



Consumer Protection Act 2007

Compliance Notice (Section 75)

Mr. Edward McCarthy
T/A "Phoenix Motor Company"
Conyngham Road
Park Gate Street
Dublin 8

Competition and Consumer
Protection Commission
14 Parnell Square
Dublin 1

I, Sandra Eaton, 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 engaged 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 online advertisements by you on your website www.phoenixmotorsales.com and on the websites www.carsireland.ie and www.carzone.ie.

Statement of alleged contravention

That you, Edward McCarthy, a trader, trading as "Phoenix Motor Company", on dates between 20th of May 2015 and 16th of June 2015 for the purposes of Section 43(1) of the Consumer Protection Act 2007, engaged in a misleading commercial practice by misleading consumers by providing false information in relation to the usage or prior history of a motor vehicle being offered by you for sale, such being a matter set out in Section 43(3)(b)(vii) 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 your online advertisements on the websites www.phoenixmotorsales.com, www.carsireland.ie and www.carzone.ie for the BMW 3 Series motor vehicle with registration number 11D46822 that was being offered by you for sale, misled consumers in relation to the usage or prior history of the said motor vehicle by stating an incorrect mileage in the online advertisements, 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. You, Edward McCarthy, trading as “Phoenix Motor Company”, trading at 19 Conyngham Road, Park Gate Street, Dublin 8, can be described as a ‘trader’ for the purposes of the Consumer Protection Act 2007.
2. You, Edward McCarthy, trading as “Phoenix Motor Company”, on dates between 20th of May 2015 and 16th of June 2015, advertised a blue BMW 3 Series motor vehicle with registration number 11D46822 for sale through the following websites:
 - a. www.phoenixmotorsales.com;
 - b. www.carsireland.ie;
 - c. www.carzone.ie.
3. My inspection of those advertisements on the websites revealed the following information:
 - a. The mileage listed in the advertisement on www.phoenixmotorsales.com was 97,000 miles;
 - b. The mileage listed in the advertisement on www.carsireland.ie was 97,000 miles;
 - c. The mileage listed in the advertisement on www.carzone.ie was 107,000 miles.
4. I have established that at the time of the above online advertisements, the mileage of the motor vehicle in question was approximately 117,000 miles. The mileage listed by you in the online advertisements was therefore substantially less than that figure of 117,000 miles. The information provided by you on the websites was, therefore, false information.
5. The mileage of a motor vehicle is one of its main characteristics which provides information as to its usage and prior history. This information is therefore material information that a consumer needs when deciding whether or not to purchase the vehicle.
6. I believe that the provision of false information in relation to the mileage of the said motor vehicle was likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

Compliance direction and requirements

You, Edward McCarthy, a trader, trading as “Phoenix Motor Company”, trading at 19 Conyngham Road, Park Gate Street, Dublin 8, are hereby directed to remedy the matter occasioning this notice by ensuring that any advertisements for motor vehicles which you offer for sale to consumers do not provide false information in relation to the motor vehicle’s usage or prior history.

1. You must comply with this compliance direction and requirements by **13th of October, 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 to 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: Sandra M. Eaton

Sandra Eaton

Authorised Officer

Competition and Consumer Protection Commission

Date: 21 / 09 / 2015