

Legal summary for writing scripts

Feb 2020



MOTOR VEHICLE ADVERTISING

Here is info relating to motor vehicles. Please note that this is not legal advice.

Summary

Advertisements for cars (like advertisements for other products) are regulated by the Australian Consumer Law (ACL). The ACL is designed to protect consumers not only by requiring truth in advertising, but also that advertising not mislead or deceive (or be likely to do so). When car dealers advertise cars as well as offering 'finance' to fund customers' purchases, their advertisements may be subject to the requirements of the National Credit Code.

Background

The ACL is consumer protection legislation and prohibits businesses (e.g. car dealers) from engaging in commercial conduct that is misleading or deceptive or that is likely to mislead or deceive consumers.

The Australian Consumer Law

The ACL applies generally to all advertisements and therefore all advertisers are subject to the same requirements.

For car advertisements, a particular area of vulnerability under the ACL is the way in which car prices are advertised. This is because the price of a car to the consumer (how much the person ultimately pays) may be made up of a number of components such as taxes and other charges (e.g. "dealer delivery" charges).

When these additional charges are compulsory, the Australian Competition and Consumer Commission (ACCC) considers them to be part of the purchase price of a car and, as such, they must be specified or brought to the attention of potential customers. Since 2010, it has been law that the total cost of the car, adding together all the component cost elements, must be included in the advertisement.

Dealer Finance

Finance offered by car dealers to ordinary customers is a type of “consumer credit” or loan. As such, car dealers may be subject to the requirements of the National Credit Code in relation to such advertisements. Please see the section called “Loans” for more information.

Licensed Motor Car Trader Licence Numbers

Remember to check whether you need to include the licensed motor car trader (LMCT) number in your advertisement.

Victoria, South Australia (second hand cars only), Tasmania, Western Australia and New South Wales require that the LCMT be included in any advertisement.

The requirement for NSW is relatively new. In 2014, NSW amended its regulations and broadcasters in NSW are now required to include the LMCT when broadcasting advertisements for motor dealers.

In October 2014 the ACT Legislative Assembly passed the Red Tape Reduction Legislation Amendment Act 2014, which removed the advertising requirements previously contained in the Sale of Motor Vehicles Act 1977. This means that the ACT no longer requires advertisements by motor vehicle dealers to (1) state that the dealer is licensed and (2) include the dealer’s business address.

Legislation

QLD - Property Agents and Motor Dealers Act 2000 and Property Agents and Motor Dealers Regulations 2001

SA - Second Hand Vehicle Dealers Regulations 2010 (section 20) and Second Hand Dealers and Pawnbrokers Act 1995

VIC - Motor Car Traders Act 1986 and Motor Car Traders Regulations 2018

WA - Motor Vehicle Dealers Act 1973 (section 21) and Motor Vehicle Dealers (Sales) Regulations 1974

ACT - Sale of Motor Vehicles Act 1977 (section 79) (updated in 2014)

NSW - Motor Dealers and Repairers Regulation 2014 (Reg 7) and Motor Dealers Act 1974

TAS - Motor Vehicles Traders Act 2011 (section 39)

NT - Motor Vehicles Act and Consumer Affairs and Fair Trading (Motor Vehicle Dealers) Regulations.

AANA Motor Vehicle Code

The Australian Association of National Advertisers also publishes a voluntary Code of Practice including a specific provision that deals with Motor Vehicle Advertising, which requires that advertising or marketing for motor vehicles will comply with the Federal Chamber of Automotive Industries (FCAI) concerning the advertising of motor vehicles. The primary purpose of the Code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety.

A copy of the AANA Motor Code is accessible on the AANA website www.aana.com.au.