



Ohio Administrative Code

Rule 109:4-3-02 Exclusions and limitations in advertisements.

Effective: April 3, 2020

(A)

(1) It is a deceptive act or practice in connection with a consumer transaction for a supplier, in the sale or offering for sale of goods or services, to make any offer in written or printed advertising or promotional literature without stating clearly and conspicuously in close proximity to the words stating the offer any material exclusions, reservations, limitations, modifications, or conditions. Disclosure shall be easily legible to anyone reading the advertising or promotional literature and shall be sufficiently specific so as to leave no reasonable probability that the terms of the offer might be misunderstood.

(2) The following are examples of the types of material exclusions, reservations, limitations, modifications, or conditions of offers which must be clearly stated:

(a) An advertisement for any motor vehicle must disclose the amount of any additional charge for any of the features displayed in the advertisement.

(b) An advertisement for an article of clothing must state that there is an additional charge for sizes above or below a certain size if such is the case.

(c) An advertisement which offers floor covering with an additional charge for room sizes above or below a certain size must disclose the nature and amount of any additional charge.

(d)

(i) An advertisement for a service or item of goods sold from more than one outlet under the direct control of the supplier causing the advertisement to be made must state:

(a) Which outlets within the area served by the publication in which the advertisement appears either



have or do not have certain features mentioned in the advertisement;

(b) Which outlets within the area served by the publication in which the advertisement appears charge rates higher than the rate mentioned in the advertisement. For example: "Car Rental - seven dollars a day at the Main Street office - all other locations are more."

(ii) An advertisement for a service or item of goods sold from outlets not under the direct control of the supplier causing the advertisement to be made does not violate paragraph (A)(2)(d)(i)(a) or (A)(2)(d)(i)(b) of this rule if it states that the service or item of goods is available only at participating independent dealers.

(e) If the advertised price is available only during certain hours of the day or certain days of the week, that fact must be stated along with the hours and days the price is available.

(f) If the advertisement involves or pictures more than one item of goods (for example: a table and chairs) and the advertised price applies only if the complete set is purchased, that fact must be stated.

(g) If there is a minimum amount (or maximum amount) that must be purchased for the advertised price to apply, that fact must be stated.

(h) If an advertisement specifies a price for an item of goods which includes a trade-in, that fact must be stated. For example: "four tires for fifty dollars plus four tires off your car."

(i) If there is an additional charge for delivery or mail orders, that fact must be disclosed.

(j) If an advertisement offers a rebate that requires repeat purchases by a consumer, that information must be disclosed, including, but not limited to, the required number of purchases, the amount of each of the purchases, the time frame over which the purchases need to be made, and any other actions required by the consumer to redeem the rebate.

(3) These examples are intended to be illustrative only and do not limit the scope of any section of the Revised Code or of this or any other rule or regulation.



(B) Offers made through any audio or audiovisual medium including advertisements via radio, television, or an online or digital medium, must be preceded or immediately followed by a conspicuously clear oral or written statement of any material exclusions, reservations, limitations, modifications, or conditions. Oral disclosures in audio or audiovisual advertisements must be spoken with sufficient deliberateness, clarity, and volume so as to afford a consumer a reasonable opportunity to hear and understand them. Written disclosures in audiovisual advertisements should appear in a form and for a duration sufficient to afford a consumer a reasonable opportunity to read and understand them.

(C) A statement of exclusions, reservations, limitations, modifications, or conditions which appears in a footnote to an advertisement to which reference is made in the advertisement by an asterisk or other symbol placed next to the offer being limited is not in close proximity to the words stating the offer.

(D) It is a deceptive act or practice in connection with an offer made through any online or digital medium, to make any offer without stating clearly and conspicuously, in close proximity to the words stating the offer, any material exclusions, reservations, limitations, modifications, or conditions. Disclosures should be as near to, and if possible on the same screen, as the triggering offer. If scrolling or a hyperlink is necessary to view the disclosure, the advertisement should guide consumers with obvious terms or instructions to scroll down or click on the hyperlink. Hyperlinked disclosures should lead directly to the disclosed information and not require scrolling or clicking on any additional hyperlinks.