



Australian
Competition &
Consumer
Commission

BUSINESS SNAPSHOT

Carbon price claims: guide for business

This snapshot highlights key points from the publication *Carbon price claims: Guide for business*. The full version of the guide is available at www.accc.gov.au/carbon

Under the *Competition and Consumer Act 2010* you must not make false, misleading or deceptive claims about the price of your goods or services. This includes when making claims about the impact of the carbon price.

- You are entitled to increase your prices as you see fit – it is business as usual. Leading up to and following the start of the carbon price, the same legal obligations not to mislead or deceive apply.
- Like any other claim, if you choose to make a claim about the carbon price or why the price has increased, the claim should be truthful and have a reasonable basis.

Problematic claims

Examples of claims that may mislead customers include:

- a business represents that the whole amount of a price increase is due to the carbon price, when in fact only a proportion of the total price increase is attributable to it, or
- a business overstates the impact of the carbon price.

Problematic claims might be made in a number of circumstances. For example:

- claims made on your new price lists that incorrectly link all price increases to the carbon price
- comments by sales representatives that incorrectly link an increase in the price of goods or services to the carbon price.

The law prohibits you from making false, misleading or deceptive claims about the price of goods or services. This includes claims and statements that you make in television or radio advertising, in catalogues, on product labels, on websites, in contracts (or contract negotiations) with both businesses and consumers, over the telephone or in correspondence, or in person, such as on the shop floor or in meetings.

Relying on supplier information

If you are considering relying on information from your supplier when making a claim to your own customers about the impact of the carbon price, you need to assess whether it is reasonable to rely on the information. You should consider:

- any explanation your supplier has given you about the impact of the carbon price, and any other unrelated factors that have contributed to their price increases
- whether the price increases are consistent with predictions from other sources, such as government, your industry association and professional advisors
- what your contracts with suppliers say about price increases
- the impact of any rebates or assistance available to you or your suppliers.

A number of calculators have been developed to assist businesses and consumers to understand the impact of the carbon price. Remember, any price rise explained as resulting from the carbon price needs to be based on your own costs.

Business obligations

As you try to work out the impact of the carbon price on your input costs, you may be tempted to compare your circumstances with those of your competitors. While relevant industry information may assist you in these calculations, it is important that you set your own prices independently.

For more information see, *Carbon price claims: Guide for business* available at www.accc.gov.au/carbon

What can I do?

If you are concerned about claims your suppliers or other businesses are making about the impact of the carbon price, contact the ACCC. It can act against misleading claims if a business falsely links a price rise with the carbon price.

If you have a complaint or inquiry, contact the ACCC by calling the ACCC Carbon Price Claims Hotline on 1300 303 609 or using the ACCC Carbon Price Claims Webform available at www.accc.gov.au/carbon

Private action may also be available and you can seek legal advice on your options.

What can the ACCC do?

The ACCC can investigate and take action against businesses that make false, misleading or deceptive claims.

Some of the ACCC's powers include:

- requiring a business to provide documents and information that respond to a substantiation notice
- issuing infringement notices of \$66 000 for a listed corporation and \$6600 for a corporation where it considers a claim is false or misleading
- taking legal action against a business for breaches of the ACL
- seeking court-imposed penalties of up to \$1.1 million for serious breaches or injunctions to stop a business from making certain claims.

The ACCC's focus is to ensure businesses do not make misleading claims about price increases as a result of the carbon price. The ACCC does not have a role in formally monitoring, setting or restricting price increases linked to the carbon price and cannot prevent a business from putting up its prices as a result of the carbon price.

In line with its Compliance and Enforcement Policy, the ACCC will give priority to cases that lead to significant consumer detriment, or that demonstrate a blatant disregard for the law.

More information?

- Businesses and consumers with complaints and inquiries can contact the ACCC by calling the ACCC Carbon Price Claims Hotline on 1300 303 609 or using the ACCC Carbon Price Claims Webform available at www.accc.gov.au/carbon
Small businesses can also contact the Small Business Help Line on 1300 302 021.
- For more information on carbon price claims and representations see the *Guide for business*, FAQs and other Business Snapshots in this series available online at www.accc.gov.au/carbon
- For more information about substantiation notices see *Business Snapshot—ACCC powers to issue infringement, substantiation and public warning notices* available at www.accc.gov.au
- The ACCC's Compliance and Enforcement Policy is available at www.accc.gov.au/policy
- For more information on the administration of the carbon pricing mechanism, please contact the Clean Energy Regulator on 1300 553 542 or visit www.cleanenergyregulator.gov.au

ACCC contacts

Infocentre 1300 302 502

Website www.accc.gov.au

For information in languages other than English, call 13 1450 and ask for 1300 302 502

TTY service for people with hearing or speech difficulties: 1300 303 609 www.accc.gov.au

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Important notice

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.

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