

HARVEY NORMAN FAILS IN FINE PRINT

We've all seen the print ads with large, attention-grabbing headlines offering sensational deals.

Then when you look closer—that is, if you think to look closer—you find in small text a disclaimer near the bottom of the ad that outlines the actual, generally less-attractive conditions of the offer.

Fine-print qualifiers, as they are known, are clever, yet can often be deceitful advertising tricks designed to lure consumers into an impulsive purchase. They are a trap for the unwary.

The inappropriate use of fine-print qualifiers is endemic in some sectors and the ACCC has worked hard to try to stamp it out.

One recent high-profile matter involved one of Australia's biggest retailers, Harvey Norman.

Last year the Federal Court ordered by consent that the retail giant pay \$1.25 million for misleading advertising in a case the court described as 'seriously misleading and deceptive on a significant and far-reaching scale'.

There were two elements to the case.

The first involved catalogues that were distributed across Australia—over a period of three years—and which gave the impression that the products and prices in the catalogues were available at Harvey Norman stores generally.

However, there was a condition in fine print in all the catalogues that the offers were made by only one store in each state and territory.

The company's website took it one step further by stating the offers appearing on it were made by just one store in Australia.

In each case the conditions were not prominent and contradicted the impression given by the catalogues and the website.

In the second issue, Harvey Norman promoted the sale of 3D televisions in its 3D Finals Fever catalogue.

'Harvey Norman knew the facts; they should have got it right'.

The catalogue created the misleading impression that consumers in all places where the catalogue was distributed could use the TVs to watch the 2010 AFL and National Rugby League grand finals in 3D format.

In fact the 3D broadcast was limited to just six metropolitan areas around the country, but the catalogue was distributed in places where there was no 3D broadcast.

To make matters worse, Harvey Norman continued to distribute the catalogue around Australia even after it became aware that the broadcast would be limited.

The court said Harvey Norman's conduct 'painted a picture of an expensive, misleading and calculated campaign of sizeable proportions, characterised

by blatant and deliberate disregard of the truth, cynical strategies to capitalise on contemporary sporting events, and the contemptuous manipulation of the expectations of ordinary consumers in respect of so-called fine-print'.

ACCC Chairman Rod Sims said retailers had a responsibility to ensure they gave accurate information to consumers.

'Harvey Norman knew the facts; they should have got it right,' he said.

'A headline representation cannot be contradicted by fine-print conditions or by requiring consumers to navigate through terms and conditions to discover the truth.'

As well as the financial penalty, the company had to publish corrective notices in regional and metropolitan newspapers and on its website.

