

# ***EU Consumers' Rights***

***How EU consumers' rights benefit Hampshire citizens***

What can you do about illegal advertising practices in Hampshire?



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# What you can do about illegal advertising practices in Hampshire

## Introduction

Hampshire is a great county. It has fantastic scenery, a good standard of living, large commercial centres like Basingstoke, Portsmouth, Southampton and Winchester, the beauties of the coast and the New Forest, and is also well served in terms of small and large businesses.

However, despite all these advantages, too many consumers have problems in the region from traders or businesses that treat them unfairly, or mislead them or treat them aggressively.

The aim of this presentation is to highlight to Hampshire consumers the advertising practices which are illegal, and what they can do about them. Specifically, we will be looking at

- » Deceptive advertising
- » Inertia selling
- » Misleading order forms
- » A trader giving a misleading impression of consumer rights
- » Bait advertising
- » Bait and switch
- » Advertising products which can't legally be sold
- » Advertising prizes which are not rewarded
- » Telling kids to nag parents to buy something

These practices and not just unfair or annoying, they are actually a criminal offence, so local people now have the power to fight against these shoddy advertising practices as the law is on their side!

## Background

The Unfair Commercial Practices Directive is an EU law that gives you the power to challenge businesses that try to rip you off.

It was enacted into UK Law by the Consumer Protection from Unfair Trading Regulations 2008 (CPRs).

Under the UK Regulations, it is a criminal offence to break a list of 31 specifically banned practices (known as the blacklist) or to treat consumers in a misleading, unfair or aggressive manner. The advertising practices mentioned in this leaflet are part of the blacklist of behaviours that no business should do.

The maximum penalty for infringing any of these is a £5000 fine and/or two years in prison. In the case of a company, the directors, managers, company secretary or similar officer of the company are personally liable, and can be charged with a criminal offence, as well as the company itself if the company breaks these rules. This is an extremely powerful sanction, putting consumers in a very strong position to defend themselves against traders who try to rip them off, as the law is very much on their side!

## Deceptive advertising

This is a common problem in Hampshire, and other parts of the UK. Deceptive advertising includes making false or misleading statements like “End of lease sale! All stock must go!” when in fact the lease is not at an end.

Other statements might be the false use of time-limited statements to push consumers into making a rush purchase by explicitly stating, or implying, that the products and prices on offer will only be available for a specific limited sale period, when in fact the offers will continue beyond that time. An example of this might be:

*“Amazing 3 Day Half-Price Sale*



Photo: Michaelpuche | Shutterstock.com

*Our unbeatable offers are only available for 3 Days  
Buy NOW!"*

Where immediately following the “3 Day” sale, further extended sale advertising continues at the same level (or lower) pricing.

## Bait advertising

Advertising products at a price without showing any reasonable grounds the trader may have for not be able to provide those products or equivalent products at that price. In other words, advertising products, often eye-catching popular brands, that the trader knows he is unable to supply, or unable to supply at the price advertised.

## Bait and switch advertising

This is similar to Bait Advertising, and involves advertising products at a specified price and then:

- a) refusing to show the advertised item to consumers, or
- (b) refusing to take orders for it or deliver it within a reasonable time, or
- (c) demonstrating a defective sample of it

all with the intention of promoting a different product

## Inertia selling

This is where an unscrupulous trader sends an unsolicited product with a demand for payment to a consumer when in fact they haven't ordered anything. Sometimes no product is supplied, simply an invoice.

If goods are sent unsolicited, the consumer is under no obligation to pay, or even to return the goods - it is up to the sender to arrange collection at their own expense, and this type of activity is now a criminal offence.

## Misleading order forms

This is similar to inertia selling. It involves the trader including in marketing material an invoice, and a demand for payment. This gives

**BUY  
NOW  
LIMITED TIME ONLY**

the consumer the impression that they've ordered the product when in fact they haven't. Again this is just a scam, and a criminal offence.

## Misleading impression of consumer rights

This is where the business tries to pass off statutory rights that you have under EU or UK law, which apply to everyone, as something that is being offered purely by the trader to the consumer.

For example some extended warranties and "care packages" could be breaches of this:

*"At RIPOFF we know that having your electrical goods break down during the first two years can be a nuisance, so we've created an insurance policy to cover you in this situation."*

Under EU law, any electrical product which fails within 2 years should automatically be replaced or refunded. Therefore, you shouldn't need to take out insurance to get it replaced, as the trader should be doing this anyway.

## Advertising products which can't legally be sold

Some products cannot be sold in Europe by law. It is a criminal offence if a person gives the impression that goods can legally be sold when in fact they can't.

For example:

*"Buy piranhas straight from the Amazon River online!"*

It is illegal to buy piranhas direct from the Amazon River in Europe, so the trader is guilty of an offence.

## Advertising prizes which are not rewarded

Advertising which creates the false impression that the consumer has

already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when either:

- (a) there is no prize or other equivalent benefit, or
- (b) taking any action in relation to claiming the prize or other equivalent benefit which involves the consumer paying money or incurring a cost.

## Using “Pester Power” - Telling kids to nag their parents to buy something!

Businesses which advertise directly to kids, and encourage them to nag their parents to buy the product (usually toys or sweets) are breaking the law. It is allowed for advertisers to promote products, but they are specifically prohibited from encouraging children to pester their parents to buy something, e.g “Tell your Mums and Dads about..”

These businesses are trying to get kids to use pester power so they can increase their sales, but this is illegal under the EU Directive and CPRs



## **Where you can get help to deal with illegal advertising practices by businesses in Hampshire**

### **Trading Standards**

Your first stop if you feel that you have been the victim of any of these practices is to contact the local Trading Standards Office as they are under a duty to act.

Hampshire Trading Standards can be contacted at:

Montgomery House  
Monarch Way  
Winchester  
SO22 5PW.

Tel: 01962 833620

Email: [tsadvice@hants.gov.uk](mailto:tsadvice@hants.gov.uk)

### **Advertising Standards Authority**

In the case of poor advertising practice you can also to make a complaint to the Advertising Standards Authority (ASA). Details of how to make a complaint can be found on their website:

<https://www.asa.org.uk/Consumers/How-to-complain.aspx>

### **Citizens Advice**

Consumers in Hampshire can get further advice by contacting the Citizens Advice consumer service which provides free, confidential and impartial advice on consumer issues.

Their web address is: [www.adviceguide.org.uk](http://www.adviceguide.org.uk).

You can contact the Citizens Advice consumer helpline on:

Tel 03454 04 05 06.



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