

Bait Advertising Small business



Australian
Competition &
Consumer
Commission

How do I find out more?

Contact the ACCC Info-centre by:

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or visit the ACCC website at
www.accc.gov.au.

Special offers and sales can be a great way to draw customers into your store. However, the Trade Practices Act (the Act) requires that you give consumers a reasonable opportunity of actually purchasing the advertised goods.

If consumers aren't given a genuine chance, you may have broken the law against 'bait advertising'.

What is bait advertising?

Bait advertising occurs when a business advertises or offers goods for sale, knowing that it cannot supply them in reasonable quantities for a reasonable period of time.

Often this is an honest mistake, for example—demand is much higher than expected and the retailer genuinely runs out of stock.

However, unscrupulous retailers will sometimes advertise goods at a bargain price with the sole intention of attracting customers to their store knowing that they cannot supply the

advertised goods to a reasonable number of consumers. This is called a 'bait and switch' scam.

The 'bait' is the especially attractive offer designed to lure customers to a business. When they arrive, the bait is unavailable and the customer is encouraged to buy other, more expensive goods. That's the 'switch'

The bait might have been a single item sold to the first person or it might not have been a genuine offer at all.

Example

A car dealer advertises a certain vehicle at a very low price. The catch is that the dealer only has one of these vehicles in stock.

When interested consumers arrive, they are told the vehicle has been sold. The dealer then tries to sell the consumer a higher priced vehicle.

In this instance, the dealer may have misled consumers by advertising the sale when it knew that it could not meet likely demand.

How can I avoid breaking the law?

Retailers should never use non-genuine special offers to attract customers and then try to sell higher priced goods instead of the advertised special.

Businesses should always make sure that when they advertise goods for sale that the offer is made with reasonable means of meeting the likely customer demand for the length of the promotion.

What can I do if I run out of stock?

When goods or services are part of a particular promotion or sales campaign, it can sometimes be difficult for businesses to determine how much stock they need. While acting in good faith, a business may misjudge demand and, faced with more customers than expected, sell out all supply.

The Act makes allowances for this kind of situation, but businesses must be able to show they were sincere when making the offer.

If demand exceeds supply, businesses should

respond quickly to ensure customers end up in essentially the same position they would have been in had stocks been adequate.

Offering rainchecks ensures that consumers may still get the special deal even though the current stocks have run out.

Where can I find further information?

The ACCC newsletter *News for Business—Bait Advertising* explains the relevant provisions of the Act and how you can ensure that your business complies.

The ACCC also produces *Advertising and Selling*, a small business guide explaining your rights and responsibilities when advertising your goods and services. This is available free of charge in electronic format from the ACCC website at www.accc.gov.au

ACCC publications

See the publications section of the ACCC website at www.accc.gov.au or call the ACCC Infocentre

1300 302 502.

