

CONSUMER ADVERTISING GUIDE NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS

The Department of Consumer Affairs set advertising guidelines in 1989 for businesses requiring DCA licenses. The New York City Consumer Protection Law prohibits DECEPTIVE TRADE PRACTICES, meaning any claim or action having the potential to deceive consumers.

The City's Sales and Discounts Rule zeros in on specific price-related claims. "Bait-and-switch" ads (see below) are also restricted by Section 396 of New York State's General Business Law. The Department of Consumer Affairs enforces these laws.

The following guidelines will help you recognize a phony ad claim when you see one.

- Watch out for FOOTNOTES AND ASTERISKS ("*"). The "fine print" in an advertisement sometimes changes an offer made in the large print. That's deceptive.
- All of an ad's PRINT SIZE should be readable—no smaller than 10-point type. (This is a sample of 10-point type.)
- If an ad uses CONTRASTING COLORS, they must not make the ad harder to read. For example, words in one color shade should not be printed against a background of the same color but a different shade.
- PHOTOS AND ILLUSTRATIONS should match the products being advertised.
- Be sure the MANUFACTURER'S NAME (not "famous brand") and the MODEL NUMBER of the item are visible in the ad.
- Any PRICE QUOTED in an ad must match the actual purchase price.
- Beware of ads using phrases like "as low as," "starting at," or "... and up" next to the listed price. Any phrase that refers to a RANGE OF PRICES, without being specific about *which* item costs *how much*, makes the ad deceptive.
- COMPETITIVE DISCOUNT claims like "lowest prices," "guaranteed lowest price," or "prices lower than everyone else" are nearly impossible to prove.
- When a vendor offers to bring his price down to undersell a competitive price ("We will not be undersold"), the vendor should produce evidence that his price is lower and should have a clear and conspicuous disclosure of the business's PRICE-MATCHING policy.
- In cases of competitive discount and price-matching claims, stores sometimes limit their discount to prices set by "AUTHORIZED DEALERS" of a product. Be careful.
- Check to see if the specific amount of SHIPPING AND HANDLING CHARGES are disclosed.
- When a discount is offered in A RANGE OF PERCENTAGE TERMS ("Save from 10% to 40%"), the ad should be clear about the standard price that the vendor is discounting.

- When an ad claims that an item is available at A PRICE LOWER THAN THE MANUFACTURER'S SUGGESTED RETAIL PRICE, can the retailer prove that the suggested price is the one offered by vendors in the area? If not, this may be no bargain.
- An ad may say "sale," "discount," "price cut," "clearance," and so on, without actually offering a substantial savings from the earlier price. If you can't tell the real savings from the ad, find out from the business's management.
- Any business advertising a "LIQUIDATION SALE" or use other terms that suggest a court-ordered liquidation of stock, if legitimate, will have a DCA license for such a sale.
- Ads that refer to RETAILER'S COST – "at cost," "below cost," "inventory price," "wholesale," "factory billing," and so on – sometimes cover up the fact that the prices still include real profits to the retailer.
- A sale price must have a set time limit, after which it should be considered the bona-fide price. An ON-GOING CLAIM that items are on sale is deceptive.
- Any advertised FREE OFFER THAT CARRIES CONDITIONS ("free with \$20 purchase") should disclose the condition terms next to the word "free," in type size at least half as big as the size used for the word "free." Sometimes ads making free offers connect the offer to the purchase of another item that is listed at an increased price or lower quality or quantity than usual.
- Be wary of free offers of items thrown in when bidding on the purchase price of another item.
- If a free offer connected to the sale of another item goes on and on, it becomes a PACKAGE DEAL, not a freebie.
- If an ad mentions a STORE WARRANTY OR GUARANTEE other than the manufacturer's, it should clearly say that the consumer would see the warranty before the purchase is made.
- Another deceptive ad practice: vague language and statements that are contradictory to other statements in the same ad.
- When a business advertises that an item is for sale at a particular price, the consumer expects to find the item for sale as advertised. But sometimes the ad is just "bait" and the vendor will "switch" items or terms of sale when a purchase is attempted. For example, a sales person at the business may:
 - refuse to show, display, offer or sell an advertised item on the terms of the ad
 - tell you the advertised item is a bad buy
 - refuse to take orders for an advertised item at the advertised price
 - after receiving orders for an advertised item, refuse to submit the orders to the supplier

- after accepting a deposit for an advertised item, selling the consumer a higher-priced item in its place without offering the consumer a complete refund, with the consumer accepting the refund

The business management may also:

- fail to deliver the advertised item at the advertised price and within a promised delivery period
 - try to stop sales staff from selling the advertised item at the advertised price through bribes or pressure
 - advertise an item that the vendor knows will not be available at the promised price
 - fail to disclose the limited number of items available short of anticipated demand
- When an advertisement refers to the amount or percentage of any down payment, number of monthly payments, amount of the monthly payment, or the amount of any finance charge, **THE AD MUST DISCLOSE ALL OF THESE AMOUNTS.** (This is required by Regulation Z of the Federal Reserve Board, which enforces the Federal Truth in Lending Act.) Other deceptive credit-sales ad practices are:
 - advertising credit terms that are not really available
 - advertising “no credit, no problem” or “everybody financed” unless the actual terms and conditions for financing are conspicuously disclosed
 - promising financing to “qualified buyers” without disclosing terms of qualification
 - promising an Annual Percentage finance rate without disclosing any limitations, conditions, or qualifications that affect the consumer’s ability to take advantage of the offer

The New York City Department of Consumer Affairs
42 Broadway
New York, NY
10004-1617

212.487.4444

www.nyc.gov/consumers

These guidelines only cover a portion of possible automotive advertising issues. If you have a specific question about automotive advertising in New York City, please contact the Association at (518) 463-1148 and speak with Ed Richardson (ext.210).