



COMMERCE COMMISSION

Media Release

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Retailer warned over voucher promotion

The Commerce Commission is reminding retailers that, when offering free gifts or prizes, they should ensure that the fine print does not materially alter the terms of the offer. This is particularly the case when the information would be critical to a person's decision to buy the goods or services.

“If the overall impression given by a promotion or advertisement is misleading, it risks breaching the Fair Trading Act no matter what information is provided in fine print,” said Greg Allan, Commerce Commission Fair Trading Manager, Wellington.

The Commission has recently issued a warning to Borders that a pre-Christmas voucher promotion risked breaching the Fair Trading Act.

In November and December 2009 Borders advertised a promotion with the headline offer “Receive \$20 in vouchers for every \$75 you spend at Borders until Christmas.” The promotion was widely advertised in-store and online through an e-newsletter and on Borders' website. However, the small print of the offer specified that customers could only redeem one \$10 voucher in January and a second \$10 voucher February, which, in the Commission's view, materially changed the headline offer.

“The Commission received complaints from consumers saying that they felt misled as they had spent the required amount believing that they could get a \$20 discount for one purchase,” said Mr Allan.

“We are pleased that Borders will honour the vouchers for a \$20 discount for one purchase and that they will continue to honour the vouchers beyond the current expiry date of the end of February.”

“It is a common marketing practice for businesses to use these types of voucher promotions. While a warning to Borders is the most appropriate action in this case, it does also serve as a reminder to businesses that they need to ensure that their promotions do not mislead the consumer about the nature of any gift or prize. Misleading representations about gifts and prizes can lead consumers to make purchases that they may not otherwise have made at the store, which is damaging both to consumers and other competing businesses,” said Mr Allan.

The Commission will not be taking any further action against Borders at this stage but will continue to monitor Borders’ promotions.

Background

Borders has stores in Auckland, Hamilton, Wellington and Christchurch and is a division of REDgroup Retail which is a book, stationery and entertainment retailer operating in Australia, New Zealand and Singapore.

Fair Trading Act

Breaches of the Fair Trading Act may result in prosecution in Court. Companies found guilty of breaching provisions of the Fair Trading Act may be fined up to \$200,000 and individuals up to \$60,000. Only the courts can decide if a representation has breached the Fair Trading Act.

Warnings are an enforcement option used when, in the Commission’s view, the behaviour is at risk of contravening the relevant legislation. The aim of this option is to inform, stop the behaviour in question, and deter the business from repeat or new illegal behaviour. In some cases, the Commission publicises warnings to educate a wider industry and consumers.

The Commerce Commission’s fact sheet on fine print can be downloaded from the Commission’s website at www.comcom.govt.nz under Fair Trading Act/publications

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