T. 1300 55 81 81

Western Australia

Department of Commerce T. 1300 30 40 54

The Australian Competition and Consumer Commission has national responsibilities for competition, fair trading and consumer protection and can be contacted on 1300 302 502.