

Unfair trading and you

Misleading behaviour

Misleading or deceptive behaviour is when a shop owner or trader presents an incorrect view about the price, value or quality of goods or services to you. A shop owner can break the law even if they didn't mean to mislead or deceive.

Shop owners can sometimes mislead or deceive, through:

- advertisements
- promotions
- quotes
- statements
- any representation made by a person.

What they didn't tell you matters

In some cases, a shop owner can break the law if they don't give you all the information about an item or service.

For example: You live in a regional area and are buying a mobile phone. The salesperson knows where you live but doesn't tell you that the coverage is poor and the phone may be of no use.

The fine print

Shop owners can't use disclaimers or fine print to excuse misleading or deceiving you – ie. the fine print cannot say the opposite of what is said in the main part of the advertisement. However, you shouldn't ignore disclaimers clearly displayed in store. These disclaimers may be enough to protect the shop owner if they don't undermine the offer being made.

For example: A shop advertised '25 per cent off all clothing' but the fine print excluded some items of clothing. It is misleading to suggest all clothing is 25 per cent off.

Predictions and opinions

Promises, opinions or predictions made by a shop owner can be considered misleading or deceptive if they:

- knew it was untrue or incorrect
- didn't take the time to check whether it was true or not
- had no reasonable grounds for making it.

For example, a real estate agent promises you that your view of the ocean from the unit you are thinking of buying will be unrestricted while knowing that a development next door will block the view.

If a salesperson claims something that is not true

A false or misleading representation is where a shop owner will claim, in person or in advertising, that a good or service is something it is not.

For example: A car yard sells a car saying it has just had the engine reconditioned. You buy it and when you take it in for a service you find out that the car does not have a reconditioned engine.

A shop owner must not make false or misleading representations about goods or services concerning:

- the price or value, standard, age, where the goods were made, quality or grade
- the style, model, previous use or what the goods are made from
- praise from people buying or using them
- the availability of spare parts
- the sponsorship, approval, performance characteristics, accessories or benefits of use
- your need for them
- any guarantee, warranty or condition on them.

If a salesperson tricks, cheats or pressures you

This behaviour is called unconscionable conduct. Deciding on whether certain behaviour is unconscionable depends on the situation, but it can be generally described as serious misconduct that goes against good conscience. In some circumstances, statements or actions where a salesperson tricks, cheats or pressures you into buying something may amount to unconscionable behaviour.

Examples of unconscionable behaviour could involve a shop owner:

- not explaining a contract properly to a consumer that they know doesn't have high literacy skills, can't speak English or has a learning disability
- using a friend or relative to influence your decision
- persuading or convincing you to sign a blank or unfavourable contract
- taking advantage of you by making false statements about the real cost of a loan
- failing to disclose key contractual terms
- using high pressure tactics, such as refusing to take no for an answer.

Harassment

It is illegal for a shop owner or salesperson to use physical force, coerce or unduly harass you about the supply of, or payment for, goods or services.

Undue harassment means needless or unnecessary contact or communication with you that makes you feel intimidated, tired or demoralised.

Coercion involves force that restricts your choice or freedom to act.

If things go wrong for you

If you think a salesperson is not dealing fairly with you, you should contact Consumer Protection on the numbers below. We have Indigenous officers who can help you make a formal complaint.

Contact

Contact us if you want to find out more about a specific situation or make a complaint.

Call: **1300 30 40 54**

National Relay Service: **13 36 77** for the hearing impaired

Email: askus@dmirs.wa.gov.au

Write to: Locked Bag 100 EAST PERTH WA 6892

 [AskUsCP](#)

 [@indigcp](#)

There is a template of letters and official complaint forms on our website www.commerce.wa.gov.au/consumer-protection