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## consumer protection

This checklist sets out how your business can comply with its obligations under consumer protection legislation



### What does consumer protection legislation prohibit?

Consumer protection legislation provides a general prohibition on unfair commercial practices. Your business must not:

- Mislead consumers through acts or omissions. For example: a business falsely tells a consumer their boiler cannot be repaired and they will need a new one, this constitutes a misleading action; or a business sells a satellite television package to a consumer, without indicating that sports channels are only available at an additional subscription cost, this constitutes a misleading omission.
- Subject consumers to aggressive commercial practices. For example, bringing a consumer to a holiday club presentation with no means of getting home unless they sign a contract.

Consumer protection legislation contains a list of 31 commercial practices that are always unfair. These include:

- Displaying a quality mark without authorisation.
- Falsely claiming to be a signatory to a code of conduct.
- Falsely claiming a product is able to cure illnesses.

### Who can take action for a breach of the legislation?

The OFT and the Trading Standards Services can take enforcement action against your business if you breach consumer protection legislation. Consumers and competitors cannot take any direct action against your business if you breach consumer protection legislation.

#### 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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## What are the offences under the legislation?

Your business will commit an offence if it engages in a commercial practice that:

- Breaches the general prohibition on unfair commercial practices.
- Is a misleading action.
- Is a misleading omission.
- Is an aggressive commercial practice.
- Is one of the 31 listed unfair commercial practices.

## What are the penalties for an offence under the legislation?

A fine or up to two years imprisonment or both.

## Using third-party blogs or advertorials to promote your goods and services

If your business produces any promotional activity (whether online or offline), you must clearly identify when promotions and editorial comment were paid for, so consumers are not misled. Your business should:

- Avoid writing blogs that appear to be written by a consumer. This type of blog is considered unfair under consumer protection legislation and enforcement action could be brought against your business.
- Be very careful when using advertorials to promote your goods and services. An advertorial is an advertising feature that looks like an article. Advertising codes of practice require advertorials to be clearly labelled as such and recognisably different from other editorial material. They also state that any testimonials included in the advertorial must be genuine.

## Online consumer reviews

If your business provides space for consumer reviews on your website, you must ensure that you do not make any claims that the reviews on the website are from genuine consumers, otherwise your business could breach the Committee of Advertising Practice code.

### More information

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