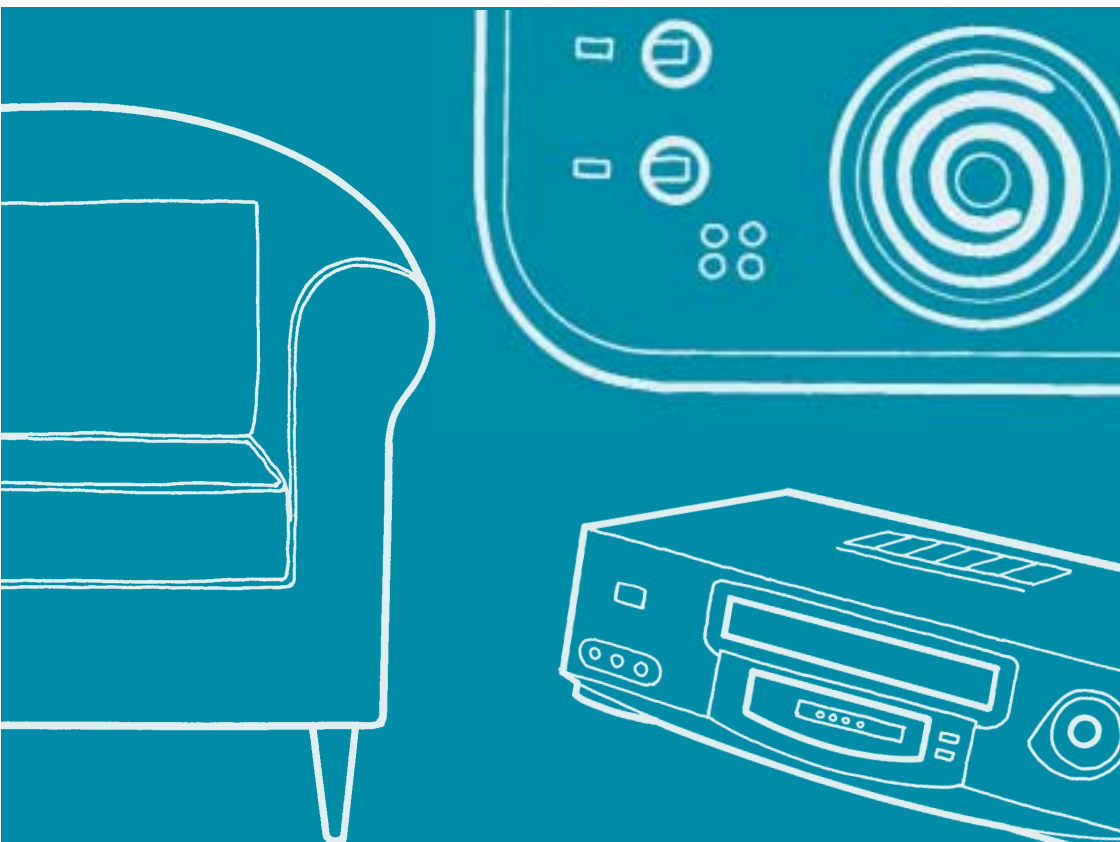


# Interest free offers and promotions

A guide for businesses



Advertisements for goods to be purchased 'interest free' often cause confusion for consumers as there are a number of different 'interest free' products.

The information contained in this guideline will assist you in the preparation of advertising material, particularly in relation to situations where 'interest free' offers and promotions are involved. It is based on fair trading legislation, including the *Trade Practices Act 1974* and the Consumer Credit Code.



*The basic rule is that advertisements shall not be misleading or deceptive or be likely to mislead or deceive consumers.*

Advertising essentially covers any matter which draws the attention of the public, or a portion of the public, to a product in a manner directly or indirectly calculated to promote that product.

Government consumer agencies have been concerned that consumers may be misled as to their overall commitment when entering into contracts involving 'interest free' products. In some cases, such as where the interest free period is in large bold print and conditions relating to the interest free period are in small inconspicuous print, consumers have expressed surprise at the annual percentage rate that is charged – especially the date from which the interest is calculated. It is important that there is full and clear disclosure to the consumer of all repayment obligations.

## **The Basic Rule**

The basic rule is that advertisements shall not be misleading or deceptive or be likely to mislead or deceive consumers.

What does it mean to mislead someone? This includes:

- misrepresentation
- leading the person to a wrong conclusion
- creating a false impression
- leaving out or concealing important information
- making false or inaccurate claims.

It is important to note that in Court, a lack of intention is no defense to misleading conduct. Whether something is misleading is a question that is determined in the context of all the relevant surrounding facts and circumstances. Just as it is possible to mislead or deceive by the words used, it is also possible to mislead or deceive by omitting important information.



*Fine print causes concern because it is often very difficult to read and lacks prominence.*

## **Establishing the Likelihood of an Advertisement being Misleading**

In order to establish the likelihood of an advertisement being misleading, ask yourself these questions:

- What impression does the advertisement create in the mind of the reader/listener?
- What is the message being conveyed?
- What is the impression left with the reader/listener?
- Is the impression different from that which the advertiser intends?

An advertisement may still be found to be misleading even if the statements it contains are literally true but convey a misleading impression.

## **Fine Print**

Fine print, which often appears at the foot of advertisements and may contain important information, causes concern because it is often very difficult to read and lacks prominence. The writing is small and the information tends to be unclear. Further, abbreviations and industry terms are often used which mean little to the general public.

Any information contained in an advertisement should be presented in a manner that is clear, prominent and easy to read. It should be set out in a way that is readily understood by someone unfamiliar with industry terms or jargon.

Remember that whether something misleads an audience depends on the overall impression created and the relationship between this and the actual facts of the matter. The consumer is not required to exhaustively search for those facts. Instead, the advertiser must openly direct the consumer's attention to the most significant of the terms and conditions – those having an important impact on the decision to purchase.



*The concept of truth-in-lending allows borrowers to make informed choices when purchasing credit.*

## Consumer Credit Code

The Consumer Credit Code is based on the concept of truth-in-lending which allows borrowers to make informed choices when purchasing credit.

It is important to note that the Code applies where credit is provided or intended to be provided wholly or predominantly for personal, domestic or household purposes.

Credit providers and advertisers need to be fully aware of their obligations under the Code and should ensure that they have adequate systems in place to ensure ongoing compliance. Some of the more important provisions that may affect advertising and disclosure are:

- Sections 14 and 15 . . pre-contractual and contractual disclosure
- Sections 140-143 . . advertising
- Section 144 . . . . . false or misleading representations
- Section 70 . . . . . reopening of unjust transactions.

You should also pay particular attention to:

- Section 118 . . . . . credit providers' liability for suppliers' misrepresentations
- Section 119 . . . . . right to damages for misrepresentation etc under sale contract against both supplier and linked credit provider
- Section 176 . . . . . conduct of agents.

## Best Practice Principles

The Best Practice Principles are consistent with good customer service and utilise best business practices.

Where 'interest free' offers and promotions are involved, in addition to complying with any specific regulatory requirements (eg s140 of the Consumer Credit Code), it is considered that the following principles should be followed.



*All advertising and other disclosures should be clear, conspicuous and legible.*

- All advertising and other disclosures will be clear, conspicuous and legible.
- Advertisements will clearly state:
  - the nature of the 'interest free' offer
  - any conditions relating to the 'interest free period'
  - the annual percentage rate or rates which will apply after the 'interest free period' has expired
  - when the annual percentage rate or rates will be applied from, and
  - the amount of any fees or charges which apply (or state that fees and charges apply or state the amount of some of the fees and charges that apply and that other fees and charges are also payable).
- Prior to entering into the credit contract, the borrower can expect:
  - to be given a plain language document containing a clear explanation of what an 'interest free period' is and when it expires
  - a clear explanation of any interest charges that may be incurred and the date from which the interest is calculated
  - to be given an optional 24 hour period to consider the purchase.

- Once the credit contract has been entered into, the borrower will be:
  - issued with a repayment booklet within 2 weeks of the credit contract being entered into
  - given plain language written information by the credit provider as to when the 'interest free period' expires and options for dealing with any amounts owing
  - encouraged to contact the credit provider to discuss any difficulties with the credit contract, and
  - informed of alternative sources of advice and assistance.



*The borrower should be encouraged to contact the credit provider to discuss any difficulties with the credit contract.*