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# Making Exaggerated Claim & Misleading Advertisement: Am I Wrong?

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## What is an advertisement?

All forms of advertising, including but not limited to billboards, billboards, posters, flyers, brochures, catalogues, price lists, circulars, labels, cards, and other papers or materials, as well as through radio or television, or any other means, including electronic methods. (Section 2 of Trade Description Act 2011)

In Malaysia, the advertising sector is mostly self-regulated and governed by many laws, regulations, standards, and guidelines. The Malaysian Code of Advertising Practice, which governs printed and paid-for-space advertisements, is administered by the Advertising Standards Authority. Among laws applicable are:

### Trade Description Act 2011

Prohibits all forms of conduct and activities related to the supply of goods and services that may be construed as false or misleading, including assertions made in any form of advertising, electronic or otherwise.

### Punishment

Penalty ranges from a fine of up to RM250,000 and a sentence of up to three years in prison for natural persons and up to three years in prison for corporations.

### Consumer Protection Act 1999

Business-to-consumer transactions are governed under the Consumer Protection Act 1999. It outlaws bait advertising, as well as deceptive or fraudulent statements and behaviour.

### Punishment

On conviction, the offender faces a fine of not more than five hundred thousand ringgits for a body corporate, and a fine of not more than two hundred and fifty thousand ringgit or imprisonment for a term not exceeding six years or both for a person who is not a body corporate.

### Communications and Multimedia Act 1998

Forbids the distribution of indecent, obscene, false, menacing, or offensive content with the objective to annoy, abuse or harassment of any person. This statutory requirement applies to a provider of content applications services or to any other person who makes use of a content applications service.

### Rujukan

- [1] *Communications and Multimedia Act 1998*
- [2] *Consumer Protection Act 1999*
- [3] *Trade Description Act 2011*

### Punishment

A person who violates provisions of this Act commits an offence and is subject to a fine of not more than fifty thousand ringgit or imprisonment for not more than one year, or both, on conviction, as well as a fine of one thousand ringgits for each day or part of a day the offence is continued after conviction.

### Examples of false advertising

- ✓ Making bait advertising
- ✓ Misrepresentation of the quality and standards of goods
- ✓ The term “free” is being misused.
- ✓ promising prizes with no intention of really delivering them
- ✓ offering prizes while charging more than the market price for the products.
- ✓ Making deceptive product’s illustration.

### Legal advice: How to avoid misleading advertisement & False claim in business

- ✓ Do not omit vital information.
- ✓ Don’t make wild claims about the goods in your advertising.
- ✓ learn about the rules and regulations that govern it.
- ✓ Avoid making misrepresentation on the price, value and quality of the goods or product.
- ✓ Avoid making statements pertaining to goods or product that are unclear or conflicting.
- ✓ Do not create irrational forecasts
- ✓ Do not utilize disclaimers to justify a deceptive statement.