

BUSINESS GUIDANCE NOTES

GUIDE TO ADVERTISING FAIRLY

Business Protection from Misleading Marketing Regulations 2008

This law protects businesses from misleading advertising by other businesses if it deceives them and affects them financially or otherwise.

In more detail

Effectively the law prohibits businesses being unfair in their advertising to other businesses.

It prohibits any misleading indication by a trader if it:

- Deceives or is likely to deceive the trader to whom it is addressed (or whom it reaches) and
- Is likely to affect that traders 'economic behaviour' or
- In some other way injures or is likely to injure a competitor

Advertising is very broadly defined, so the protection covers any form of representation made in relation to goods, services and rights and obligations.

Comparative Advertising

Comparative advertising is the identifying of a competitor or a competitor's product in your advert. This law sets out rules in these circumstances which can be summarised as requiring any comparisons to be fair, e.g. comparisons should be 'like for like' and should not mislead.

If you do not comply with the law

It is a criminal offence not to comply; a trader could be prosecuted. You could personally be prosecuted if you are a director, manager, secretary or other similar officer, or a person purporting to act as a director, manager, secretary or other similar officer.

If you are found guilty

The maximum penalty on conviction at a magistrate's court is a fine of £5000 per offence. At crown court, the maximum penalty is an unlimited fine and/or two years imprisonment.

This leaflet is intended only for guidance, it is not an authoritative nor complete interpretation of the law. Further guidance on the Regulations is available from the Department for Business Enterprise and Regulatory Reform at www.berr.gov.uk.