

situation. To avoid liability, you would then need to prove your own defence of due diligence.⁴³

When you advertise for new business

- 5.11 Ensure that any information you provide when marketing your services, in whatever form (for example flyers, websites, newspaper advertisements, verbal discussion), is true and accurate. Take reasonable steps to check the facts stated in advertising, and be aware of findings being made by bodies such as the Advertising Standards Authority and relevant ombudsmen (see Annexe B).
- 5.12 Ensure that any comparisons you make with competitors – for example your record of selling properties compared with theirs or the benefits of clients using your services as opposed to theirs – are fair, objective and can be substantiated.
- 5.13 Ensure that any information you have made available is not liable to mislead potential new clients, for example that details about the properties you have 'Sold' or 'Sold Subject to Contract', or statements about professional qualifications or membership of a professional body, are accurate and not out-of-date.
- 5.14 When offering to sell services to consumers, state your charges and fees inclusive of VAT. It is the OFT's view that, whether you charge a fixed fee or a percentage of an as yet unknown sale price, stating the fee or percentage inclusive of VAT is more meaningful for consumers. If there are circumstances where this is not possible, at least make it clear upfront that VAT will be charged on top (and identify the relevant rate of VAT). In such cases you should make it as easy as possible for consumers to work out how much they will pay overall.

⁴³ CPRs 16 and BPRs 9.