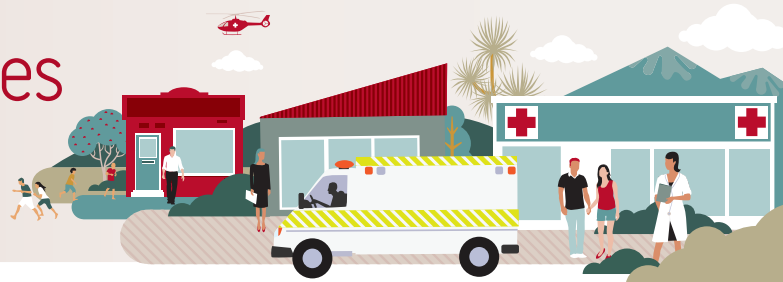


Health series

# Promoting your services



This fact sheet is designed to help health professionals understand what they need to know about the Fair Trading Act when they are promoting their services.

When health professionals promote their services clearly and accurately, patients have the opportunity to compare their prices, experience and services. This helps patients make informed choices and lets health professionals compete fairly.

Under the Fair Trading Act it is illegal to mislead consumers, give false information, or use unfair trading practices. The Act covers all aspects of the promotion and sale of goods and services. It includes anything said about a product or service, either verbally or in writing. It also includes an impression given by pictures, advertisements, promotional material or a sales pitch, or by something which is not said – that is, by important information being left out.

If you are promoting your services, whether through advertising, in conversation with a patient or a referring practitioner, or by some other means, you should ensure any claims you make are accurate and can be substantiated. Consider whether you have provided all the relevant information a patient needs to make an informed decision. You should also try to avoid using medical jargon the average person would struggle to understand.

🔗 We have a range of fact sheets and other resources on the Fair Trading Act at [www.comcom.govt.nz/fair-trading](http://www.comcom.govt.nz/fair-trading)



The Fair Trading Act prohibits false and misleading consumer information. It covers all aspects of the promotion and sale of goods and services.

## Can I use comparative advertising to promote my services?

Promoting services by comparing them to competing services is a common and accepted method of advertising. But as with any advertising, it must not mislead or deceive consumers or it will breach the Fair Trading Act.

Because of the specialised nature of health care, it is often very difficult for the average person to judge the quality of services. If you are going to use comparative advertising, you need to ensure you are comparing your services with 'like' services available in the same market and that you can readily justify the features you are comparing. For example, features such as fees, hours of service, experience/training/certification, services offered and specialist equipment on hand are all points of comparison that can be readily justified and can help patients make informed choices.

## What if my professional association has rules about advertising?

Many professional associations in the health sector have rules about advertising by their members. Typically, the rules are in place to protect patients and ensure members comply with the Fair Trading Act and other relevant legislation. But sometimes the rules go further, for example, by restricting members from using advertising that compares their services or prices with other members.

Restrictions to advertising shouldn't go beyond preventing false or misleading representations. Further restrictions can limit consumers' access to information that benefits competition and choice. Patients should be given adequate information and opportunity to choose freely between competing practitioners.



## What are my obligations when discussing fees with patients?

Under the Fair Trading Act, any representations a business makes about price must be clear and accurate.

When you are discussing fees with your patients, you must provide accurate details of the fees that apply and any additional costs they are likely to incur. In cases where the treatment is elective, the costs are an important factor in making a decision about whether to proceed with a treatment. Wherever possible, you should provide a patient with information on costs before a treatment starts, although this may not be practical or appropriate in an emergency.

In some situations, where other health professionals are involved or because of possible complications, you may not be able to accurately predict the cost of treatment. If this is the case, you should provide an estimate or a price range and explain the limitations of the estimate.

## What are my obligations when referring patients or recommending a particular product?

Under the Fair Trading Act, it is illegal to make misleading representations about the need for a service or product. This means that if you refer patients to another provider, or recommend they use a certain product, you shouldn't mislead them about the need to use that particular provider or product. What you don't say is as important as what you say, or the impression you give them. Your obligation is to ensure that your patient is in a position to make a fully informed decision.

### Want to know more?

🔗 Our health series fact sheets cover a range of topics of particular interest to health professionals: [www.comcom.govt.nz/health](http://www.comcom.govt.nz/health)

🔗 We also have fact sheets for all businesses about their obligations under the Commerce, Fair Trading and Credit Contracts and Consumer Finance Acts: [www.comcom.govt.nz](http://www.comcom.govt.nz)

This fact sheet provides guidance only. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes.

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