

THE FAIR TRADING ACT

COMPARATIVE ADVERTISING

Promoting goods and services by comparing them to competing products and services is a common and accepted method of advertising. Comparisons can help consumers judge the relative merits of competing products and choose the one which best suits their needs and budgets.

As with all advertising, comparative advertising must not mislead or deceive. The comparisons made must be accurate, should clearly indicate what comparison is being made and must be of 'like' products or services available in the same market.

Inaccurate comparisons risk misleading consumers and breaching the Fair Trading Act.

EXAMPLE

A furniture manufacturing company made a comparison between its product, which was finished in plain customwood, and that of a competitor. The competitor's product was laminated, and the court decided that the comparison was misleading. The competitor obtained an injunction stopping the advertisements being run.

A business is in the best position to know whether its product can reasonably be compared to a competitor's. If comparisons are used in advertising, they must tell the full story and not leave out information that is necessary for a true and fair comparison to be made.

While the Fair Trading Act does not prohibit 'puffery' – exaggerations which are so obvious that they are unlikely to mislead anyone, businesses should be careful when using exaggerated statements about quality or price that appear to relate to facts rather than opinion, such as that a product is 'the fastest' or 'the most economical'. Representations such as these will breach the Act if they are not accurate.

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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
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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.

The Commerce Commission enforces legislation that promotes competition in New Zealand markets and prohibits misleading and deceptive conduct by traders.

Only the courts can make an authoritative ruling on breaches of the Fair Trading Act. Courts may fine companies found guilty of breaching provisions of the Fair Trading Act up to \$600,000 and individuals up to \$200,000.