



PROMOTIONS YOU CAN'T TRUST

It's that time of year when we're swamped by adverts promising sales, discounts and low prices. But how far can we trust these claims, and when do the authorities step in? **Olivia Howes** investigates

Head the one about the never-ending promotion that will outlast the apocalypse? It may be a long-running joke – and an even longer-running sale – but there are rules and guidelines retailers must follow when it comes to pricing and advertising. Ultimately, they can't use tactics that mislead the 'average consumer'.

The Advertising Standards Authority (ASA) steps in when firms don't play by the rules. It investigates complaints

about adverts, made by members of the public or other companies, and does its own proactive work. Once, its scope was limited to billboards, print, TV, radio and paid online ads. Now, it polices a vast landscape of claims made in social media posts, email newsletters and targeted ads, and on websites. Last year, 88% of the ads it ruled should be amended or pulled were online.

Enforcing order in this virtual Wild West is a hard task. The ASA can demand an offending ad is pulled and/

or amended (it can't issue fines, but can impose limited sanctions). Persistent offenders are referred to other bodies, such as the Financial Conduct Authority (FCA), the Competition and Markets Authority (CMA) or Trading Standards, which can issue sanctions including banning brands from promoting, fines and prosecution. The bad press caused by an ASA-upheld ruling is enough to put most firms off breaking the rules. But some still do.

We gathered data from the ASA's published rulings from the beginning of 2017 to the beginning of September 2018, to look into the misdemeanours regularly picked up. We found 170 formally investigated pricing-based complaints, 147 of which were upheld.

Using insight from academics, the ASA and the Institute of Promotional Marketing (IPM), we've categorised the most common pricing tactics: hurry deals; reference pricing; 'free' extras; unavailable promotions and unclear or hidden delivery charges. ➤

Hurry deals

Using a time-limited promotion or sale is a common tactic. But if the details of the time-sensitivity are confusing, the ASA may uphold a complaint.

Wren Kitchens broadcast a radio ad on 20 February 2017 with a voiceover that included: 'Half price, plus an extra 25% off – and there's 10% off sinks and taps. Hurry, offer ends tonight, 10pm.' The offer ending that night was only the 10% off sinks and taps. The ASA said this was not sufficiently clear; people would assume the half price plus 25% off elements of the sale ended at 10pm, too. It upheld the complaint, and the advert was branded misleading.

A vague timeline can also mislead. The ASA upheld a complaint about an Oak Furniture Land TV advert on 9 February 2018 that didn't include an end date for its winter sale. This meant that people may have been led to believe that 'they had to act more quickly than needed to participate in the sale'.

Studies of consumer behaviour show that we fear the pain of loss about twice as much as we enjoy gain. Deals which we believe are ending soon or where there are 'only three left' push us to buy.

Paul Cope, managing director of IPM (the trade body for the promotions industry), says retailers must not create a sense of urgency in their marketing to push consumers into making a choice. He also says that offers should only run for the same amount of time or less than the product was sold at a higher price.

Reference pricing

Use of unsubstantiated higher or out-of-date retail prices is a common way



retailers find themselves in breach of the ASA's codes of practice. If you spot a 'Was £x, now £y' or 'Worth £x', do some research into whether that original price is really based on recent prices.

Currys PC World found itself in trouble when it advertised two LG OLED TVs with 'was' and 'now' prices offering significant savings. Small print gave the time period and date the TVs were at a higher price (in these cases, 35 and 72 days). But the prices were from several months before and the ASA ruled that the savings claims did not represent genuine savings against the usual price of the products.

Groupon was challenged over an ad for men's shoes after it was found

that its £140 'was' price wasn't what they were usually sold for by the retailer. It claimed it had used an out-of-date RRP, which was then fixed.

For a reference pricing claim to be viewed as fair by the ASA, the price must be the usual selling price of the product, and must be a genuine RRP. The product must have been sold at that price for a reasonable time period, and the price should generally be the most recent selling price.

The bigger a price reduction is, the more persuasive it's likely to be. But when the ASA carried out research into people's understanding of reference pricing, it found that even those who considered themselves

LONG-RUNNING PROMOTIONS AND COMPLEX COMBINATION DISCOUNTS

Some retailers offer combination discounts, some of which may be time-limited and others long-running, or based on multi-buys, so you should interrogate offers closely. Wickes and Wren Kitchens' recent promotional strategies follow this model.

We analysed data from kitchen-compare.com, a third-party price-comparison site commercially interested in

the home-improvement sector. Throughout 2017, Wren varied its 50%-off promotion (5+ units) with, at various times: an extra 25% off; VAT free (equivalent to a further 20% off); 20% off; 60% off (in total) and VAT free with an extra 10% off fully built kitchen units. Some form of half price/ 50% off or more promotion was running on every day of 2017. It has continued this in 2018.

Wickes began 2017 offering various combinations of 50% off kitchen units, 50% off plus 15% off all showroom products, 50% off plus 15% off sale prices. From August 2017 and throughout the first half of 2018, the company changed its promotional strategy. However, from 14 August 2018, it has started offering 50% off kitchen units when you buy five or more.

well informed weren't scrutinising information adequately.

Free extras

Offering a bundle that includes a free item is a popular way to draw in customers. But retailers must ensure the offer represents a real saving and the terms are clearly explained.

In January 2018, Argos advertised a Canon camera for £179.99 with a 'free' SD card and case. But the same camera was for sale alone for £159.99. Argos blamed the price difference on the single camera going into clearance lines dealt with by a different team, but acknowledged this could have been confusing for customers. The ASA concluded it was misleading to describe the extra items as free and upheld the complaint.

Online retailing has made it easier to compare product prices across stores. To avoid direct price comparisons, retailers are increasingly bundling products together to form unique combinations and prices.

We like getting something 'free', as it gives a perception of better value. Research has shown that people respond more favourably to free extras than to a discount on the original item.

Unavailable promotions

Another trick, according to the ASA's upheld complaints, is advertising a product on a promotion that customers can't access. Sometimes, an out-of-stock discounted product will reappear once the price has gone back up.

Argos, Currys PC World, John Lewis and Millet Sports have all been

reprimanded for unavailable promotions. All claimed that this was due to unprecedented demand and stock shortage.

The IPM's Cope says: 'We advise retailers not to advertise products at a promotional price unless they believe that they will be available in reasonable quantities at that price for a reasonable period.'

Unclear delivery costs

When online retailer Selectspecs ran a TV ad stating that its £6 prescription glasses were 'up to 20 times cheaper than a lot of high street specs', it didn't include its £5.95 delivery charge. This almost doubled the price. It argued that customers could pick up their glasses in-store for free, but its only store is in Westgate-on-Sea, Kent. The ASA ruled that the claim it was 'up to 20 times cheaper' was likely to mislead.

Other retailers brought to task for unclear delivery charges include Amazon, Oak Furniture Land and SCS. The ASA says retailers should provide all extra charges in or with the price. If those prices vary depending on factors such as location, a phrase like 'delivery charges apply and vary according to destination' should be used.

Dr Jeffery Bray, consumer behaviour expert at the Bournemouth University, says retailers get away with adding extra charges to the purchase with little risk of losing the sale, as the time spent researching products and reaching a decision makes shoppers feel psychologically committed to the purchase once they're paying for their online basket.



WHERE DO WE STAND ON MISLEADING PRICING?

We have longstanding concerns about misleading price promotions. As a result of a super-complaint we made about supermarket offers, the Chartered Trading Standards Institute's Pricing Practices Guide was revised. While it's good to see the ASA taking action, misleading pricing practices are still too widespread.

We want to see a more responsible approach from companies, and a stronger threat that enforcement action will be taken when consumer law is flouted. Rather than taking retrospective action, these misleading promotions shouldn't be available in the first place.

PHOTOGRAPHY: ALAMY

WHAT CAN YOU DO?

Doing your own research is key during sales periods. At some retailers, a 'sale ending tomorrow' may well be followed by another similar or matching sale happening the day after that. If you see 'was' and 'now' prices, check the original price with other retailers, or use online price trackers. Make sure bundles that offer items for 'free' are really saving you money. And ensure you check delivery charges before you get too far down the purchasing path.



THE BOTTOM LINE

While it pays for you to do your research, retailers should also be toeing the line. If you come across an ad that you think is misleading, visit the ASA's website at asa.org.uk/make-a-complaint.html and fill in its online complaint form, or call 020 7492 2222. The ASA's remit covers ads in print, leaflets, direct mail and email, and on posters, billboards, radio, TV, the internet and cinema.

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On Which.co.uk

- Best and worst high street shops: which.co.uk/bestshops18
- Supermarket special offers: which.co.uk/supermarket-offers

Recent articles in Which?

- 'Why loyalty doesn't pay', January 2018, p16-23
- 'Are the touts taking over?', August 2017, p20-23