



Australian
Competition &
Consumer
Commission

NEWS FOR BUSINESS



Component price advertising

Most businesses rely on advertising to promote the sale of their products or services to consumers. Price is usually a major factor for consumers when they are considering whether to buy a product or service. Many consumers will shop around to find the best deal, which means they will pay close attention to your advertising and any price representations you make, whether those representations appear on television, in a catalogue, newspaper or on a website.

Accurate price representations are not just good advertising practice. Under the Trade Practices Act 1974 you are required to ensure that your advertising

correctly represents the good or service you are offering for sale—including its price and any other key features or characteristics. This enables consumers to compare similar products and make informed purchasing decisions.

Some recent changes to the rules on component pricing require you to make clearer price representations to consumers. Component price advertising tells you about these changes and how they will affect you.

Component pricing

Component pricing is where a business represents the cost of a good or service to consumers in, or as the sum of, multiple component parts. Where no total figure or sum is given, this practice may mean consumers are not aware of the total price they will be required to pay to obtain that good or service. They may potentially be left with the impression that the good or service is being offered at a lower price than it actually is.

The rules for component pricing are contained in s. 53C of the Trade Practices Act, which has recently been amended. Under the amended legislation, from **25 May 2009**, if you use component pricing in your advertising, you must also provide consumers with a prominent single (total) price for goods or services—as it is able to be quantified at the time you make a price representation. This price must also be stated in a prominent way and be at least as prominent as the most prominent component.

Prominent way

A 'prominent' single price is one that:

- stands out so that it is easily seen by a consumer
- is clear, eye-catching and noticeable.

You should consider the size, colour and type of font used for describing the price and its placement compared with the advertisement's background and relative to the advertising medium being used.

You need to consider how the audience will view and interpret your advertising message, regardless of whether it is shown on television or the internet or appears in catalogues or other print forms. Depending on the nature of the media you use for your advertising, you may have to take extra care to ensure that you comply with the Trade Practices Act.

An advertisement states upfront '6 easy repayments of \$19.95', but obscures the total price of \$119.70 at the bottom in fine print and a colour similar to the background design.

EXAMPLE

The single price is not as prominent as the most prominent component of \$19.95 and is therefore unlikely to comply with s. 53C of the Trade Practices Act.

The single price and how to calculate it

The single price means the **minimum total cost** able to be quantified (or calculated) at the time of making the representation for a consumer to purchase the good or service. An amount is quantifiable if it can be readily converted into a dollar amount. If it is subject to variation (such as fluctuations in currency), you must calculate it based on information available at that time and clearly advise consumers that it may be subject to change.

Where the final price includes both quantifiable and non-quantifiable charges, you should state the quantifiable charges as a single figure and clearly advise consumers that not all components are included. You should also be aware that s. 53C does not prevent consumers from negotiating a lower price with you.

A rental car business offers a particular luxury car for hire at \$74 per day. The business also charges a \$1 surcharge for each kilometre that the customer drives, which is then added to the daily rate. The complete surcharge cannot be quantified at the time of advertising because it cannot be known how many kilometres the customer will drive.

EXAMPLE

This could be advertised as:

\$74/day + \$1/kilometre surcharge.

Each component should then be totalled. Under the Trade Practices Act, you are required to include or exclude certain components, while you may choose to exclude other components.

You are required to include the following components:

- charges of any description payable by a consumer to purchase the good or service (e.g. administration fees, compulsory service charges, booking fees)
- taxes, duties, fees, levies or charges payable by the consumer for the supply of the good or service (e.g. the goods and services tax or sales tax).

You do not need to include the following components:

- optional extras—i.e. additional charges a consumer chooses to pay
- sending charges—these need to be specified or you may choose to include them in the total price
- any 'non-quantifiable' components
- third-party payments paid by your business that are not passed on to the consumer.

A ticket-seller prices its tickets at \$40. The seller also imposes a booking fee of \$3 on all customers whether they purchase over the phone internet or in person. A purchase from the ticket seller will attract a goods and services tax of \$4.30.

EXAMPLE

This could be advertised as:

- \$47.30 (including 10% GST)
- or
- \$43 + \$4.30 GST = \$47.30
- or
- \$40 + \$3 booking fee + 4.30 GST = \$47.30.

A restaurant imposes a 15% surcharge on all food and beverages on public holidays.

EXAMPLE

Under s. 53C, on days that the surcharge applies the restaurant is required to provide patrons with a menu that states the price of food and beverages inclusive of the 15% charge.

Exceptions

There are two exceptions to the rule requiring that a single price be shown as prominently as any component. These are:

1. Where you make a representation exclusively to a business—in this instance you do not need to include a single price.
2. Where services are supplied under a contract (for a term) that also provides for periodic payments—while you still need to provide a prominent single price, that price does not need to be as prominent as any other component.

A wholesale furniture business provides a retailer with a wholesale price list for various furniture and home-ware items. These products are intended for resale to consumers, which is clearly stated. The price list is sent via post directly to the owner and manager of the retail business.

EXAMPLE

The price list is unlikely to be viewed by a consumer audience and clearly identifies the products and prices as for wholesale only. Therefore s. 53C does not apply to these price representations although the broader requirements of the Trade Practices Act must still be met.

Additional obligations

It is important to remember that you must not only comply with the new component pricing laws, but also satisfy all the requirements of the Trade Practices Act. This is particularly relevant to your obligation to avoid actually or potentially misleading or deceiving consumers.

Component pricing checklist

- Does your single price include all the components you are able to quantify when you make the price representation?
- Are you able to substantiate why you are unable to quantify a particular component?
- Have you stated the total price as it is **able to be calculated** when some components vary or cannot be quantified at the time? **Remember**, the fact that a price may be subject to change does not mean that it is unable to be quantified.
- Have you clearly advised consumers of any components that are excluded or may vary?
- Is your single price typically for the base level of a good or service (without any optional extras where they are offered)?
- If your advertisements do not contain any price representations as per s. 53C, do they still comply, as required, with the Trade Practices Act?



ACCC contacts

ACCC Infocentre
1300 302 502

Small business helpline
1300 302 021

ACCC website
www.accc.gov.au

Publications to help businesses comply with the Trade Practices Act

Publications can be ordered through the ACCC Infocentre or you can download electronic copies for free from the ACCC website.

Small business and the Trade Practices Act (free)

Advertising and selling (\$10)

Warranties and refunds (free)

For other business information go to www.business.gov.au

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Component price advertising

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Warranty and refund signs

Important notice

Information in this publication is for general guidance only. It reflects the ACCC's views on what is required to comply with the *Trade Practices Act 1974*. It does not constitute legal advice and should not be relied on as a statement of the law relating to the Act. You should obtain legal advice if there is doubt about whether any conduct may breach the Act, or whether laws in your state or territory impose other requirements or responsibilities on you.

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