



Consumer Protection Act 2007

Compliance Notice (Section 75)

Company Secretary

Arnotts Limited

12 Henry Street

Dublin 1

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.arnotts.ie.

Statement of alleged contravention:

That you, Arnotts Limited, a trader, as of 23rd 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 commercial 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 Arnotts Limited's website, www.arnotts.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, Arnotts Limited (hereinafter 'Arnotts'), as a legal person can be described as a 'trader' for the purposes of the Consumer Protection Act 2007.
2. Your company, Arnotts, has a website which provides a facility for consumers to conclude distance contracts with Arnotts. 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 Arnotts 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 of the Regulations. How a consumer exercises that right of cancellation is detailed in Regulation 17 of the Regulations.
5. I believe that Arnotts' website misleads consumers by providing contradictory and or inaccurate information to consumers regarding the statutory cancellation period.
6. I believe that Arnotts' website does not provide consumers with information necessary to exercise their statutory right of cancellation and therefore misleads consumers as to their legal rights.
7. My inspection of your website revealed the following examples of misleading information in relation to the cancellation period:

- a. Arnotts' website terms and conditions that are accessible before you place an order and pay states: 'You have a statutory right to a 7 day cooling-off period when purchasing online.' www.arnotts.ie/asp/Content.Asp?loc=SITETERMS&subloc=1
 - b. Arnotts' website terms and conditions that are accessible from the home page include a paragraph entitled "Claims", which states: "You have a statutory right to a 14 day cooling-off period when purchasing online. If a product is defective in any way, please return it with a covering letter and we will either deliver a new one to you or refund you the cost of the product....". www.arnotts.ie/content/terms-and-conditions/408.
 - c. Under the heading, "JUST PLACED YOUR ORDER AND CHANGED YOUR MIND?" Arnotts' returns policy states: "We can change or cancel an order up until it is dispatched. If the order has been already dispatched, under the 'Distance Selling Regulations' you have 14 working days to return the goods and we will issue a full refund of your purchase."
 - d. The company also provides a product returns form on its website at www.arnotts.ie/images/Product-Return-form.pdf for consumers to use when returning items. This provides 'simple instructions' on how to return items using a free returns service provided by An Post courtesy of Arnotts. This returns form is not the cancellation form that traders are required to give or make available to consumers in accordance with Regulation 10 (1) (b) of the Regulations.
8. I believe that the above information provided to a consumer seeking to conclude a distance contract on the Arnotts website, www.arnotts.ie, is misleading as to the legal rights of consumers for the following reasons:
- a. As highlighted in the above extracts from the webpages, Arnotts provides conflicting information regarding the cancellation (cooling-off) rights of consumers. Arnotts provides different information in various locations on their website, as outlined at 7 a. and 7 b. above, which does or is likely to mislead consumers. For distance contracts, the expiry of the cancellation period applies pursuant to Regulation 15. In the case of sales contracts, the cancellation period expires 14 days after the date on which the consumer acquires physical possession of the goods. Regulation 20 sets out the provisions regarding the return of goods by the consumer in the event of cancellation. The information that you provide in relation to this cancellation period does not

permit consumers to exercise the right of cancellation within the timeframes outlined in Regulation 15 and is therefore, in my opinion, misleading.

- b. Information as to the conditions, time limit and procedures for exercising the right of cancellation is not in accordance with Regulation 17 and is therefore, in my opinion, misleading. The information under 'claims' at 7 b. above regarding 'defective' products, in my opinion, could mislead consumers into believing that the 14-day cancellation period only applies to the return of 'defective' products.
 - c. The European Communities (Protection of Consumers in Respect of Contracts Made by Means of Distance Communication) Regulations 2001 (S.I. No. 207/2001), referred to on Arnotts' website as the Distance Sales or Distance Selling Regulations, outlined at 7 c. above, have been revoked since 13th June 2014 by Regulation 40(b).
 - d. Information concerning the return of goods in the event of a cancellation of a sales contract is not in accordance with Regulation 20 and is therefore, in my opinion, misleading. Consumers have 14 days to return goods from the date they inform the trader of the cancellation of the contract and not 14 days from dispatch as outlined at 7 c. above.
9. I am therefore of the opinion that the Arnotts' website, www.arnotts.ie, fails to provide the information required under statute in a clear and intelligible manner in a way appropriate to the means of distance communication used and as a result, I am of the opinion, that Arnotts is misleading consumers as to their legal rights with regard to cancellation.

Compliance direction and requirements

1. **Arnotts Limited, a trader, is hereby directed to cease engaging in the prohibited commercial practice as outlined in this Notice.**
 2. **Arnotts Limited, 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: 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: a) 14 days after the notice is served. b) the day specified in the notice.
4.	An Authorised Officer may: 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.	According to section 75(14) the issuing of this notice does not prevent the commencement of proceedings for an offence.