



## THE COMPLIANCE PROGRAMME CHECKLIST

A system for checking promotional material is central to most business compliance programmes. A checklist of things to look for when vetting promotional material may be helpful. Given the wide scope of the Consumer Protection Act, no list can be exhaustive, but these are some points to bear in mind:

In general, traders should ensure that all marketing decisions and strategies are reviewed in light of the Consumer Protection Act.

This is an ongoing process and management should keep an eye on new developments in case law which may impact on the way you do business. For example, the Commission may prosecute a trader for what is a common industry practice. Traders that continue to use that practice will risk action being taken against them.

- Advertising should be checked by staff with the necessary product knowledge. If that person is not available there should be a contingency plan in place so that someone else with product knowledge can do the checks. The checks should include making sure that the correct picture and description of the product are used, and that the price stated, including any conditions that relate to the price, is accurate.
  - Businesses using an advertising agency should ensure that the agency fully understands the requirements of the Act. Advertising material prepared by an agency should be checked, as the business itself is responsible for any errors. An agency may also be liable under the Act unless it has a defence, such as a reasonable reliance on information supplied by another person.
  - Staff checking advertising material should be provided with precise written instructions. A checklist of details to be vetted (e.g. product description, illustration, price) may be useful, and will provide a written record for supervisors to check.
  - Most publications become inaccurate with time. Promotional material should be marked with the dates for which the offer is valid to avoid possible misunderstandings.
  - A system should be in place to ensure that all errors are corrected immediately and not overlooked.
  - All incorrect promotional material should be destroyed.

Despite careful checking of copies before advertisements go to print, mistakes may sometimes slip through. It is important that a staff member is nominated to check advertisements once they have been published.

If there are any mistakes:

- The advertisement should be cancelled immediately.
  - Customers should be advised by point of sale material.
  - Senior staff should be available to handle any dissatisfied customers.
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- Are any of the selling techniques used, specifically banned by the Consumer Protection Act (e.g. bait advertising), or could any technique be said to amount to deceptive conduct? (E.g. telling half truths)
  - Are any of the statements false? For example, advertising a going out of business sale when the company is not going out of business.
  - Is the material likely to create a misleading impression? For example, a trampoline picture with safety pads covering the springs when the pads are not included in the advertised price.
  - Have all the terms and conditions connected to the offer been explained to, and understood by, the customer?