

# Los Angeles Times

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<http://www.latimes.com/business/la-fi-retailers-lawsuit-20161207-story.html>

## **L.A. prosecutors are accusing four big retailers — JC Penney, Sears, Kohl's and Macy's — of tricking shoppers**

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The Los Angeles city attorney's office has sued four big retailers, alleging deceptive advertising that it says misled shoppers into believing that thousands of products were on sale at a hefty discount.

The retailers — JC Penney, Sears, Kohl's and Macy's — falsely advertised high “list” or “regular” prices on merchandise that was never actually for sale at that price, according to the lawsuits filed Thursday in Los Angeles County Superior Court. That led customers to believe that they were getting a better bargain with the “sale” price than they actually were.

These tactics — called false reference pricing — “play a major role in the companies’ overall marketing and business strategies,” the L.A. city attorney’s office said in a statement.

JC Penney said it “doesn’t comment on pending litigation.” Macy’s said it does not “comment on litigation matters.” Sears declined to comment, while Kohl’s did not respond to a request for comment.

California law bans retailers from touting a higher original price unless a product was actually for sale at that price within three months of the ad running. Retailers are also allowed to advertise a higher former price if the ad “exactly and conspicuously” states the date when that price was in effect.

“Customers have the right to be told the truth about the prices they’re paying — and to know if a bargain is really a bargain,” City Atty. [Mike Feuer](#) said in the statement.

Online shopping has increasingly given consumers the power to comparison shop from the comfort of their couches. But the rise of Amazon.com has put pressure on traditional retailers to draw eyeballs to their own websites, analysts said.

“Brick-and-mortar retailers have a major problem,” said Ron Friedman, a retail expert at advisory and accounting firm Marcum in Los Angeles. “It’s very difficult for them to compete because the millennials and youth today want to shop online.”

The kind of pricing tactics described in the lawsuits are endemic to the retail industry today, Friedman said. Savvy shoppers, however, have become used to looking at the sale price instead of the advertised original price.

Even retailers that do sell products at the list price will often start dropping the price within a few weeks, he said.

“There is no regular-priced merchandise, especially in stores like Sears or Kohl’s or T J Maxx,” he said. “The whole category is all about the sale price.”

The lawsuits, which are seeking civil penalties and injunctions to prohibit such practices, cite several recent examples of false advertising.

In February, JC Penney began selling a maternity bathing suit top online for a “sale” price of \$31.99, down from an “original” price of \$46, according to one suit. That top was later marked down to \$21.99 and then \$14.99 — all the while compared to \$46. However, it was never for sale at \$46, the suit alleges. The highest price was \$31.99.

High-ticket items were also subject to this kind of inaccurate pricing.

Sears, for example, began selling a front-loading Kenmore washer in April, according to one suit. On the first day it appeared online, Sears showed the washer on sale at \$999.99, down from \$1,179.99 — even though it was never sold for more than \$999.99.

“As time went on, the item had a series of different false discounts,” the suit alleges. Sears eventually discounted the item down to \$649.99 while “falsely advertising a discount from the \$1,179.99 false reference price.”

This is not the first time that retailers have gotten in trouble for false reference pricing schemes.

In 2015, class action lawsuits were filed against JC Penney and Kohl’s accusing the retailers of tricking customers by inflating original prices. JC Penney eventually settled the suit for \$50 million in cash and store credit to customers, and Kohl’s agreed to pay \$6.15 million.