

REIA Guidelines to the Trade Practices Act (TPA)

Two-tier Marketing

Prepared in collaboration with the ACCC

ACCC Statement of Concern

The ACCC has publicly expressed concern about the practice of misleading two-tier pricing, or two-tier marketing. Two-tier marketing refers to the practice of having two prices or tiers in a real estate market, one for the locals who know the market values in that area and one price for other buyers, often from interstate, who are not aware of the local market prices. The ACCC believes the practice is a form of misleading or deceptive conduct.

REIA Guidelines

Real estate agents should not engage in two-tier marketing.

- Real estate agents must not engage in the practice of setting different tiers of pricing, with higher prices being charged to consumers who are, for example, resident outside the particular area of the property or who are otherwise unaware of material facts such that they are prepared to pay prices for the property that are higher than the prices that those who are aware of those facts would be prepared to pay.
- Real estate agents must not induce potential purchasers of property to believe that the stated price of a property is a fair market value when the price has been inflated by matters irrelevant to the value of the property, such as marketing fees, commissions and profits.
- Real estate agents must not provide consumers with estimates of market values of properties that are misleading or deceptive.
- Real estate agents must not make false or misleading representations about investment properties, including the reasonable values of those properties, the features of those properties, the likely rental returns, the nature or effect of long term management contracts, or any other matter that is material to the sale, purchase or lease of the property by the consumer concerned.
- Valuations and market appraisals provided by real estate agents must be realistic and based on a sound understanding of the relevant market.
- If real estate agents provide valuations, appraisals or market forecasts in a volatile market, agents shall identify that volatility to the relevant consumer and shall warn the consumer to keep that volatility in mind when evaluating the agent's valuations, appraisals or market forecasts.
- Real estate agents shall ensure that they do not participate in any harsh or unconscionable conduct with respect to the marketing or sale of properties.
- An ACCC warning statement should be included in all contracts for the sale of property prepared by agents that clearly and distinctly warns buyers that it is in their interest to seek independent valuations regarding the property concerned and legal advice regarding the terms of the relevant contract before the document is signed. This warning should be included on all contracts, including contracts for the private sale of land.
- Real estate agents shall advise consumers of any significant beneficial relationships that they have with any service providers to whom the consumer is referred by the agent and any commissions, money or other benefits that the agent may receive as a result of that referral.
- Real estate agents shall not offer gifts or items as being "free" when the true costs are disguised in the selling price of the property.



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- Real estate agents shall not engage in bait-advertising, such as by offering properties at discounted prices in a land development when the properties have in fact not been discounted at all or where the properties will not be available at that discounted price in reasonable quantities or for a reasonable time. If the purpose of the advertising properties at discounted prices is to in fact lure potential buyers to purchase more expensive properties, the conduct of the agent may amount to bait-advertising.