

New Zealand IP law

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Comparative advertising and Trade Marks Act 2002

Prior to August 2003, advertising comparing one product with another could potentially infringe a trade mark registration if it used a registered trade mark without permission.

In August 2003 the trade mark law changed and traders are now free to comparatively advertise their competitors goods under trade mark law unless such use is otherwise than in accordance with honest practices in industrial or commercial matters, and, without due cause, takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark being used. Traders should also take care that the advertisement is not misleading and breach the provisions of the Fair Trading Act 1986.

Fair Trading Act 1986

Under the Fair Trading Act, traders must not engage in conduct that is misleading or deceptive. Traders must also not make false or misleading representations about goods or services. This includes omissions, so any information left out, which would create a false representation, is prohibited.

Traders must not mislead consumers about the quality, origin, quantity, type or condition of goods or services. This also extends to qualifications or skills and endorsements or sponsorships. Any statements about qualifications, skills, endorsements or sponsorships must be true.

New Zealand has legislation governing traders' obligations in relation to the quality and standard of goods and services as well as various laws and regulations on product labelling and safety.