

# **FALSE ADVERTISING**

How to Spot It  
and What You Can Do About It

The New York City  
Department of Consumer Affairs

*Don't take  
ad claims  
at face  
value*

All advertisements make claims about product value. If the word "SALE" is used, it's normal to assume that the price a merchant offers is less than the standard price you would pay for that product.

Some ads make claims that don't add up after you ask a few questions. Some claims are outright fraud.

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

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 all these laws. If you come across an ad that you think is in violation of these laws, send a copy of the questionable ad, along with a cover letter, to:

Department of Consumer Affairs  
Consumer Complaints  
42 Broadway, 9<sup>th</sup> floor  
New York NY 10004

The case will be docketed and forwarded to DCA's Legal Division for follow-up action.

You can protect yourself against phony ad claims. Keep an eye out for these commonly used "tricks of the ad trade."

*Watching  
the fine  
print*

- Watch out for FOOTNOTES AND ASTERISKS (“\*”). The “fine print” in an advertisement sometimes changes an offer made in the large print. That’s deceptive.
- PHOTOS AND ILLUSTRATIONS should match the products being advertised.
- 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 the offered price is lower. There should be a clear and conspicuously posted disclosure of the business’s PRICE-MATCHING policy.
- 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 should not be printed against a background of the same color but a different shade.

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- Be sure the MANUFACTURER'S NAME (not "famous brand") and the MODEL NUMBER of the item are visible in the ad.
- 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.
- In cases of competitive discount and price-matching claims, stores sometimes limit their discount to prices set by "AUTHORIZED DEALERS" of a product. Be prepared to compare that price to other stores' standard price.
- 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, ask the retailer to prove that other vendors in the area offer the same suggested price. 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.

*Now you  
see it — or  
do you?*

- 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.
- Another deceptive ad practice: vague language and statements that are contradictory to other statements in the same ad. (“Guarantee — all sales final”)

*Sales*

- Any business advertising a “LIQUIDATION SALE” or using other terms that suggest a court-ordered liquidation of stock, if legitimate, should have a DCA license for such a sale.
- A sale price must have a set time limit, after which it should be considered the bona-fide price. An ONGOING CLAIM that items are on sale is deceptive.

*Free?*

- 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.

***Bait and switch***

Sometimes an ad claim is just "bait" and the vendor will "switch" items or terms of sale when a purchase is attempted. For example:

- The salesperson refuses to show, display, offer or sell an advertised item on the terms of the ad.
- The salesperson tells you the advertised item is a bad buy.
- The salesperson refuses to take orders for an advertised item at the advertised price.
- The salesperson refuses to submit the orders for an advertised item to the supplier.
- After accepting a deposit for an advertised item, the salesperson offers the consumer a higher priced item in its place without offering the consumer a complete refund.

Other ways business management may try to "switch" a bad deal for a good offer:

- Failure to deliver the advertised item at the advertised price and within a promised delivery period.
- Bribing or pressuring sales staff to stop selling the advertised item at the advertised price.
- Advertising an item that the vendor knows will not be available at the promised price.
- Failure to disclose the limited number of items available short of anticipated demand.

## ***Credit and financing***

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.
- Telling you the advertised item is a bad buy.
- Refusing to take orders for an advertised item at the advertised price.
- After receiving orders for an advertised item, refusing 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.

***Protect  
yourself***

Avoiding ad traps by spotting them before they catch you is always your best protection. No honest business should object to your finding out facts to test just how good the purchase will be. When necessary, the City can help you keep merchants' actual deeds in line with their advertised claims.

***Michael R.  
Bloomberg  
Mayor***



***Jonathan  
Mintz  
Commissioner***

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

For information, call **311**.

**[www.nyc.gov/consumers](http://www.nyc.gov/consumers)**

*If you have a consumer-related complaint, call DCA at 311 or (212) NEW-YORK.*

*New York City employees are not allowed to ask for or accept anything of value, such as money, gifts or tips for doing their job. To report corruption, contact the NYC Department of Investigation at [www.nyc.gov/doi](http://www.nyc.gov/doi).*