

Advertising guideline (provided by the ACCC)

Alternatively, you may wish to contact the ACCC Infocentre on 1300 302 502 to request further information about obligations under the ACL or the Competition and Consumer Act more broadly.

Guideline on employment advertising

Why job ads should be accurate

Job seekers are entitled to accurate information about employment opportunities. There are a number of ways that advertisements can mislead.

Information about remuneration, the work involved, work conditions, future prospects and expected financial returns can all be presented in misleading ways. Advertisers who overstate remuneration or other important aspects—or who mislead by omission—risk prosecution and heavy penalties under the ACL.

Is your advertisement under the right heading?

Employment advertising sections are broken up into various categories. It is misleading to place an advertisement under the wrong heading—e.g. under ‘Employment’ when you are really offering a ‘business opportunity’.

Below are definitions of several common category headings. If the publication you wish to advertise in does not carry a full range of headings, it is up to you to make sure that what you are advertising is clearly stated so as not to give a misleading impression to readers.

Employment/Positions vacant/Situations vacant involves work as an employee for a regular paid salary or wage (e.g. \$x per week, or \$x per annum), and conditions such as holiday pay and sick leave.

If the publication does not offer separate sections for full-time, part-time and casual work, you should be careful to detail the conditions and hours involved.

Independent contracting (sometimes known as sub-contracting) can involve asking for work to be done by people under contract with their own tools of trade (e.g. courier van or building tools). Generally, independent contractors have more flexibility than employees. Often they can choose their own hours and sometimes they contract work out to others. Unlike the traditional master–servant relationship between employers and their employees, independent contractors have more control over the daily operations of their work. Independent contracting is more of a business-to-business relationship. Please see the ATO to understand the difference between contractor vs employee and Fairwork Act for further information regarding your obligations.

<https://www.ato.gov.au/business/employee-or-contractor/>
<https://calculate.fairwork.gov.au/FindYourAward>

Commission-only involves selling goods or services and being paid a percentage of what is sold (e.g. selling encyclopedias, telephone canvassing or insurance sales) are not permitted.

Business opportunities are when people are asked to buy goods or pay for entrance into a scheme (e.g. party plan, herbal products, pots and pans, clothes mail order schemes or franchises) are not permitted.

Employment services includes modelling portfolios, employment agencies, resumés or prospective employer lists are not permitted.

Training and tuition includes all education courses (e.g. TAFE courses, hairdressing, beautician and computing) are not permitted.

How much are you paying?

Are you conveying an accurate impression of the amount and method of remuneration? If you are advertising under 'Employment' you should state one of the following:

- > the actual salary to be paid (e.g. \$35 000 p.a. or \$400 pw + o/t)
- > that the income is to be negotiated
- > that payment is on a commission-only basis
- > that payment is on a piece-rate basis (e.g. \$28 per 1000 leaflets)
- > or whatever details the readers need to assess the likely income.

You should also ensure that you are complying with any disclosure requirements you may have under the law, especially the Corporations Act 2001.

What is the product to be sold or nature of the business opportunity?

If you are advertising a sales position or offering a business opportunity, state the nature of the product or business in the advertisement. The applicant is entitled to accurate information before responding.

Will it cost anything?

When there is a charge for a product or service associated with the 'job' it is recommended that this be mentioned in the advertisement to avoid misleading job seekers. If there is a chance that the applicant will not receive employment following the training, it is also important that this be clearly stated.

Prospective job seekers should not be forced to call a premium rate number (1900 or 0055) to investigate potential vacancies.

Further information

ACCC website: www.accc.gov.au

ACCC Infocentre: 1300 302 502

Job Watch Victoria: (03) 9662 9458