Exaggerating the Truth or Misleading: A Legal Perspective

‘However, there can be a fine line between a mere “puff” and misleading or deceptive conduct; the later is against the law’.

The prohibition under the Act is very broad and the following principles apply at law:
• You must tell the truth, the whole truth – ask yourself: can all your representations be factually substantiated?
• Sometimes the overall impression you create, whether it is via pictures, sign board advertisements or otherwise can in themselves be misleading;
• It is no defence to say that you did not intend to mislead or deceive;
• Even if there is no proof that anyone was actually misled or deceived, if there is a likelihood that people could have been misled or deceived liability under the Act can arise; and
• The rule applies to all conduct – not just written statements and visual pictures. So, as you would be aware from recent ACCC action, it includes oral statements made before or after an auction.

For further information, contact Sharon on 03 9534 9330 or 0410 557 90.