businesscompanion
trading standards law explained

Business-to-business marketing

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

This guidance is for England, Scotland and Wales

The Business Protection from Misleading Marketing Regulations 2008 (BPRs) prohibit misleading business-to-business advertising and impose further restrictions on how businesses compare their products to rival products from other companies.

If you are selling to businesses, the Regulations prohibit you from giving misleading information to the other business that would deceive that business and affect, or be likely to affect, its economic behaviour. You are also prohibited from giving misleading information that injures, or is likely to injure, a competitor.

The BPRs have a consumer equivalent: Part 4, Chapter 1 of the Digital Markets, Competition and Consumers Act 2024 (DMCCA); see 'Protection from unfair trading (criminal law)' for more information.

It is useful to look at both pieces of legislation as they are similar and there are elements in each that overlap. All references to the 'Regulations' below are to the BPRs.

What do the Regulations cover?

These Regulations deal mainly with the potential misleading of traders, although there are rules on comparative advertising that can be targeted both at traders and consumers.

Part 1 of the Regulations prohibits misleading advertising and lays down strict guidelines for comparative advertising. It also ensures that misleading advertising is not promoted by any code owner (a body responsible for a code of conduct).

Parts 2 deals with the criminal offences and defences, and Part 3 with the enforcement duty.

What is prohibited?

Regulation 3 of the BPRs prohibits advertising that is misleading to traders. There are four main issues to take into account when deciding whether advertising is misleading:

- product characteristics (13 in total, including availability, composition and specification)
- price or manner in which the price is calculated
- conditions on which the product is supplied or provided
- nature, attributes and rights of the advertiser (five in total, including identity and assets)

Comparative advertising

Regulation 4 states that comparative advertising is permitted only when all of the following conditions of the advertisement are met:

- it is not misleading under the BPRs or the DMCCA
- it compares products that meet the same needs or are intended for the same purpose
- it objectively compares one or more material, relevant, verifiable and representative feature(s) of those products (may include price)
- it does not create confusion among traders, either between the advertiser and competitor, or between trade marks (or similar) of products of the advertiser and those of a competitor
- it does not discredit, denigrate or take unfair advantage of a competitor's trade mark (or similar)
- for products with designation of origin, it relates in each case to products with the same designation
- it does not take unfair advantage of the reputation of a trade mark (or similar) of a competitor or of the designation of origin of competing products
- it does not present products as imitations or replicas of products bearing a protected trade mark or trade name

Regulation 5 states that a code owner is not permitted to promote (in a code of conduct) advertising that is misleading under the BPRs or comparative advertising that does not meet the listed conditions.

The DMCCA prohibits 'misleading actions' and 'misleading omissions' that are likely to cause the average consumer to take a 'transactional decision' they would not have taken otherwise (this means any decision taken by the consumer concerning the purchasing or supply of the product; the retention, disposal or withdrawal of the product; or whether to exercise a contractual right in relation to the product, including decisions not to act). This does not only relate to pre-shopping but includes after-sales and continues for the lifetime of the product.

Comparative advertising would be considered to be a misleading action (section 226 of the DMCCA) if it involves any of the following:

- providing false or misleading information relating to a product, a trader or other matters relevant to a transactional decision
- having an overall presentation that is likely to deceive the average consumer about the product, a trader or any other relevant matter
- the marketing of the product creating confusion (or being likely to create confusion) with other

products, trade marks, trade names or distinguishing marks of another trader
- the trader failing to comply with a requirement in a relevant code of conduct

In each case, the consumer must be likely to take a transactional decision they would not have taken otherwise.

Comparative advertising would be considered to be a misleading omission (section 227 of the DMCCA) if it involves any of the following:

- material information is omitted, hidden, untimely or unclear
- information required to be provided under other legislation is omitted
- if the practice fails to identify its commercial intent

In each case, the consumer must be likely to take a transactional decision they would not have taken otherwise.

Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see 'Trading Standards: powers, enforcement and penalties'.

In this update

Changes made to reflect the coming into force of the Digital Markets, Competition and Consumers Act 2024 (Part 4, Chapter 1: 'Protection from unfair trading').

Last reviewed / updated: April 2025

Key legislation

- Business Protection from Misleading Marketing Regulations 2008
- Digital Markets, Competition and Consumers Act 2024 (Part 4, Chapter 1)

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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