

## NOTE

Misleading advertising under The Business Protection from Misleading Marketing Regulations 2008  
Regulation 3, Part I, Definitions and Prohibitions

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### **Prohibition of advertising which misleads traders**

- 1) Advertising which is misleading is prohibited.
- 2) Advertising is misleading which -
  - a) in any way, including its presentation, deceives or is likely to deceive the traders to whom it is addressed or whom it reaches; and by reason of its deceptive nature, is likely to affect their economic behaviour; or
  - b) for those reasons, injures or is likely to injure a competitor.
- 3) In determining whether advertising is misleading, account shall be taken of all its features, and in particular of any information it contains concerning -
  - a) the characteristics of the product (as defined in paragraph (4));
  - b) the price or manner in which the price is calculated;
  - c) the conditions on which the product is supplied or provided; and
  - d) the nature, attributes and rights of the advertiser (as defined in paragraph (5)).
- 4) In paragraph (3)(a) the "characteristics of the product" include -
  - a) availability of the product;
  - b) nature of the product;
  - c) execution of the product;
  - d) composition of the product;
  - e) method and date of manufacture of the product;
  - f) method and date of provision of the product;
  - g) fitness for purpose of the product;
  - h) uses of the product;
  - i) quantity of the product;
  - j) specification of the product;
  - k) geographical or commercial origin of the product;
  - l) results to be expected from use of the product; or
  - m) results and material features of tests or checks carried out on the product.
- 5) In paragraph (3)(d) the "nature, attributes and rights" of the advertiser include the advertiser's -
  - a) identity;
  - b) assets;
  - c) qualifications;
  - d) ownership of industrial, commercial or intellectual property rights; or
  - e) awards and distinctions.

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