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trading standards law explained

Antiques and antiquities

In the guide

Unfair commercial practices
What is an 'antique'?
What you can do
Auction houses
Claims by consumers
On-premises sales and distance sales
Consumer rights
Selling to businesses
Trading Standards
In this update
Key legislation

In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

This guidance is for England, Scotland and Wales

If you trade in fine art, antiques, antiquities, antiquarian books, manuscripts or other collectibles, then Part 4, Chapter 1 of the Digital Markets, Competition and Consumers Act 2024 (DMCCA) applies to your business. The Act applies whether you are selling to consumers or buying from them.

This guide mainly covers the requirements of the DMCCA, but please be aware that other legislation - both national and local - may apply to your business.

Unfair commercial practices

The DMCCA prohibits commercial practices that are unfair. The Act prohibits a trader from misleading consumers about a product, a trader and any other matters relevant to the transaction, either through providing information that is false, or through information that is misleading (a 'misleading action'). It is also a breach of the DMCCA to omit information that a consumer needs in order to make an informed purchase (a 'misleading omission').

The information that may be considered as misleading can relate to the product, a trader and any other matters relevant to the transaction. This can include the:

- main characteristics of the product - for example, its composition, availability, benefits, fitness for purpose or where it was made
- price (including the manner in which the price is calculated)
- need for a service, part, replacement or repair
- nature, attributes and rights of the trader, such as their qualifications

For a practice to be a misleading action or omission, it must be likely to cause the average consumer to take a transactional decision that they would not have taken otherwise. In practice, this means that the consumer is influenced to make a purchase, or decides not to purchase, based upon that misleading action or omission. This does not only relate to pre-shopping but includes after-sales.

In addition, giving the consumer inaccurate information about market conditions, or how easy it might be to find the item elsewhere, in order to get the consumer to buy (or sell) at unfavourable conditions is specifically banned, regardless of the effect on the consumer.

The DMCCA also covers the situation where a trader purchases from a consumer. The trader must not mislead the consumer by giving false or misleading information or omitting material information that would affect or be likely to affect their transactional decision.

See 'Protection from unfair trading (criminal law)' for more information on the DMCCA.

What is an 'antique'?

There is no uniformly accepted definition of the term 'antique', although many people use the measure that anything over 100 years old is an antique. The key consideration in applying any description is that it must not be misleading. Terms such as 'collectible' or 'vintage' may be more appropriate than 'antique' for more recent pieces.

Special cases:

- 'antique' firearms. Only certain firearms, manufactured before 1 September 1939, may be sold as antique. In addition, there are restrictions concerning the types of cartridge the chamber was designed to be used with and the propulsion systems used. You should seek advice from your local Police force if selling such items. Useful guidance can also be found in chapter 8 of the Home Office *Guide on Firearms Licensing Law*, available on the GOV.UK website
- sales of 'antique' knives are generally exempt from offensive weapons controls, but care must be exercised when describing such items and advice should be sought from your local Police force
- 'cultural items' are subject to special controls under the 1970 UNESCO convention. You should obtain guidance from the Department for Culture, Media and Sport (DCMS)
- guidance on dealing in items containing or made of ivory is available on the GOV.UK website, as it is subject to restrictions under the Ivory Act 2018
- in relation to the Hallmarking Act 1973, any item made pre-1950 can be described and sold as precious metal, as long as the seller can prove it is of minimum fineness and was manufactured before 1950

What you can do

To avoid breaching the DMCCA (and possibly committing a criminal offence), you should set up a system of checks on items that you buy and sell, and ensure that these checks are effectively carried out. This is

known as taking all reasonable precautions and exercising all due diligence, and it is a defence within the DMCCA.

The following points are recommended for inclusion in such a system:

- obtain a receipt for all purchases, identifying the name and address of the seller
- ask for written provenance or other written information that establishes the item's descriptions; verbal information is not sufficient
- if an object has been repaired or restored, establish to what extent and pass on this information to any prospective purchaser (preferably in writing)
- keep records of all items you buy and sell, the description you applied to each, and any supporting information for this description (such as the auction catalogue)
- any item that is sold with a guarantee of authenticity must be supported by proof that the object has been examined and is genuine
- set up procedures to ensure that each item on display or being advertised has been recorded properly, as mentioned above. If you have members of staff who act as experts, they should see all items and the description that you intend to apply to them, prior to them going into the shop or being advertised. All staff should be aware of the procedures. No member of staff without sufficient expertise should be adding descriptions to items
- the DMCCA prohibits commercial practices that contravene the requirements of 'professional diligence' (this means the special care and skill expected with honest market practice and the general principle of good faith). If you have any reason to doubt the authenticity of a product (such as a manufacturer's mark), particularly where there is known historical abuse, then you must disclose this doubt. This would not apply where you have added a description of manufacture or origin yourself

Also, to avoid common problems associated with dealing in antiques, you should:

- specifically ask if the property being offered to you is free of any legal claim and that the seller is authorised to sell it
- be suspicious of any item with an asking price that does not equate to its market value
- pay by cheque or other method that provides an audit trail
- notify the Police if you suspect that an item is stolen or from excavations, architectural monuments, public institutions or private property
- refuse to buy, sell or value objects if you are concerned about their history

If you are examining items and applying descriptions to them yourself, you must be careful. Customers are likely to view your opinion as that of an expert and rely on your description.

The DMCCA applies to persons selling items as agents for another person as well as the actual owner of the item being sold.

Auction houses

Auction houses are similarly within the scope of the DMCCA and they can commit an offence of applying misleading information to or omitting information about an item.

An auction house should not rely on a general disclaimer in a catalogue in an attempt to avoid liability for the descriptions being applied to the items that are being auctioned. An auction house should ensure that the owner of the item verifies the description to be applied to it or that an expert is employed to advise on descriptions.

Claims by consumers

In addition to possible criminal offences arising where misleading information has been given (a misleading action), consumers may also have the right to claim for compensation and/or a reduction in price, or be able to cancel the contract completely. This can arise both where items are being sold to consumers and where items are being bought from them.

For the time being, consumers' rights of redress are still covered by the Consumer Protection from Unfair Trading Regulations 2008 (CPRs); they will later be covered by the DMCCA. Information on these rights can be found in 'Protection from unfair trading (consumers' rights of redress)'.

On-premises sales and distance sales

If you sell 'at a distance', such as over the internet, you will need to comply with the requirements in the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. If a distance contract is made, the consumer must be provided with additional information and, in certain circumstances, a 14-day cancellation period (starting the day after delivery of the goods).

If you sell on business premises, such as a shop, trade fair or market stall, you need to comply with certain basic information requirements within the Regulations.

See 'Consumer contracts: distance sales' and 'Consumer contracts: on-premises sales' for further information.

Consumer rights

The Consumer Rights Act 2015 states that goods should be of satisfactory quality, fit for a particular purpose and as described. For example, if you were to sell an antique table that would be likely to actually be used as a table, then it should be:

- of satisfactory quality, taking into account the description, price (if relevant) and all other relevant circumstances
- fit to be used as a table
- described accurately

If you were selling an antique as a display item, it only needs to be fit for that intended purpose.

Where there has been a breach of the Act, the consumer may be entitled to a repair, replacement or a refund.

See 'Selling and supplying goods' for further information.

Selling to businesses

This guide is primarily aimed at businesses selling to consumers. If you are selling to businesses, the Business Protection from Misleading Marketing Regulations 2008 (BPRs) will apply. This legislation prohibits advertising that misleads businesses by deceiving or being likely to deceive them (or others) and affecting their economic behaviour. It also prohibits businesses giving misleading advertising that injures, or is likely to injure, a competitor.

See 'Business-to-business marketing'.

Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see 'Trading Standards: powers, enforcement and penalties'.

In this update

Changes made to reflect the coming into force of the Digital Markets, Competition and Consumers Act 2024 (Part 4, Chapter 1: 'Protection from unfair trading').

Last reviewed / updated: April 2025

Key legislation

- Hallmarking Act 1973
- Business Protection from Misleading Marketing Regulations 2008
- Consumer Protection from Unfair Trading Regulations 2008
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- Consumer Rights Act 2015
- Ivory Act 2018
- Antique Firearms Regulations 2021
- Ivory Act 2018 (Meaning of "Ivory" and Miscellaneous Amendments) Regulations 2025
- Digital Markets, Competition and Consumers Act 2024 (Part 4, Chapter 1)

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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