

*Protecting Wisconsin Consumers for 75 Years*

## Deceptive advertising

Advertising has a great influence on our purchasing decisions. We are exposed to countless commercial messages every day persuading us to buy brand name products, creating images for us to adopt, and convincing us that we need and want more.

Because of this, it is important for us to carefully examine ads to determine exactly what they are saying. Ads should clearly and conspicuously disclose all the information about an offer that is likely to affect a consumer's purchasing decision. While advertisements can honestly inform and educate us, some are false or deceptive – and illegal.

Advertising aimed at Wisconsin consumers is subject to the state's deceptive advertising law. The law forbids statements that are "untrue, deceptive or misleading," and applies to written ads in newspapers, magazines, and promotional brochures, radio and TV commercials as well as online representations. The law also covers oral misrepresentations, including verbal misstatements about a product or service.

The following are advertising practices to be aware of:

### Oral or written misrepresentations

There is no guarantee that performance will always match ad promises. For example:

**A promotional ad for one-coat house paint may state that one gallon will cover 600 square feet. When you use the product, the paint covers only 450 square feet and you need two coats.**

This ad is one example of an advertising misrepresentation. Wisconsin law is intentionally broad to cover the limitless possibilities for any untrue, misleading, or deceptive statement used to sell merchandise.

### Pictorial misrepresentations

Read ads carefully to find out what is really being offered.

For example:

**An ad shows a living room set on sale for \$599. Although six pieces of furniture are shown, in reality only a four-piece set is on sale, and the style shown is different. A tiny disclosure in the corner of the ad explains this.**

Compare the ad copy to the picture and read **everything**. When shopping, take ads with you in case you have questions about the advertised price, brand, or quality.

Display items often show attachments or accessories that are not included in the sale price. Ask exactly what is included before you buy.

### Unavailable sale items

A store should stock enough sale items to meet the reasonably anticipated demand. If a store has less items in stock, its advertising should indicate that only a limited number of advertised items are available.

If you go to a store on the second morning of a four-day sale only to find that the product you want is already sold out (and the sale ad does not say there are limited quantities), ask for a rain check which will allow you to get the product at the sale price at a later date.

Retail food stores must abide by Federal Trade Commission (FTC) rules when they fail to have adequate supplies available in the store. Other merchants are not covered by FTC rules, but many do provide rain checks to

customers that will allow you to get the product at the sale price at a later date.

## “On Sale” advertising

If you see an ad stating that merchandise is 50 percent off, do not assume that it is necessarily a bargain. Stores may raise their prices merely to make sale prices seem more appealing.

If you are in the market to buy an item, first check out the prices and reputations of several stores in your area. Do not take for granted that a “sale” price is the cheapest.

## Guarantees/warranties

A warranty or guarantee is only as good as the firm that stands behind it. Blanket statements are meaningless; there are usually conditions or limitations to any guarantee or warranty. If a company goes out of business or a door-to-door seller is here today and gone tomorrow, their guarantees are worthless. Deal only with reputable firms and try to get all guarantees or warranties in writing.

## “Free” offers

Be wary of “free” offers. An ad must inform you if something else must be purchased in order to get the free item, as well as how much it will cost you. Some businesses raise their regular prices to cover the cost of free offers. The ad should clearly and conspicuously disclose the terms of any “free” offers.

Many “free” offers are negative option plans which basically state “We will keep sending you our product until you tell us to stop.”

With a negative option plan, it is the responsibility of the consumer, not the seller, to cancel a contract or order.

## Bait and switch

In this illegal advertising practice, a store makes an attractive offer for a product it has no intention of selling. For example: You see an ad stating “19-inch HDTV for only \$150!” Once you get to the store, after swallowing the **bait**, the seller informs you that the TV’s are sold out or are of very poor quality and then tries to **switch** you to a higher-priced product.

## Irregulars or seconds

If a merchant offers an item that is an **irregular** or **second**, it should be disclosed in the advertisement and on the product itself. Inspect low and sale-priced merchandise carefully before you buy.

## Protect yourself

Wisconsin law gives you the right, through private legal action, to recover financial losses, as well as costs and attorney fees, for violations of the deceptive advertising law.

Even with the law behind you, the ultimate responsibility to fight dishonest advertising is yours. Do not be swayed by eye-catching statements such as “**fantastic savings**,” “**prices slashed**,” or “**lowest prices in town**.”

There are many gray areas where advertising may exaggerate a product’s quality without actually violating the law. In these cases, the only protection is to be a careful consumer.

## Complaint

Your complaints are important in establishing patterns of deceptive advertising. The state can bring court action to stop substantial or systematic violations and obtain restitution for injured consumers.

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection.

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