

THE FAIR TRADING ACT

JARGON, EXAGGERATIONS AND PUFFERY

JARGON

Advertising can be relevant to a wide range of consumers, so it is important that businesses carefully consider their audience when making claims about their products or services, and not assume any particular degree of knowledge.

Any claims made should be in plain language and should be clear and unambiguous.

Businesses should avoid using jargon, such as technical or scientific language, or 'trade terms', without adequate explanation if the average consumer is unlikely to be familiar with them.

This could include, for example, terms such as 'carbon neutral' when making environmental claims, 'endowment' or 'indemnity' when selling insurance, 'dynamic contrast ratios' when advertising computer and television screens, or acronyms such as 'ORC' for on road costs when selling motor vehicles.

Such jargon may confuse average consumers who may make assumptions and be misled.

PUFFERY

Exaggerations which are so obvious that they are unlikely to mislead anyone are known as 'puffery'. Humorous and imaginative advertisements often use this technique. Often no objective test can be used to determine their truth, or the statements are obvious exaggerations.

The Fair Trading Act allows some leeway when statements are clearly puffery. This is because most reasonable consumers are aware that some exaggeration occurs in advertising. Businesses should still take care when making such claims, however, as even if a claim is a clear exaggeration, it may breach the Act if it causes consumers to be misled.

Statements that appear to relate to facts rather than opinion, particularly about quality and price (such as that a product is 'the fastest' or 'the most economical') will breach the Act if they are not accurate. The more factual or seemingly factual a claim is, the greater the risk it will breach the Act if it is misleading or deceptive.

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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 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 \$600,000 and individuals up to \$200,000.