

Fair Trading Act and Consumer Guarantees Act

Know your rights as a consumer



The Fair Trading Act applies to anyone in trade, from big organisations to small businesses. The Consumer Guarantees Act applies when you have purchased a good or service normally bought for personal use.

The Fair Trading Act

The Fair Trading Act applies to anyone in trade – from big organisations like hotel chains, airlines and department stores, to small or temporary businesses like a souvenir stall or ice cream stand.

The Act makes it illegal for businesses to mislead consumers, give false information, or use unfair trading practices.

The Fair Trading Act covers:

- all aspects of the promotion and sale of goods and services
- anything said about a product or service, either verbally or in writing
- any impressions given by pictures, advertisements, or promotional material.

The Consumer Guarantees Act

The Consumer Guarantees Act applies when you have purchased a good or service normally bought for personal use.

The Act does not apply to private sales.

The Act guarantees that goods or services should:

- be of acceptable quality
- be fit for their purpose
- match their description
- match the sample or demonstration model
- be sold by a trader who has the right to sell them
- be supported by available spare parts and repair facilities (by manufacturers).

Services must be:

- provided with reasonable care and skill
- fit for purpose
- provided within a reasonable time
- provided at a reasonable price.

Pricing

You have a number of rights when it comes to pricing.

For example, you are in a bike store looking at the prices of a number of different bikes. You have the right to expect that:

- price claims are clear and accurate – including for sales, pricing comparisons and markdowns
- GST is included in the price, or if it is not included, that it is made clear to you
- any surcharges are made clear.



How to enforce your rights

The first thing you should do when you have a problem with a good or service is contact the trader you purchased it from. The Commerce Commission is not able to enforce the Consumer Guarantees Act, you need to take your own private action. We recommend the Disputes Tribunal for resolving disputes of this nature.

🔗 You can find out more about your rights under the Consumer Guarantees Act at www.consumeraffairs.govt.nz



Extended warranties

An extended warranty is different to an everyday warranty, because it is purchased at an additional cost to the goods or services. An everyday warranty is typically a guarantee given on the performance of a product or service at no extra charge.

For example, you have just bought a new TV from a retailer and the salesperson suggests that you purchase an extended warranty. The following must be provided to you.

- A written copy of the extended warranty agreement at the time of purchase. The agreement must be in plain language, dated and include all of its terms and conditions. This includes when it expires and the price payable for this extension.
- A summary of your rights under the Consumer Guarantees Act and a comparison of those rights with the additional protections provided by the extended warranty.
- A summary of your rights to cancel the agreement under the Fair Trading Act.

You can cancel an extended warranty agreement:

- within five working days of receiving a written copy of the agreement
- at any time if the warrantor has not met all of its obligations described above.

🔗 More information is available in our *Extended warranties* fact sheet: www.comcom.govt.nz/fair-trading/changes-to-the-fair-trading-act/fact-sheets/extended-warranties/

Door-to-door and telemarketing sales

When you are approached at your home, workplace, or over the telephone by someone trying to sell you something (when you have not invited them to do so), the uninvited direct sale rules apply.

For example, you might be at home cooking dinner when you get an unexpected knock on the door or receive an unexpected phone call. It is someone trying to sell you a new phone and internet package.

You have the right to:

- be told of your right to cancel and how to cancel
- an agreement containing all the necessary information, otherwise you have the right to cancel at any time
- say no to the offer – if you don't fully understand what the salesperson is proposing or feel pressured, don't agree to anything
- change your mind and cancel the agreement for any reason within five working days of receiving a written copy of the agreement.

If you decide to cancel the agreement:

- the supplier must immediately refund any money you've already paid
- you must take reasonable care of the goods for ten working days from the date of notice of that cancellation
- once you have received any refund you are entitled to, you must allow the supplier to collect the goods at any reasonable time that they request
- any services the supplier provides you within the five day cancellation period are done at their own risk – you still have the right to cancel and pay nothing.

🔗 For more information please see our fact sheet on *Door-to-door and telemarketing sales*: www.comcom.govt.nz/fair-trading/changes-to-the-fair-trading-act/fact-sheets/door-to-door-and-telemarketing-sales/

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Buying and selling online

The online rules apply to all traders who advertise or sell to New Zealand consumers online, even if the trader is based outside of New Zealand.

Traders who sell online must:

- make it clear that they are in trade
- ensure any representations they make about the good or service are accurate and do not mislead or deceive consumers
- have a reasonable basis for any claims they make about their products or services
- comply with the product safety and consumer information standards where relevant, not sell any goods prohibited by an unsafe goods notice. For more information please see our product safety standards guidance
- ensure that delivery terms are clear and can be met, including shipping costs, taxes, fees and the estimated delivery times.

What does a trader being 'in trade' mean for me?

If you buy from someone 'in trade', you are protected under both the Fair Trading Act and the Consumer Guarantees Act. Previously, buying online meant that you were often not covered by the Consumer Guarantees Act.

↗ For more information please see our fact sheet on *Buying and selling online*: www.comcom.govt.nz/fair-trading/changes-to-the-fair-trading-act/fact-sheets/buying-and-selling-online/

Got a problem?

If you have a problem with a good or service, or you are concerned you may have been misled:

- make sure you keep your receipt
- go back to the trader and try to resolve the problem with them first.

If that doesn't work:

Report it to the Commerce Commission

We're responsible for enforcing the Fair Trading Act. You can call us on 0800 943 600 or use our online complaint form ↗ www.comcom.govt.nz/online-complaint-form. We have a telephone interpreting service available through Language Line if English is not your first language.

Take a case to the Disputes Tribunal

It is a relatively inexpensive, informal and private way to help resolve a dispute. Go to ↗ www.justice.govt.nz/tribunals/disputes-tribunal for more information.

Get some advice

You can contact your local Citizens Advice Bureau ↗ www.cab.org.nz or 0800 367 222 or Community Law Centre ↗ www.communitylaw.org.nz

This fact sheet provides guidance only. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes.

You can subscribe for information updates at www.comcom.govt.nz/subscribe

Contact us with information about possible breaches of the laws we enforce:

Phone: 0800 943 600 **Write:** Enquiries Team, PO Box 2351, Wellington 6140 **Email:** contact@comcom.govt.nz

