

Article Information

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ACCC targets deceptive advertising and market practices in the digital economy

The ACCC has shown in recent proceedings that it has brought that deceptive advertising and market practices in the digital economy remain an enforcement priority for the regulator.

We outline recent proceedings, highlighting:

1. The importance of ensuring the accuracy of statements that may influence consumers' purchasing decisions;
2. That particular care must be taken in the way in which prices are displayed on websites; and
3. Advertisers must be able to substantiate factual claims

Airbnb

- *On 8 June 2022 the ACCC instituted proceedings in the Federal Court against Airbnb for allegedly misleading Australians about accommodation prices. The ACCC alleges that between January 2018 and August 2021 Airbnb made false or misleading representations to consumers by displaying prices on its website and mobile app for Australian accommodation using only a dollar sign (\$), without making it clear that those prices were in fact in US dollars. Between this period, the average AUD to USD exchange rate was about 70 cents. At this rate, an Australian consumer who thought they were paying \$500 for their accommodation booking would have actually paid \$700 AUD.*
- *While in some cases Airbnb referred to the price as "USD" in small font on the last page of the booking process, this only appeared after the platform had already displayed numerous dollar amounts on earlier pages without any reference to USD and after the consumer had clicked to reserve their accommodation.*
- *Further, when many consumers complained to Airbnb about being charged more than the displayed price, the ACCC alleges that Airbnb engaged in misleading and deceptive conduct by telling them that it had displayed prices in US dollars, because the user had selected this currency, when this was not the case.*

Samsung

- *On 23 June 2022 Samsung Electronics Australia Pty Ltd was fined \$14 million by the Federal Court for misleading consumers about the ability of various Samsung Galaxy smartphones to be submerged in pool or seawater. Between March 2016 and October 2018 Samsung Australia conducted an ad campaign across Facebook, Twitter, Instagram, its website and in store representing that its Galaxy phones were suitable to be used in pool and seawater. It was found that in actual fact that if the Galaxy phones were submerged in pool or seawater there was a real prospect that the charging cord would become corroded and stop working if the phones were charged while still wet.*

Tiger Mist

- *Finally, online clothing retailer Tiger Mist recently paid penalties of \$26,640 after the ACCC issued it with infringement notices for allegedly misleading consumers about their right to return faulty items.*
- *Tiger Mist made statements on its website that consumers could only return a faulty item by contacting Tiger Mist within 30 days of receiving their order and that the product must be returned in its original packaging. The ACCC was concerned that Tiger Mist's representations may have mislead consumers into thinking that they were not entitled to return a faulty product when that was not the case.*
- *Under the Australian Consumer Law (ACL) a consumer's right to a remedy for a faulty item is not limited to a specific time period and they do not need to return the faulty item in its original packaging to obtain a refund.*

These decisions are an important reminder about the importance of truth in advertising and ensuring that consumers are not misled in the digital economy.