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## advertising

This checklist summarises the key issues that your business should consider when planning an advertising campaign.



### Misleading advertising

Any advertising your business produces must be legal, decent, honest and truthful.

Your advertising must not contain any statements or omissions likely to mislead consumers. For example:

- making a misleading claim about what a product does, to persuade a consumer to buy it;
- claiming that your business is a signatory to a code of conduct when it is not; or
- making a misleading claim about the price of a product.

### Comparative advertising

Comparative advertising identifies a competitor or its goods or services. It can only be used in limited circumstances. Your business must check that all comparisons you make are clear and fair and that you are comparing like with like.

Comparisons should objectively compare features of the products (which may include price). Any points of comparison must be based on facts that can be substantiated.

Your business must not denigrate or discredit competitors or their products.

### Vulnerable consumers

Advertising must not abuse the trust of consumers, exploit their lack of experience or knowledge, or exploit their misfortune or suffering. For example, your advertising should take into account the requirements of vulnerable consumers such as the elderly, very young or disabled.

### Discrimination

Make sure your advertising is not discriminatory (for example, on the grounds of gender, religion, age, disability, race, nationality or sexual orientation).

#### More information

If you have any queries about the content of this checklist, please contact Amanda Doyle on [amanda@doylelaw.co.uk](mailto:amanda@doylelaw.co.uk).

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## Social responsibility

Ensure that your advertising is socially responsible. For example, advertisements must not:

- portray activities in an irresponsible or unsafe way; or
- condone any unlawful, unsafe or anti-social behaviour (such as promoting alcohol to anyone under 18).

## Substantiating and qualifying claims in your advertising

Ensure that any claims in your advertising are suitably qualified or can be objectively substantiated. You have to make sure you have documentary evidence to substantiate any claims you make in the advertising, before publishing the advert. Qualifying claims (that is, claims that qualify a headline by stating the restrictions on a particular offer) should not contradict anything stated elsewhere in the advertising.

## Advertorials and testimonials

If your advertising includes an advertorial, it must be marked clearly as an advertisement. An advertorial is an advertisement in the form of an editorial. If you are using testimonials, ensure they are genuine, verifiable and relevant. A testimonial on its own is not evidence that a product is worth having or will do what you say it will do.

Be careful about portraying or referring to individuals and ensure you have their prior written consent before including them in your advertising.

Avoid artificially selecting elements of testimonials or reviews.

## Intellectual property issues

Avoid unjustifiable use of the name, initials, logo, goodwill or trade mark of other organisations (for example, using a competitor's trade mark).

Make sure your advertising does not mimic another organisation's advertising.

## What can happen if a business gets its advertising wrong?

- Bad publicity, loss of publicity and brand damage.
- Censure from regulatory bodies (for example, the Advertising Standards Authority).
- Referral to the Office of Fair Trading, possible court action and criminal prosecution.
- Legal action by competitors or consumers.
- Inability to acquire advertising space.
- Costly recall of advertising material and reprinting of advertising.
- Wasted media space.
- Product recalls.

## Consider taking advice

The Advertising Standards Authority (ASA) runs a Copy Advice service <http://www.copyadvice.org.uk/> which could help you avoid breaking the rules. However, be aware that the ASA is not bound by its Copy Advice guidance.

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