



**Australian
Competition &
Consumer
Commission**

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4 June 2009

Changes to the *Trade Practices Act* relating to component pricing

Recent amendments to section 53C of the *Trade Practices Act 1974* (TPA) change the rules for businesses that make component price representations to consumers. The amendments, which took effect on 25 May 2009, do not prohibit component pricing but apply specific rules for different types of advertising, as well as a number of exceptions that may apply in certain circumstances.

Component pricing is where a business represents the cost of a good or service in, or as the sum of, multiple component parts and can potentially create an impression that a product is being offered for sale at a lower price than it actually is. The TPA now requires that if you choose to use component pricing in advertisements, you must also provide consumers with a prominent single total price for goods and services, as it can be quantified at the time.

As a provider which regularly makes component price representations, you should study the new provisions carefully to determine whether your marketing currently complies with the new requirements. You may be aware that one of the qualifications to section 53C applies where a contract provides for services to be supplied for the term of the contract, and where periodic payments are made for those services during that term. In such circumstances, the single (total) price of the services and any related goods does not need to be shown *as prominently* as any of the component prices represented – but it must still be shown in a prominent way.

The ACCC is concerned that some telecommunications service providers are making component price representations in ways which may not comply with the recent amendments to the TPA, by failing to:

- provide a single price which represents the minimum cost of an entire contract to a consumer
- advertise the single price prominently (i.e. *not* in fine print on the bottom of an advertisement, the back of a flyer, or a separate webpage)
- include the cost of goods provided under the terms of the contract (for example, modems or mobile phone hand sets) in the single price
- disclose compulsory and quantifiable charges for delivery, installation, account set up or other services.

The ACCC has provided some general guidance on the new provisions on its website at <http://www.accc.gov.au/content/index.phtml/itemId/816199>. However, you should seek legal advice on your marketing specifically.

I note that the new component pricing provisions apply to all price representations made to consumers by a party in trade or commerce, regardless of the medium through which they are made. As such, you should review your marketing across all media including television, radio, print, billboards, posters, websites *et cetera*. What is required to meet the 'prominence' requirement may vary between those media.

It is important to remember that you must not only comply with the new component pricing laws, but also satisfy all other requirements of the TPA. Of particular relevance to the matters raised in this letter are your obligations to avoid actually or potentially misleading or deceiving consumers.

The ACCC will continue to consider representations made by telecommunications service providers to determine what further action, if any, is necessary to ensure compliance with the TPA. I also note that there is no 'grace period' for compliance with the new provisions – they have been in effect since 25 May 2009. If you have any questions, please contact Ed Seymour on (03) 9290 1886.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Cosgrave', written over a faint, illegible typed name.

Michael Cosgrave
Group General Manager
Communications Group