

# ENTERTAINMENT, ART AND LEISURE

## *Coupon Books*

“Coupon books” or “entertainment books” contain coupons redeemable at a variety of local businesses. Promoters sign up participating merchants, then sell coupon books to consumers. Legitimate coupon books can be good for consumers *and* merchants. Consumers may get bargains that far exceed the price of the book. Participating merchants may attract new business. Profits sometimes go to worthy local causes.

But unscrupulous promoters can profit at the expense of consumers *and* merchants. For example, unscrupulous promoters may:

- Misrepresent the savings offered to consumers.
- Commit merchants to unexpected obligations, by selling more coupon books than expected or inflating the merchant’s intended offer. Innocent merchants may lose money if they honor a promoter’s inflated coupons, or make consumers angry if they do not.
- Fail to disclose expiration dates, or other limitations on coupon redemption.
- Fail to disclose, to participating merchants, the number of coupon books sold.
- Misrepresent that a local civic group or charity is sponsoring the promotion (aggrieved consumers may blame innocent “sponsors”).

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) regulates unfair and deceptive business practices. DATCP has adopted a rule to protect consumers and legitimate merchants from unscrupulous coupon book promoters. This rule is found in Wisconsin Administrative Code chapter ATCP 131.

## **Coverage**

ATCP 131 regulates promoters who sign up merchants and sell coupon books to consumers. ATCP 131 does *not* apply to:

- Coupons distributed free of charge (such as newspaper coupons).
- Coupons sold by the merchant who redeems the coupons.

## **Written Contracts Required**

ATCP 131 requires a coupon book promoter to have a written contract with each participating merchant. The contract must include:

- A description of the goods, services or discount offered by the merchant.
- The coupon expiration date, and a disclosure of all redemption limitations.

- The total number of coupons to be offered for sale.
- The first and last days on which coupon books may be sold.
- The promoter's personal and business name and address.
- A statement that coupon sales promotions are regulated by ATCP 131.

## **Coupons Must Disclose**

Coupons must faithfully reflect the promoter's agreements with participating merchants, and must disclose all the following:

- The goods, services or discount that the merchant will provide.
- The expiration date, and any other limitations on redemption.
- The promoter's name and permanent address.
- The following statement:

**“REDEMPTION MAY BE SUBJECT TO CERTAIN CONDITIONS AND LIMITATIONS WHICH MUST BE STATED ON THE COUPON. YOU ARE ENTITLED TO INSPECT EACH COUPON BEFORE PURCHASE.”**

## **Prohibited Practices**

A promoter may not:

- Misrepresent the monetary value of coupons.
- Make any representation contrary to what is stated in the coupons, or in the contracts with participating merchants.
- Misrepresent the number of coupons that may be sold.
- Use the name of any person or organization without consent.
- Misrepresent that consumers have been specially selected to receive the coupon book.

## **Accounting to Merchants**

A promoter must give an accounting to participating merchants. The promoter must account to each merchant within 10 days after the promotion end date, or within 10 days after all coupon books are sold, whichever occurs first. The promoter must disclose the number of coupons sold, and must make any payment that the contract owes the merchant under the terms of their contract.

## **Rule Background**

DATCP adopted ATCP 131 is a *general order* (rule) under Wisconsin's Unfair Business Practices Law, Wisconsin Statutes section 100.20. DATCP adopted this rule effective February 1, 1978.

## **Rule Enforcement**

### ***Private Remedy***

A person who suffers a monetary loss because of a promoter's violation of ATCP 131 may sue the seller under Wisconsin Statutes section 100.20(5) and may recover twice the amount of the loss, together with costs and attorneys fees.

### ***Injunction and Restitution***

DATCP may seek a court order, under Wisconsin Statutes section 100.20(6), enjoining violations of ATCP 131 and ordering a seller to pay restitution to consumers. The Department of Justice or a district attorney may represent DATCP in court.

### ***Civil Forfeiture***

DATCP or any district attorney may start a court action under Wisconsin Statutes section 100.26(6) to recover a civil forfeiture from a seller who violates ATCP 131. The court may impose a civil forfeiture of up to \$10,000 per violation. The Department of Justice or a district attorney may represent DATCP in court.

### ***Criminal***

A district attorney may start a criminal prosecution, under Wisconsin Statutes section 100.26(3), against a seller who violates ATCP 131. A violator may be fined up to \$5,000 or sentenced to as much as a year in jail, or both.