

THE FAIR TRADING ACT

BUYING GOODS AND SERVICES IN NEW ZEALAND: KNOW YOUR RIGHTS

Anyone buying goods or services in New Zealand is protected by consumer laws. As a consumer, it's important you know your rights.

BEFORE YOU BUY

You have the right to expect a fair deal when making purchasing decisions.

This is because the Fair Trading Act makes it illegal for businesses to mislead consumers, give false information, or use unfair trading practices. It applies to anyone in trade – from big players like hotel chains, airlines and department stores, to small or temporary businesses like a souvenir stall or ice cream stand.

The Act covers all aspects of the promotion and sale of goods and services. It includes anything said about a product or service, either verbally or in writing. It also includes an impression given by pictures, advertisements, promotional material or a sales pitch, or by something which is not said – that is, by important information being left out.

AFTER YOU BUY

After you've purchased a good or service from a retailer, you are protected by a series of guarantees set out in the Consumer Guarantees Act.

Under this Act, goods must be fit for their normal purpose, safe, durable, they must last for a reasonable time, have no minor defects and be acceptable in look and finish.

Services must be performed with reasonable care and skill and fit for the particular purpose they were supplied for. They must also be completed within a reasonable time and provided at a reasonable price, if no time for completion or price or pricing formula has been previously agreed.

PRICING

Sales, pricing comparisons and markdowns are some examples of how a business might use price to promote its goods or services. Any claims made about price must be clear, accurate and unambiguous.

Prices must include or be clear about the 15 per cent Goods and Services Tax (GST), and any surcharges must be declared before you buy.

When you see a price sticker on a product or a shelf price, it is reasonable to expect that this is the price you will be charged at the checkout.

EXAMPLE

A supermarket charged higher prices for certain fruit and vegetables at the checkout than at their point of display. The supermarket was convicted and fined.

When a price is quoted or estimated, you should also be able to rely on that figure.

EATING OUT

Prices displayed on a menu or on any signage should include GST, and any surcharges, such as for using a credit card, must be made clear.

Some restaurants allow you to bring your own wine (BYO) but you will probably be charged a corkage fee. This fee should be clearly displayed in the restaurant or on the menu.

Tipping is optional. There should be no tips shown on the bill, however feel free to tip anyway.

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ACCOMMODATION

Accommodation should be as it was represented to you when you booked it. If there is a significant difference, you should raise it as an issue as soon as possible. You should also alert management at the start of your stay if there is anything missing from or damaged in your room.

If you haven't broken or taken anything, you should not be charged anything above the price quoted at the time of booking and the cost of any other purchases made during your stay, such as wi-fi access or mini-bar snacks.

If you're booking accommodation online, you should be able to rely on the pricing and availability details being accurate and up to date. An accommodation provider could be breaking the law if, having had your booking initially confirmed at a set price online, you are then told the price quoted is not current.

EXAMPLE

A hotel chain promoted apartments as being 'from \$79 per night'. However the \$79 price was only available for a minimum 28 day stay in a studio room, with the actual nightly rate \$119.

Radio advertising also claimed that the \$79 price was for a self-contained apartment with its own lounge, kitchen and laundry, which wasn't available at that price. Bus shelter advertising referring to the \$79 price depicted a two bed room apartment, and not a one room studio to which the offer related.

Although the advertising referred to conditions applying, the nature of the conditions to obtain the \$79 price was not specified. The company was convicted and fined.

GETTING AROUND

If you're booking a flight, hiring a rental car or catching a taxi, make sure you know all costs upfront before booking or paying.

Businesses must clearly identify any additional costs or charges, such as fees for checked baggage, insurance cover, or GST, before you buy.

EXAMPLE

An airline promoted national flights in newspaper advertising and on its website. The advertising failed to disclose an additional Civil Aviation Authority levy as part of the cost. On its website, the levy was only displayed on a separate and subsequent terms and conditions page. The company was convicted and fined.

If you're picking up a rental car, make sure you inspect the car, and take photos if necessary, on pick-up and drop-off, so you don't get charged for damage to a rental car you didn't cause.

EXAMPLE

A rental car company charged consumers for damage to rental cars that never occurred or was exaggerated, and levied charges which were not disclosed in the rental agreement. Other consumers complained that they had requested late model cars via an online booking system, but were offered cars that were up to eight years old. The company was convicted and fined.

If you're taking a taxi, its prices should be on display on the door and inside, and you can always ask the driver for an estimate before you set off.

BUYING SOUVENIRS

Any claims made – or impressions given – about the origin of a product must not be misleading or deceptive.

This includes using symbols such as kiwis, flags or other national emblems to convey false or misleading impressions that a product is made in New Zealand.

EXAMPLE

A souvenir supplier sold soap and skincare products that were packaged in a way likely to mislead customers that they were New Zealand made when this was not true.

Packaging included a graphic of a kiwi together with the words Aotearoa New Zealand, and iconic New Zealand images. Names of its products included New Zealand Honey Hand Lotion, New Zealand Kiwifruit Lip Balm and New Zealand Lanolin Soap. However, all the ingredients were sourced from Malaysia, Indonesia and China and all the products were manufactured in China. The company was convicted and fined.

Most new clothing and footwear must have permanent country of origin labelling which you can easily see when examining the item.

CLEAN GREEN NEW ZEALAND

As a consumer, you should be able to rely on any environmental claims made about a good or service.

Businesses making environmental claims must ensure those claims are accurate and can be backed up with science. This includes any statements made about sustainability, recycling, carbon neutrality, energy efficiency, use of natural products or impact on animals and the natural environment.

If you're in doubt, ask for more information.

DUTY-FREE

The term 'duty-free' implies that goods are cheaper in comparison to prices charged by other retailers because government imposed import duties do not apply.

If you're a tourist or are travelling overseas, you're entitled to assume that you will get the benefit of this price advantage.

Businesses should only use the term if the goods described as duty-free would usually attract import duty, and the price advantage is passed on to the consumer.

EXAMPLE

A business advertised jewellery as duty-free when it did not attract import duty. The company was convicted and fined.

GOT A PROBLEM?

Before you buy – ask for more information, and demand proof of any claims being made, particularly if you have doubts. If you think you're being misled, don't buy.

After you buy – make sure you keep your receipt and if there's a problem, go back to the seller or service provider and try to resolve the issue with them directly.

No luck? If you want to take things further, you have a couple of options.

COMPLAIN TO THE COMMERCE COMMISSION

The Commerce Commission is responsible for enforcing the Fair Trading Act. While it doesn't act on behalf of individuals, it relies on information it receives from the public. If you feel you have been misled about goods and services, you can call the Commerce Commission on **0800 94 3600** or email contact@comcom.govt.nz.

TAKE YOUR OWN ACTION

The Consumer Guarantees Act is self-enforcing, which means you can take your own action. If a guarantee is not met, you have the right to insist that the seller or service provider puts it right. You can find out more about your rights under the Consumer Guarantees Act at www.consumeraffairs.govt.nz.

If you haven't been able to resolve the problem directly with the seller or service provider, the Disputes Tribunal can be an inexpensive, informal and private way to help you reach an agreement or may make a decision about what is fair. Refer to www.justice.govt.nz for more information.

To check for updates to this fact sheet visit:
www.comcom.govt.nz/fair-trading

This fact sheet is part of a series looking at the Fair Trading Act. Other fact sheets can be downloaded from
www.comcom.govt.nz/fair-trading

CONTACT

Contact the Commerce Commission with information about false or misleading trading practices.

TELEPHONE

Our Contact Centre during office hours on 0800 943 600

WRITE

To us at Contact Centre, PO Box 2351, Wellington 6140

EMAIL

Us at contact@comcom.govt.nz

This fact sheet is a guideline only, and reflects the Commission's view. The publication is not intended to be definitive, and should not be used instead of legal advice. It is traders' responsibility to remain up to date with legislation.

Only the courts can make a ruling on breaches of the Fair Trading Act. Courts may fine companies found guilty of breaching provisions of the Fair Trading Act up to \$200,000 and individuals up to \$60,000.