

1. I apply a 10% surcharge to all meals and drinks sold on Sundays and make customers aware of this with information provided on the bottom of each menu in large, bold print. Is that enough to comply with the new requirements?

No. Section 53C of the TPA requires that where you make a representation about a part of the price a consumer will pay for a product or service, you must also show, at least as prominently, the single (total) price they will pay, to the extent that can be calculated.

In this case, on Sundays, the price of your menu item is only a part of the price the consumer must pay for that item - they will also be required to pay the 10% surcharge. On that basis, you must provide a single price, inclusive of the surcharge, for each item.

2. I apply a surcharge of \$5 per person on public holidays, regardless of what they order. How do I include that in the single price?

In this case, the surcharge is not a quantifiable component of the single price and therefore it cannot be included in the single price. This is because the \$5 is paid by each customer as a 'one off,' whether they order one item off the menu or more. If you were to add \$5 to each menu item, you would risk applying the surcharge multiple times to the one customer.

While the surcharge is not quantifiable for the purposes of 53C, it is an extra charge the consumer will have to pay, so you need to be mindful of your broader trade practices obligations against misleading and deceptive conduct. Consumers should be made aware that the surcharge applies, and how much it is, before they order their meals, not at the time they are presented with their bill.

3. What about side dishes? They can be a component of a meal.

While side dishes can form a part of any meal, they are generally an 'optional extra' that can be purchased by the consumer at their discretion. Optional extras do not need to be included in the single prices required by section 53C. Side dishes should be treated in the same way as any other menu item.

4. When my supplier sends through price lists, a note near the bottom says I have to add 10% GST to all the prices. Are they breaking the law by not providing a single price?

No. Representations made by one business *exclusively* to another business are exempted from 53C, so they do not need to include a single price. It's important to note, however, this exemption only applies where the representations are made between businesses. If they may also be seen by consumers, the obligation to provide a single price remains.

5. What about credit card surcharges? I add 3% to all credit card transactions.

The answer to this question depends on whether you provide other payment options.

If a consumer has the choice of paying by credit card or by some other method (eg cash or eftpos) then the credit card surcharge is an optional extra which does not need to be included in any single price representation.

However, if the only payment method you offer is credit card, the 3% surcharge will be a quantifiable component that must be included in the single price as the consumer cannot avoid paying it.

As in question two, regardless of whether the surcharge will be captured by the requirements of section 53C, you need to ensure you do not mislead or deceive consumers about the surcharge and its application.

6. I offer a discount for meals purchased for take away. Am I breaching section 53C by providing the meals at a cheaper price than the one on the menu?

No. While section 53C requires the single price representation to be for the 'minimum quantifiable consideration' it does not prevent the negotiation of a lower price.

7. My restaurant is BYO. I charge corkage of \$6 per bottle, but some tables bring one bottle and others bring three. How can I provide the single price required by section 53C?

Section 53C requires the single price to include all quantifiable components. In this case, given the final cost of corkage is dependent on how many bottles are consumed at each table, corkage is not a quantifiable component of the total price.

Again, however, your broader trade practices obligations still apply, so the cost of corkage should be clearly expressed to your customers.