

Consumer protection enforcement concluded in 2017

1. Fines, Penalties and Compensation Orders

Legislation breached

- Engaging in a misleading commercial practice as described by section 43(1) and section 43(3)(b)(vii) contrary to section 47 of the Consumer Protection Act 2007.

Mr Timmy Keane, Harold's Cross Cottages, Harold's Cross, Dublin 6

On 4 July 2016, Mr Timmy Keane, Harold's Cross Cottages, Harold's Cross, Dublin 6, was convicted of engaging in a misleading commercial practice by providing false information to a consumer in relation to a vehicle's mileage as described by section 43(1) and section 43(3)(b)(vii) contrary to section 47 of the Consumer Protection Act 2007. Following an application by the CCPC for a compensation order, arrangements were put in place by the court for Mr Keane to compensate the consumer to the sum of €5,000. At a sentencing hearing on 12 June 2017, Mr Keane received a six month suspended sentence, suspended for one year.

Mr Jonathan McSherry, trading at Station Road Autos, Clondalkin, Dublin 22

On 16 February 2017, Mr Jonathan McSherry, trading at Station Road Autos, Clondalkin, Dublin 22, was convicted of engaging in a misleading commercial practice by providing false information to a consumer in relation to a vehicle's mileage as described by section 43(1) and section 43(3)(b)(vii) contrary to section 47 of the Consumer Protection Act 2007. Mr McSherry was sentenced to three months in prison.

Mr Olexandr Matveyshyn, trading at MIV Motors, 6 Cross Roads Business Park, Kilbarry, Waterford

On 20 October 2017, Mr Olexandr Matveyshyn, trading at MIV Motors, 6 Cross Roads Business Park, Kilbarry, Waterford, was convicted of engaging in a misleading commercial practice by providing false information to a consumer in relation to a vehicle's mileage as described by section 43(1) and section 43(3)(b)(vii) contrary to section 47 of the Consumer Protection Act 2007. Mr Matveyshyn was fined €500 and had €1,000 in costs awarded against him. Following an application by the CCPC, Mr Matveyshyn was required to pay a compensation order of €8,000 to the consumer.

2. Undertakings (pursuant to section 73 of the Consumer Protection Act 2007)

Total number of undertakings: Three

Legislation breached

- Engaging in a prohibited commercial practice as described by section 55(1)(x)(i) and contrary to section 56 of the Consumer Protection Act 2007.
- Engaging in a misleading commercial practice prohibited under section 42 and as described by section 43(1) and section 43(3)(b)(vii) contrary to section 47 of the of Consumer Protection Act 2007.

Mr Robert McCabe and Robert McCabe Motors Limited, Irish Street, Ardee, Co. Louth

On 6 February 2017, following an investigation relating to a person representing himself as a private seller and the provision of false and misleading information to a consumer in relation to the usage and prior history of a car, Robert McCabe and Robert McCabe Motors Limited gave an undertaking, pursuant to section 73 of the Consumer Protection Act 2007. Mr Robert McCabe and Robert McCabe Motors Limited undertake to:

- comply with the prohibition of engaging in a misleading commercial practice as provided by section 42 of the Consumer Protection Act 2007.
- refrain from engaging in a prohibited commercial practice as described by section 55(1)(x)(i) and contrary to section 56 of the Consumer Protection Act 2007.
- refrain from engaging in misleading commercial practices as described by section 43(3)(b)(vii) and contrary to section 47 of the Consumer Protection Act 2007.
- within four weeks of receiving an application from any consumer prejudiced by the misleading commercial practice in which it has engaged, compensate the consumer, including the reimbursement of money or return of any other property or thing received from the said consumer in connection with the sale by it of any used car.

Legislation breached

- Engaging in a misleading commercial practice under section 42 and as described by section 43(1) and section 43(3)(b)(vii) contrary to section 47 of the Consumer Protection Act 2007.

Mr Marcin Okurowski and Martin's Garage trading at William Street, Nenagh, County Tipperary

On 23 September 2017, following an investigation relating to the provision of false and misleading information to a consumer in relation to the usage and prior history of a car, Marcin Okurowski of Tyone, Nenagh, County Tipperary and Martin's Garage trading at William Street, Nenagh, County Tipperary, gave an undertaking, pursuant to section 73 of the Consumer Protection Act 2007. Marcin Okurowski and Martin's Garage undertake to:

- comply with the prohibition of engaging in a misleading commercial practice as provided by section 42 of the Consumer Protection Act 2007.
- refrain from engaging in a misleading commercial practice as described by section 43(3)(b)(vii) and contrary to section 47 of the Consumer Protection Act 2007.
- within four weeks of receiving an application from any consumer prejudiced by the misleading commercial practice in which it has engaged, compensate the consumer, including the reimbursement of money or return of any other property or thing received from the said consumer in connection with the sale by it of any used car.

Byrne's Garage, Tinnock, Gorey, Co. Wexford

On 3 November 2017, following an investigation relating to the provision of false and misleading information to a consumer in relation to the usage and prior history of a car, Byrne's Garage gave an undertaking, pursuant to section 73 of the Consumer Protection Act 2007. Byrne's Garage undertake to:

- comply with the prohibition on misleading commercial practices as provided by section 42 of the Consumer Protection Act 2007.
- refrain from engaging in a misleading commercial practice as described by section 43(3)(b)(vii) and contrary to section 47 of the Consumer Protection Act 2007.

3. Compliance Notices (as provided for by section 75 of the Consumer Protection Act, 2007)

Total number of Compliance Notices that took effect: 12

Legislation breached:

- Compliance Notices issued to traders who failed to give or make available to consumers information on the conditions, time limit and procedures for exercising the right of cancellation and the cancellation form set out in Part B of Schedule 3 of the Regulations before he/she is bound by a distant contract, as required by Regulation 10(1) of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013.

— **Stardream Fashion Limited, 40 Clarendon Street, Dublin 2 trading as Coco Boutique**

— **Creative Retail Solutions Limited, 101a Rathgar Road, Dublin 6 (operating as www.thehalloweenhq.com)**

Legislation breached:

- Compliance Notices issued to traders who provided consumers with misleading information on their rights provided under the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013, such a practice being a prohibited practice as described by section 43(2) and section 43(3)(j) of the Consumer Protection Act 2007.

— **Stardream Fashion Limited, 40 Clarendon Street, Dublin 2 trading as Coco Boutique**

— **Creative Retail Solutions Limited, 101a Rathgar Road, Dublin 6 (operating as www.thehalloweenhq.com)**

Legislation breached:

- Compliance Notices issued to traders who provided consumers with misleading information on their rights provided under the Sale of Goods Act 1893 and the European Communities (Certain Aspects of the Sale of Consumer Goods and Associated Guarantees) Regulations 2003, such a

practice being a prohibited practice as described by section 43(2) and section 43(3)(j) of the Consumer Protection Act 2007.

- **Creative Retail Solutions Limited, 101a Rathgar Road, Dublin 6 (operating as www.thehalloweenhq.com)**

Legislation breached:

- Compliance Notices issued to traders who engaged in a misleading commercial practice by omitting or concealing material information, such a practice being a prohibited practice as described by section 46(1) of the Consumer Protection Act 2007.

- **John Duignan Motors, Unit 7, New Townspark Industrial Estate, Longford, Co. Longford**

Legislation breached:

- Compliance Notices issued to traders who engaged in a misleading commercial practice by providing false information in relation to the usage or prior history of a car, such a practice being a prohibited practice as described by section 43(1) and section 43(3)(b)(vii) and contrary to section 47 of the Consumer Protection Act 2007.

- **D.S. Cars Limited, No. 2 Fox and Geese, Naas Road, Dublin 12**

Legislation breached:

- Compliance Notices issued to traders for providing false information in relation to the price of the product(s), such a practice being a prohibited practice as described by section 43(1) and 43(3)(c).

Number of Compliance Notices – Five (Traders listed alphabetically by county)

Cork

- Mr Peader Aspel trading at Aspel Spar, Upper Strand Street, Youghal, Co. Cork

Dublin

- Tesco Ireland Limited trading at Tesco, Omni Park Shopping Centre, Santry, Dublin 9

Galway

- Hitianland Limited trading at Foodland, Unit 4, Doughiska, Co. Galway

Limerick

- Messrs. John and Edward Glennon trading at Spar, Ballycummin Shopping Centre, Ballycummin Road, Raheen, Co. Limerick

Waterford

- Autoport Oil Limited trading at Mooneys Mace, Park Road Service Station, Park Road, Waterford, Co. Waterford

4. Fixed Payment Notices (as provided for by section 85 of the Consumer Protection Act, 2007)

Total number of Fixed Payment Notices (FPNs) paid: 35

Legislation breached:

- FPNs issued to traders who failed to reimburse all payments, including any payment for delivery received from a consumer who exercises the right to cancel a contract, in contravention of Regulation 19(1) of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013.

— **Extreme Computers Limited, Unit 37 Canal Walk, Kavanagh Avenue, Park West Industrial Park, Dublin 12 trading as Elara Online**

Legislation breached:

- FPNs issued to traders who failed to indicate the selling price of a product, in contravention of Regulation 4(1) of the European Communities (Requirements to Indicate Product Prices) Regulation 2002.

Number of FPNs – 33 (Traders listed alphabetically by county)

Cork

- Drinagh Sales Limited trading at Drinagh Co-Op, Drinagh, Co. Cork – **received 2 FPNs**
- Messrs. Neil and Brendan O’Driscoll trading at J.J. O’Driscoll Superstore, Ballinlough Road, Cork, Co. Cork – **received 2 FPNs**

Dublin

- C&C Retail Limited trading at Spar, 19-20 Dame Street, Dublin 2 – **received 2 FPNs**
- Corajio Unlimited Company trading at Mr Price, Coolock Retail Park, Coolock, Dublin 17 – **received 2 FPNs**
- Fairview Retail Investments Limited trading at Eurospar, 23-27 Annesley Bridge Road, Fairview, Dublin 3
- Heatons Unlimited Company trading at Heatons, The Park, Carrickmines, Dublin 16
- Lidl Ireland GmbH trading at Lidl, 12 Greenhills Road, Dublin 12
- Musgraves Operating Partners Ireland trading at Supervalu, The Pavilions Shopping Centre, Swords, Co. Dublin – **received 2 FPNs**
- Petrogas Group Limited trading at Applegreen, 90 Tyrconnell Road, Inchicore, Dublin 8
- QEC Limited trading at Topaz, 15-21 Ushers Quay, Dublin 8 – **received 2 FPNs**

Galway

- Hitianland Limited trading at Foodland, Unit 4, Doughiska, Co. Galway
- Joyce’s Supermarket (Tuam) Unlimited Company trading at Joyce’s Supermarket, Tuam Shopping Centre, Tuam, Co. Galway – **received 2 FPNs**
- Joyce’s Supermarket (Athenry) Unlimited Company trading at Joyce’s Supermarket, Athenry Shopping Centre, Co. Galway – **received 2 FPNs**

Kildare

- Mitlex Venture Limited trading at New Days, Clane Road, Sallins, Co. Kildare

Kilkenny

- A & D Supermarkets Limited trading at Centra, Main Street, Piltown, Co. Kilkenny

Leitrim

- Heatons Unlimited Company trading at Heatons, Rosebank Retail Park, Dublin Road, Carrick-on-Shannon, Co. Leitrim

Limerick

- Messrs. John and Edward Glennon trading at Spar, Ballycummin Shopping Centre, Ballycummin Road, Raheen, Co. Limerick

Louth

- D.P.L. Group Limited trading at DPL Hardware, Donore Road, Drogheda Co. Louth – **received 2 FPNs**
- Marks and Spencer (Ireland) Limited trading at Marks and Spencer, Lawrence Town Centre, Drogheda, Co. Louth – **received 2 FPNs**

Mayo

- Dermal Limited trading at Mace, Castlebar Road, Ballinrobe, Co. Mayo

Monaghan

- A. O’Gorman & Company Limited trading at O’Gorman’s SuperValu, Market Square Shopping Centre, Carrickmacross, Co. Monaghan

Westmeath

- M & M Mulligan Limited trading at Mulligans Londis, Roscommon Road, Athlone, Co. Westmeath

Wexford

- Ken Black Limited trading at Ken Black Toys and Nursery, Clonard Retail Park, Co. Wexford

Legislation breached:

- FPNs issued to traders who failed to display a notice as required by Article 3 of the Retail Price (Beverages in Licensed Premises) Display Order 1999
- Reardens of Washington Street Limited trading at John Rearden and Son, 26 Washington Street, Co. Cork