



Launch of Misleading and Deceptive Job Advertising Guide Melbourne

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Graeme Samuel, Chairman

(acknowledgments)

There are few more vulnerable people in our society than the unemployed.

When people have been out of work for any length of time, it can cause huge financial strains and badly affect their self esteem. They can become so desperate to get back into work, they will accept just about any job.

Con artists and scam merchants who prey on people in this situation can cause great financial and emotional hardship with misleading or deceptive ads for jobs or fake business opportunities.

They raise false hopes, and take money off those who can least afford it. A classic example of this was the premium telephone line we shut down in 2001.

Callers to the service were promised employment and discounts on removal and accommodation costs.

What they actually got was a charge of \$2.48 per minute for information that was inaccurate, dated or totally false.

One North Queensland pensioner had his phone disconnected because he was unable to pay a bill for \$200 in calls racked up by his teenage daughter to the premium phone line before the ACCC shut the service down.

The phone line was advertised in rural and regional newspapers throughout Queensland and northern New South Wales.

Action by the ACCC secured \$60,000 in refunds for 3,000 consumers, mostly unemployed rural youth, and it's worthy pointing out that the majority of the refunds we obtained were paid for by APN newspapers.

This highlights the role publishers have in relation to advertisements they run in their publications and their potential responsibility, especially when they receive a percentage of the profits from a 1900 service.

So the lessons are clear:

- Misleading job and business opportunity advertisements cause job seekers a great deal of hardship and difficulty.
- Publishers who don't take due care when accepting ads for misleading and deceptive jobs themselves run the risk of ending up in court and/or being out of pocket.

In fact, misleading job and business opportunity advertisements can constitute a civil or criminal offence under the Trade Practices Act and state and territory fair trading legislation with fines of up to \$1.1 million for the most serious breaches. In some circumstances, publishers of misleading advertisements might themselves be at risk of contravening the Act. In particular, publishers need to take special care not to publish advertisements making extravagant claims, which – on their face – are unlikely to be true.

Now, the ACCC accepts that no reputable publisher will ever want to deliberately mislead its readers. It's also the philosophy of the ACCC that we would much rather work with organisations to stop this sort of damaging behaviour ever occurring than take action after the event to punish those responsible.

That is why we are delighted to be here today to launch the *Misleading Job and Business Opportunity Ads – How to Handle Them* manual.

This is a publication primarily designed for the classified advertising staff of newspapers and internet job resource sites. The manual describes the requirements of the Trade Practices Act relating to employment advertisements, and how advertising staff can assist in preventing misleading job advertisements from reaching consumers.

Those taking the classifieds advertisements are in the most effective position to modify or reject advertisements which may mislead or deceive jobseekers. Not only because publishing misleading advertisements risks breaking the law, but because publication of such ads can be very damaging to your reputation.

The ACCC acknowledges that it is often difficult to locate those responsible for parties placing misleading advertisements, particularly when fraudulent business opportunities are involved. So the most effective strategy is a co-operative effort to reduce the number of job scams advertised in the first place.

This involves training staff and having systems in place to correctly vet job advertisements and to clearly identify advertisers - in particular, those advertisers with a record of placing bogus job ads.

It's also important that advertisements be correctly categorised.

Many job and business opportunity advertisements are potentially misleading simply because they appear under inappropriate headings. A classic example is advertisements for training appearing under 'Positions Vacant'.

In short 'Situations Vacant' or 'Positions Vacant' should be reserved for positions involving work as a full-time, part-time or casual employee which involve a regular paid wage and conditions such as holiday pay and sick leave.

Positions which don't involve an employer/employee relationship should be advertised under such headings as:

- Self Employment
- Business Opportunities
- Independent Contractors
- Independent Agents/Sub-agents

Where a position is for something other than wages or salary but can only be advertised under 'Positions Vacant', the basic terms should be clearly stated in the advertisement. As an example, an advertisement should read 'Taxi Driver, bailee contract' or 'Computer programmer, 3-month contract'.

For jobs that are commission-only work, the exact terms of remuneration should be specified in the ad, for example 'commission only' or 'rate per 1000'. Commission-only advertisements which do not state the nature of remuneration are at risk of contravening the Act.

The ACCC acknowledges and warmly welcomes the support and co-operation of Job Watch and the Australian Publishers Bureau in producing this manual.

Publishers are the first line of defence against misleading or deceptive advertisements and we trust these guidelines will help publishers and their staff to properly vet advertisements and therefore to protect their readers and their reputations.