

INFORMATION SHEET

Producing TVCs which promote Motor Vehicles

Points to consider when producing a television advertisement promoting motor vehicles:

- Advertisements promoting new and used motor vehicles for sale must comply with legislation relating to the sale and advertising of these classes of motor vehicles. For example, it is a requirement in Victoria, Western Australia, the Northern Territory and the ACT that a motor dealer must specify their dealer licence number on any advertisement relating to or in connection with the business of the dealer. Information on this is available from State Motor Traders' Associations and individual State and Territory Motor Dealer Regulations and Acts.
- It is not mandatory for advertisements promoting new and used motor vehicles to include pricing information. However, if pricing information is included it must be accurate and the advertisement must disclose certain minimum information. From 25 May 2009, the *Trade Practices Act* requires any price advertising to include advertisement of the total 'single price'.

Price representations - Dealer advertisements

- Dealer advertisements for both new and used motor vehicles (including demonstrators) that include reference to price must specify the 'single price' which is quantifiable at the time of the advertisement, as well and at least as prominently as the dollar amounts of any components of the 'single price', such as applicable 'mandatory charges'.
- The 'single price' is the total dollar amount the consumer must pay to take ownership of the motor vehicle, calculated by adding up each of the price components that are quantifiable, at the time of the advertisement, including all 'mandatory charges'.
- 'Mandatory charges' are those charges that must be paid in order to purchase the advertised vehicle. They will include things like the vehicle purchase price, stamp duty, compulsory third party insurance (CTP), registration and dealer delivery charges if those charges are collected by the dealer. The GST payable by the customer is also a mandatory charge.
- A charge is quantifiable if, at the time of the advertisement, it can readily be converted into a dollar amount. Some mandatory charges may not be quantifiable because they are contingent on a customer's choices.
- Where the 'single price' is a mixture of quantifiable and non-quantifiable charges, the charges that are quantifiable should be represented as a single figure and the advertisement must indicate that not all components are included in the single figure price. The advertisement must also indicate the basis on which the 'single price' has been calculated and/or that some components may change.

- The fact that a charge may actually be payable to a third party and not to the person advertising does not matter, if the practice of the dealer is to collect those charges. For example, stamp duty must be included in the 'single price' for the sale of a new or used motor vehicle if the dealer arranges payment of the stamp duty on the consumer's behalf and then collects the stamp duty from the consumer as part of the sale. However, stamp duty does not need to be included in the 'single price' for the sale of a new or used motor vehicle if the dealer does not collect the stamp duty and the consumer pays the stamp duty directly to the relevant authority.
- The 'single price' does not include charges that are payable only at the option of the customer (ie 'optional extras' are not 'mandatory charges') or charges that are payable for sending the goods to the customer.

Note - 'dealer delivery' charges (as presently used in the motor vehicle industry) are not a charge payable for sending the goods to the customer and must be included in the 'single price'.

- The 'single price' must be displayed at least as prominently as the most prominent price component (including the vehicle purchase price). This means that a consumer should be able to identify the 'single price' (ie. total cost) as easily as the component or part of that total. Advertisers should consider factors such as the size, placement, colour and font of the prices in the advertisement, as well as the background of the advertisement.
- A 'drive away no more to pay' price can be used provided that the statement is accurate (ie there are no additional fees or charges which need to be paid by the customer to purchase the motor vehicle and 'drive away'). For example, a dealer might advertise a 'drive away no more to pay' price of \$29,990. That price must include all the different fees and charges that a customer has to pay to drive away (eg cost of motor vehicle, stamp duty, CTP, registration and dealer delivery).

Note – where a dealer wishes to highlight some component of price but also wants to use 'drive away no more to pay' wording, the total price should be called the 'drive away no more to pay total price' and should be displayed as prominently as the component.

- Consider the following examples:

Example 1 – A dealer advertisement promoting a new motor vehicle for sale at \$20,000. Assume mandatory charges are \$250 CTP, \$500 registration, \$1,000 for dealer delivery and \$500 for stamp duty.

The advertisement must specify the 'single price' at least as prominently as any component of the total price, as follows:

“\$20,000 plus \$250 CTP, \$500 registration, \$1,000 dealer delivery and \$500 stamp duty, for a total price of \$22,500”; or

“\$20,000 plus \$2,250 CTP, registration, dealer delivery and stamp duty, for a total price of \$22,250”; or

“\$22,250 includes CTP, registration, dealer delivery and stamp duty”; or

"\$22,250 drive away".

Notes – this and the following examples must also include the GST payable by the customer. If the car includes less than 12 months registration the advertisement should include a disclaimer indicating the registration period offered with the vehicle.

Example 2 – A dealer advertisement promoting a used motor vehicle for sale at \$15,000. Assume mandatory charges are \$475 for stamp duty and transfer fees. Assume also that the dealer does not collect stamp duty and transfer fees on used motor vehicle sales (ie. consumers pay those charges directly to relevant authorities).

The advertisement must specify the 'single price' at least as prominently as any component of the total price, as follows:

"\$15,000"; or

"\$15,000 excluding stamp duty and transfer fee"; or

"\$15,000 excludes \$475 stamp duty and transfer fee".

Note – If the car includes less than 12 months registration the advertisement should include a disclaimer indicating the registration period offered with the vehicle.

Example 3 – A dealer with multiple outlets in New South Wales and Victoria promoting a motor vehicle for sale at \$20,000. Assume mandatory charges are \$4,000 CTP, registration, stamp duty and dealer delivery in New South Wales and \$4,500 stamp duty and dealer delivery in Victoria.

The advertisement must specify the 'single price' payable by the customer in each State or the minimum 'single price' payable by the customer across any State (provided it is made clear to the customer where that price is available and that prices in other areas may be higher), at least as prominently as any component of the total price, as follows:

"\$20,000 plus CTP, registration, stamp duty and dealer delivery – NSW \$4,000, VIC \$4,500 – for a total price of \$24,000 in New South Wales or \$24,500 in Victoria"; or

"\$24,000 in New South Wales or \$24,500 in Victoria includes CTP, registration, stamp duty and dealer delivery";

"\$24,000 drive away in New South Wales or \$24,500 drive away in Victoria"; or

"\$20,000 plus minimum CTP, registration, stamp duty and dealer delivery of \$4,000, for a minimum total price of \$24,000*" (*CTP, registration, stamp duty and dealer delivery quoted is that for NSW – may be higher for Victoria); or

"\$24,000 includes minimum CTP, registration, stamp duty and dealer delivery*" (*CTP, registration, stamp duty and dealer delivery quoted is that for NSW - may be higher for Victoria).

Note – to avoid stating total prices for each area, or having to note that the total price may be higher in another area, dealers may choose to target advertising to particular geographical areas with the same mandatory charges.

Note – the examples above assume uniform on-road costs across each State but if that is not the case, the dealer must make sure that it is clear in what geographical area (eg Sydney) the minimum total price stated is available.

Example 4 – As per Example 1, but a \$2,000 cashback offer is made on the sale of the motor vehicle. The cashback offer is available after buying the vehicle.

The advertisement must specify the 'single price' at least as prominently as any component of the total price, and the rebate or cashback offer must be identified as a separate payment that will be after buying the vehicle, as follows:

“\$20,000 plus \$250 CTP, \$500 registration, \$1,000 dealer delivery and \$500 stamp duty, for a total price of \$22,500. \$2000 cashback available after purchase”; or

“\$20,000 plus \$2,250 CTP, registration, dealer delivery and stamp duty, for a total price of \$22,250. \$2000 cashback available after purchase”; or

“\$22,250 includes CTP, registration, dealer delivery and stamp duty. \$2000 cashback available after purchase”; or

“\$22,250 drive away. \$2,000 cashback available after purchase”.

Note – clearly state, sufficiently prominently, any limitations or conditions that apply to the cashback offer.

Note – advertisements that are adapted from manufacturer advertisements to include specific dealer tags should include the pricing information described above. This does not apply to manufacturer advertisements that include only a generic statement such as “See your local dealer” with or without a list of the dealers available.

Price representations - Manufacturer advertisements

- Even though manufacturer advertisements may refer only to the recommended retail price of a motor vehicle and not to an actual purchase price, the recommended retail price must specify the recommended 'single price' which is quantifiable at the time of the advertisement, including all 'mandatory charges' (as above in the case of dealer advertisements). It should be clear that the price is a 'recommended retail price'.
- As is the case for dealer advertisements, manufacturer advertisements are not required to specify charges that are payable only at the option of the customer.

Example 5 – A manufacturer advertisement in New South Wales promoting a motor vehicle and indicating a recommended retail price of \$30,000. The manufacturer knows that other mandatory charges will be \$1000 in CTP, \$500 in registration and \$1,000 in stamp duty in New South Wales. Dealer delivery charges will vary by dealer across New

South Wales and the maximum charge is \$2,500. It is clear from the advertisement that the price is a recommended retail price only and not a price at which the vehicle is actually available for purchase from any dealer.

The advertisement must at the very least specify the recommended retail price as the minimum 'single price' payable by the customer, at least as prominently as any component of the recommended retail price, and note additional delivery charges which are not quantifiable, as follows:

"Recommended retail price of \$30,000 plus \$1,000 CTP, \$500 registration and \$1,000 stamp duty, plus dealer delivery*, for a total minimum recommended retail price of \$32,500 plus dealer delivery* (*dealer delivery charges will vary by dealer)"; or

"Recommended retail price of \$30,000 plus \$2,500 CTP, registration and stamp duty, plus dealer delivery*, for a total minimum recommended retail price of \$32,500 plus dealer delivery* (*dealer delivery charges will vary by dealer)"; or

"Total minimum recommended retail price of \$32,500 includes CTP, registration and stamp duty. Dealer delivery additional* (*dealer delivery charges will vary by dealer)".

Alternatively, the advertisement can specify the maximum recommended retail price payable by the customer across New South Wales, at least as prominently as any component of the recommended retail price, as follows:

"Recommended retail price of \$30,000 plus \$1,000 CTP, \$500 registration, \$1,000 stamp duty and \$2,500 dealer delivery, for a total recommended retail price of \$35,000"; or

"Recommended retail price of \$30,000 plus \$5,000 CTP, registration, stamp duty and dealer delivery, for a total recommended retail price of \$35,000"; or

"Recommended retail price of \$35,000 includes CTP, registration, stamp duty and dealer delivery"; or

"\$35,000 drive away".

Note – where a manufacturer is also a dealer, it is important to understand the capacity in which the manufacturer is advertising, ie as a manufacturer on behalf of all dealers or just its company owned dealerships.

Example 6 – As per Example 5, except the advertisement will be broadcast in Queensland, New South Wales and Victoria. The manufacturer knows that other mandatory charges (CTP, registration and stamp duty) are \$1,500 in Queensland, \$2,000 in New South Wales and \$2,500 in Victoria. Dealer delivery charges will vary by dealer across each State and the maximum charge is \$1,500 in Queensland, \$2,000 in New South Wales and \$2,500 in Victoria.

The advertisement must at the very least specify the recommended retail price as the minimum 'single price' payable by the customer in each State or the minimum 'single price' payable by the customer across any State (provided it is made clear to the

customer where that price is available and that prices in other areas may be higher), at least as prominently as any component of the recommended retail price, and note additional delivery charges which are not quantifiable, as follows:

"Recommended retail price of \$30,000 plus stamp duty, CTP and registration of \$1,500 in Queensland, \$2,000 in New South Wales and \$2,500 in Victoria, plus dealer delivery*, for a total minimum recommended retail price of \$31,500 plus dealer delivery* in Queensland, \$32,000 plus dealer delivery* in New South Wales and \$32,500 plus dealer delivery* in Victoria" (*dealer delivery charges will vary by dealer); or

"Minimum recommended retail price of \$31,500 plus dealer delivery* in Queensland, \$32,000 plus dealer delivery* in New South Wales and \$32,500 plus dealer delivery* in Victoria (inclusive of stamp duty, CTP and registration) (*dealer delivery charges will vary by dealer)"; or

"Minimum total recommended retail price of \$31,500 plus dealer delivery* (*CTP, registration and stamp duty included is that for Queensland – other States may be higher. Dealer delivery charges will vary by dealer)".

Alternatively, the advertisement can specify the maximum recommended retail price payable by the customer across all of the States, at least as prominently as any component of the recommended retail price, as follows:

"Recommended retail price of \$30,000 plus stamp duty, CTP, registration and dealer delivery of \$3,000 in Queensland, \$4,000 in New South Wales and \$5,000 in Victoria, for a total recommended retail price of \$33,000 in Queensland, \$34,000 in New South Wales and \$35,000 in Victoria"; or

"Recommended retail price of \$33,000 in Queensland, \$34,000 in New South Wales and \$35,000 in Victoria (inclusive of stamp duty, CTP, registration and dealer delivery charges)"; or

"\$33,000 drive away in Queensland, \$34,000 drive away in New South Wales and \$35,000 drive away in Victoria"; or

"\$35,000 drive away [although we anticipate that this would be disadvantageous to dealers operating in Queensland and New South Wales who would prefer to advertise at the lower prices applicable in those States].

Note – to avoid stating total recommended retail prices for each area, or having to note that the total recommended price may be higher in another area, manufacturers may choose to target advertising to particular geographical areas with the same mandatory charges.

Note – the examples above assume uniform on-road costs across each State but if that is not the case, the dealer must make sure that it is clear in what geographical area (eg Brisbane) the minimum total price stated is available.

Other matters

- Where an advertisement shows a vehicle on screen and includes pricing information, the pricing information displayed must relate to the vehicle that is shown, ie same model, features, options. Any material qualifications must be prominently displayed in a way that is easily understandable to the viewer. For example, where a car is shown with optional alloy wheels and metallic paint and these options are not included in the price displayed, the advertisement must clearly disclose that these are optional items and also disclose how much they cost.
- Where an advertisement shows a range of motor vehicles, for example model A, model B and model C, and includes pricing information for one vehicle only, it must be clear which vehicle the pricing information relates to.
- A motor vehicle depicted in a dealership advertisement should correspond in model, visible accessories and price to a vehicle offered for sale at the dealership. If not, it risks breaching the misleading and deceptive conduct provisions of the Trade Practices Act. A disclaimer to the effect of "picture for illustrative purposes only" is not likely to be enough to remove any misleading or deceptive impression.
- The Trade Practices Act prohibits advertising goods at a specified price if the advertiser is aware or should have been aware that they would not be able to supply reasonable quantities at that price for a reasonable period. For example, an advertisement will likely breach the bait advertising provisions where it offers, "loads of 2003 model 4WDs" at an attractive special price of \$43,990, when only one 2003 model 4WD was recently available for sale at the dealership. Where it is possible that demand will be greater than the stock available, it is appropriate to insert the disclaimer "while stocks last". It may also be appropriate to insert the disclaimer "excludes trade/fleet buyers" or to limit the number of vehicles that can be purchased by any single customer. As motor vehicle stock is sometimes purchased against orders received, it is acceptable to have the vehicle available subject to a reasonable delivery time.
- Special care should be taken when advertising a motor vehicle as new. The ACCC Advertising and Selling guideline defines new as meaning, "not used or repaired or reconditioned, or used in display, and also not old or already known".
- Advertisements including finance or lease offers must disclose key terms and conditions and charges. The ACCC's "Guidelines For Pricing in the Motor Vehicle Industry", provides specific guidance of the information to be included. Note, advertisements must also comply with any relevant requirements of the Consumer Credit Code.
- Advertisers should be aware of the Voluntary Code of Practice for Motor Vehicle Advertising. This Code has been instituted by the Federal Chamber of Automotive Industries as a means of industry self-regulation of motor vehicle advertising in Australia. The primary purpose of the Code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety. The Code is available at www.fcmai.com.au/advertising and covers things such as, unsafe, reckless and menacing driving, speeding, unlawful driving practices, driving while fatigued or under the influence of drugs or alcohol, driving causing environmental damage, use of motor sport in advertising and the depiction of off-road vehicles.

- It is recommended that road users and vehicle operators including motorcyclists and pedal cyclists depicted in advertisements observe the rules of the road, with the exception of those advertisements which have a road safety educational purpose. It is recommended that particular regard be paid to the following:
 - vehicles should not appear to be travelling at obviously excessive speeds on public roads;
 - seat belts or other forms of occupant restraints should be worn by all persons in motor vehicles;
 - riding in the back of trucks or on construction and farm machinery should not be shown;
 - helmets approved by the Standards Association of Australia should be worn by all motorcyclists and pedal cyclists. In addition it is desirable that motor and pedal cyclists be shown to use sturdy footwear and make themselves conspicuous through the use of bright protective clothing;
 - it is desirable that stereo headsets should not be shown in association with motor vehicles (including motorcycles and bicycles) and should not be associated with pedestrian activities;
 - the portrayal of vehicles on race circuits, testing tracks and in rally conditions should be easily recognisable by television viewers.

- Clause 10 of the Children's Television Standard sets out requirements that are relevant to road safety and children. The Children's Television Standard is available at www.acma.gov.au

For further information please contact CAD on 02 8968 7200 or email us at cad@freetv.com.au