

You May be at Risk if your Website Makes Any Misleading Claims

Under the law, all advertisements must be accurate and not misleading. The Advertising Codes require that all claims on your website must be substantiated before being published or aired.

The Business Protection from Misleading Marketing Regulations and the Consumer Protection from Unfair Trading Regulations 2008 are relevant to all advertising, including advertising online (“Misleading Regulations”). The Misleading Regulations require companies to carry out due diligence on aspects of their businesses as part of their risk management measures.

The Misleading Regulations also place a prohibition on misleading advertising. Therefore, any advertising that misleads traders is prohibited. Advertising is misleading if it deceives or is likely to deceive businesses, potentially affecting their economic behaviour. See <http://www.rtcoopers.com/misleading.php> and <http://www.rtcoopers.com/consumer.php>.

Advertising can be defined as any form of representation by a business to promote the supply or transfer of goods or services, including immoveable property, rights and obligations.

Companies may mislead consumers:-

- by providing false or deceptive information on their websites;
- by failing to give them important information; or
- by giving information in an unclear way.

Misleading advertising is banned under the Misleading Regulations and it is a criminal offence if your advertising is misleading. The Trading Standards Institute may apply to the courts for an injunction to stop any breach of the Misleading Regulations. It is recommended that you and your employees take all reasonable steps and carry out **due diligence** to ensure that any advertising that you place on your website is not in any way misleading. See <http://www.rtcoopers.com/userfiles/file/misleadingregulations2008.pdf>

All companies are advised to obtain legal clearance on their advertising and website content by complying with these Regulations. See <http://www.rtcoopers.com/userfiles/file/LegalDueDiligence2008v1.pdf>.

Therefore, unless your company can substantiate its claims on its website, the website ought to be reviewed to avoid breaking the law.

Please note that any persistent breaches of the Advertising Codes or Misleading Regulations found by the Advertising Standards Agency (ASA) will result in the ASA reporting a company to the Trading Standards Institute, which can use its enforcement powers under the Misleading Regulations to impose sanctions.

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Tags

RT Coopers lawyers advise on misleading advertising, advertising of pharmaceutical products and advertising on your websites