

Sales

The law relating to sales and other price comparisons is governed by the CPR's and the Pricing Practices Guidance (November 2010) and offers clear advice on compliance with the Regulations.

In summary, where a trader is making a price comparison:

- the comparison should be with the trader's own previous price (you should not use a Recommended Retail Price which is not genuine, or differs significantly from the price at which the product is normally sold, or for goods that only you supply)
- the previous price must be a genuine reference price, i.e. that you could reasonably be expected to sell a significant number of items at that price and a significant number of items were offered for sale at that price, for a significant period of time
- you should show both your previous price and the "sale" price and any intervening prices.
- unless the basis for the comparison is set out explicitly:
 - the previous price should have been offered for at least 28 consecutive days in the last six months
 - the period for which the lower price is offered should not be longer than the period for which goods were offered at the previous higher price
 - comparisons should not be made with prices last offered more than 6 months ago

Promotions

These are subject to the same rules as Sales, but also bear in mind that;

- if a trader advertises "Up to 50% off" then at least 10% of the products on offer should be 50% off.

This Advice and Guidance leaflet is intended to assist traders who are contemplating having a Closing Down Sale to stay within the law. It deals with the most common situations, but does not set out to deal with all possible permutations. If you feel that your particular circumstances are not covered by this Advice and Guidance leaflet, please contact us.

Should you require this information in a larger font please contact us

Disclaimer

The contents of this Advice and Guidance leaflet have been prepared with care and integrity, however, only a Court can decide whether any particular set of facts constitute offences under the CPR's. You should seek advice from your own solicitor if you need more detailed advice or if you have a contrary view to our interpretation of the legislation.



Trading Standards

Port Health &
Public Protection Services

CLOSING DOWN SALES

ADVICE AND GUIDANCE FOR TRADERS IN THE CITY OF LONDON



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Legislation

When considering whether to hold a Closing Down Sale, a trader needs to satisfy the legal requirements relating to "Closing Down" and "Sale".

These requirements will be found in the Consumer Protection from Unfair Trading Regulations 2008 (CPR's), a copy can be downloaded at www.legislation.gov.uk and then typing "consumer protection from unfair trading" in the search box for "all legislation".

Guidance on the CPR's has been issued by OFT/BIS under the titles "Consumer Protection from Unfair Trading" (May 2008) and BIS "A Basic Guide for Business". Both these publications can be downloaded from www.offt.gov.uk/business-advice/treating-customers-fairly/protection.

Useful guidance has been issued by BIS on "Sales" and can be found in the Pricing Practices Guide downloadable at www.bis.gov.uk/publications enter "pricing practices" into the search box.

Closing Down

The most important thing to note is that:

"Claiming that the trader is about to cease trading or move premises when he is not"

is a Banned Practice under Schedule 1 of the CPR's and hence a commercial

practice which is considered unfair in all circumstances and a criminal offence which is punishable upon conviction in the Magistrates' Court by way of a fine up to £5,000.00 or upon conviction in the Crown Court by way of a prison sentence of up to 2 years and/or an unlimited fine:

It is, therefore, essential only to claim to be having a Closing Down Sale, when you fulfil the criteria. If you are unsure, then please contact City of London Trading Standards Dept for further advice.

"About to cease trading or move premises"

A Closing Down Sale is a claim made by the trader that they are about to cease trading.

To avoid committing offences under the CPR's, the trader must ensure that they are truly "about to cease trading".

So what does the phrase "about to cease trading mean"?

"About to" is defined in the Oxford English Dictionary (OED) as "soon to perform the action indicated by the infinitive" ie "soon to cease trading".

Chambers Dictionary defines "about to" as "on the point of doing".

From these definitions, it can be seen that the cessation of trading or moving premises must be an event that is in the process of taking place, and that the

closure/moving is on the point of happening.

Therefore, a Closing Down Sale can only lawfully be advertised at a time that is very close to the actual date of closure.

The following points would be more likely to be indicative of a **lawful** Closing Down Sale:

1. A date has been set for actual closure and the trader will not be trading after this date.
2. The date for closure is "soon" in relation to the date that the Closing Down Sale is advertised.

The following points would be indicative of an **unlawful** Closing Down Sale

1. The actual date of closure is not known.
2. The trader has a genuine intention to sell, but no contract to sell is in place.
3. The landlord or trader has the right to give notice of termination of the lease, but has not done so.
4. The lease is about to come to an end, but negotiations are taking place for a new lease.
5. You have taken a short term lease while the Landlord looks for a more permanent tenant.
6. New stock is arriving.
7. The trader's store is closing for a short time to allow refurbishment works to be carried out.