



Consumer Protection Act 2007

Compliance Notice (Section 75)

Company Secretary
Expert Ireland Retail PLC
Zone A Mullingar Business Park
Mullingar
Co Westmeath

Competition and Consumer
Protection Commission
4 Harcourt Rd
Dublin 2

I, Niamh Martin, an authorised officer of the Competition and Consumer Protection Commission, duly authorised under Section 35 of the Competition and Consumer Protection Act 2014, hereby give you notice, pursuant to Section 75(2) of the Consumer Protection Act 2007, that I am of the opinion that you are engaging in a misleading commercial practice under Part 3 of the Consumer Protection Act 2007, such a misleading commercial practice being a prohibited act or practice as defined by Section 67(a) of the Consumer Protection Act 2007.

The contravention contained herein relates to the website www.expert.ie.

Statement of alleged contravention:

That you, Expert Ireland Retail PLC, a trader, as of 31st July 2015, for the purposes of Section 43(2) of the Consumer Protection Act 2007, are engaging in a misleading commercial practice by misleading consumers in relation to the legal rights of a consumer, such being a matter set out in Section 43(3)(j) of the Consumer Protection Act 2007, and that such a misleading practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

My opinion

I am of the opinion that Expert Ireland Retail PLC's website, www.expert.ie, is misleading consumers in relation to the legal rights that a consumer may exercise in order to cancel distance contracts, such a practice being a prohibited commercial practice for the purposes of the Consumer Protection Act 2007.

The reasons for my opinion in this regard are based on the following:

1. Your company, Expert Ireland Retail PLC (hereinafter 'Expert'), as a legal person can be described as a 'trader' for the purposes of the Consumer Protection Act 2007.
2. Your company, Expert, has a website which provides a facility for consumers to conclude distance contracts with Expert. A 'distance contract' is described in Regulation 2(1) of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (hereinafter 'the Regulations') as meaning 'a contract concluded between a trader and a consumer under an organised distance sales or service provision scheme without the simultaneous physical presence of the trader and the consumer, and with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded'.
3. I believe that the contracts Expert concludes with consumers through the website can be classified as 'distance contracts' to which Part 4 of the Regulations apply.
4. As this is a distance contract a right of cancellation applies pursuant to Part 4, Regulation 14. How a consumer exercises that right of cancellation is detailed in Regulation 17.
5. I believe that Expert's website does not give or make available to consumers the information necessary to exercise their statutory right of cancellation pursuant to Regulation 14 and therefore misleads consumer as to their legal rights.
6. My inspection of your website revealed the following examples of misleading information concerning the right to cancel:
 - a. Expert's returns policy available at www.expert.ie/content/returns-policy/962 states:

"Returns

When you purchase online you have a statutory right to return unopened goods

(other than perishable or customised) up to 14 days after receiving your order: this is the cooling off period. We can change or cancel an order up until it is dispatched. If the order has been dispatched, you can return the unopened goods to us and we will organise a refund (excluding delivery cost). Memory cards and software must be in their sealed packaging. The product must not have been used or installed or had any data inputted.

- b. Expert's refunds policy states:

"Refund Policy

Once a product has been returned we will give you a full refund for the cost of the product plus the delivery charge paid. Refunds will take 3-5 working days to be credited to your card. We cannot refund your purchase if the seal has been broken on any memory card or software or on any personal hygiene products such as shavers.

To return your order(s) please contact orders@expert.ie or call 1850 750 750. Orders cannot be returned to Expert Stores."

7. I am of the view that Expert is engaging in a misleading commercial practice as outlined in section 43 of the Consumer Protection Act 2007 because:
- a. As outlined in 6(a) Expert asserts that consumers have a statutory right to return unopened goods up to 14 days after receiving [your] order. Exemptions from the right to cancel are set out in Regulation 13 (2) of the Regulations. Regulation 20 (6) permits consumers to handle goods to the extent necessary to establish their nature, characteristics and functioning. I am of the opinion, therefore, that the information on Expert's website may mislead consumers as to their legal right to cancel within the 14-day cancellation period.
 - b. Expert provides confusing information regarding refunds for delivery. In the returns information as outlined in 6(a) above, it states that a refund will be provided excluding delivery costs; however in the refunds information as outlined in 6(b) above, it states that the refund will be given plus the delivery charge. I believe this misleads consumers as to their legal rights under Regulation 19 of the Regulations.
 - c. As outlined in 6(b) above, Expert asks consumers to contact Expert by phone to arrange for the return of goods. Expert does not give or make available to

consumers the cancellation form as required by Regulation 10 (1) (b) and set out in Part B of Schedule 3 of the Regulations. I believe that by not giving or making available information as to the options and procedures available for exercising the right of cancellation as provided for under Regulation 17, Expert is misleading consumers as to their legal rights regarding cancellation under Regulation 14.

8. I believe that the information provided on Expert's website regarding returns and refunds at 6 (a) and 6 (b) above does not inform consumers in a clear and intelligible way of their statutory cancellation rights or the conditions, time limits and procedures for exercising their cancellation rights and as a result, in my opinion, misleads consumers as to their legal rights to cancel distance contracts.

Compliance direction and requirements

1. **Expert Ireland Retail PLC, a trader, is hereby directed to cease engaging in the prohibited commercial practice as outlined in this Notice.**
 2. **Expert Ireland Retail PLC, a trader, is hereby required to amend the information available to consumers on its website regarding consumer cancellation rights and associated trader obligations so that it reflects the legal rights of consumers and associated trader obligations under the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (S.I. No. 484 of 2013).**
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1. You must comply with this compliance direction and requirements by **23rd September 2015**.
 2. You may appeal this Compliance Notice to the District Court in the district court district in which the notice is served **within 14 days after its service**.
 3. The form and manner of such an appeal is that to be found in the District Court Rules, Schedule D, Form No: 100.1. This is available from the registrar at your local District Court office.
 4. In the event that you decide to appeal the Compliance Notice, you must, at the same time, notify the Competition and Consumer Protection Commission at the above address. You must also notify the Competition and Consumer Protection Commission of the grounds for the appeal.
 5. If an appeal is not made in accordance with Section 75 of the Consumer Protection Act 2007 and within 14 days after service of the Compliance Notice, this notice will be treated as not disputed, you will be deemed to have accepted the notice and have agreed to comply with the compliance direction and requirements and any failure or refusal to so comply is an offence and, on summary conviction, you will be liable to the fine and penalties set out in Part 5, Chapter 4 of the Consumer Protection Act 2007.

Signature: Niamh Martin

Niamh Martin

Authorised Officer

Competition and Consumer Protection Commission

Date: 3rd September 2015

This information is intended for information purposes only and does not constitute part of the Compliance Notice.

Compliance Notice Notes

Consumer Protection Act 2007 (CPA)

1.	Section 75(6) CPA requires a person, when lodging an appeal, to, at the same time, notify the Competition and Consumer Protection Commission of the appeal and the grounds for the appeal. The Commission is entitled to appear, be heard and adduce evidence on the hearing of the appeal.
2.	If on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following: <ol style="list-style-type: none"> a) the day after the day on which the notice is confirmed or varied on appeal, b) if the appeal is withdrawn by the appellant the day after the day it is withdrawn, c) the day specified in the notice.
3.	If there is no appeal under Section 75(5) CPA, the compliance notice takes effect on the later of the following: <ol style="list-style-type: none"> a) 14 days after the notice is served. b) the day specified in the notice.
4.	An Authorised Officer may: <ol style="list-style-type: none"> a) withdraw a compliance notice at any time, or b) if no appeal is made or pending under Section 75(5) CPA, extend the date by which the recipient is to comply with the compliance direction and requirements.
5.	Withdrawal of a compliance notice does not prevent the service of another compliance direction or requirement specified in a compliance notice, whether it relates to the same matter or a different matter.
6.	Under Section 75(13) CPA, if a compliance notice takes effect, the Commission is required to publish the compliance notice, or cause it to be published in any form or manner it considers appropriate.
7.	Section 86 CPA requires the Commission to maintain a "Consumer Protection List" of names and addresses together with a description of their trade, business or profession in respect of any enforcement actions taken by the Commission. This includes persons against whom compliance notices have taken effect.
8.	Any person who, without a reasonable excuse, fails to comply with a direction or requirement specified in a compliance notice commits an offence and, on summary conviction, is liable to the fines and penalties set out in Section 79 CPA.

9.	<p>Section 79(1) CPA provides that a person guilty of an offence under the Consumer Protection Act 2007 is liable on summary conviction to the following fines and penalties:</p> <ul style="list-style-type: none">a) a fine not exceeding €3000 or up to 6 months imprisonment or both,b) on any subsequent summary conviction a fine not exceeding €5000, or imprisonment for a term not exceeding 12 months or both. <p>If, after being convicted for an offence, a person continues to contravene the requirement or prohibition to which the offence relates, the person is guilty of a further offence on each day the contravention continues and for each such offence is liable on summary conviction to a fine not exceeding €500.</p>
10.	<p>According to section 75(14) the issuing of this notice does not prevent the commencement of proceedings for an offence.</p>