

Consumer Protection Act 2007
Compliance Notice (Section 75)

Jalal Khan
92 Lagavooren Manor
Drogheda
County Louth

Competition and Consumer Protection Commission
Bloom House
Railway Street
Dublin 1

I, John McNally, an authorised officer of the Competition and Consumer Protection Commission, (CCPC), duly authorised under section 35 of the Competition and Consumer Protection Act 2014 (2014 Act) hereby give you, Jalal Khan, notice, pursuant to section 75(2) of the Consumer Protection Act 2007 (2007 Act) that I am of the opinion that you engaged in a prohibited commercial practice under Part 3 of the 2007 Act, such a prohibited commercial practice being a prohibited act or practice as defined by section 67(a) of the 2007 Act.

The contravention contained herein relates to a representation made or the impression created by you in an advertisement for a motor vehicle on the classified website, www.donedeal.ie, that you were not acting for purposes relating to your trade, business or profession when you were so acting.

Statement of alleged contravention

That, you, Jalal Khan, a trader, for the purposes of the 2007 Act, engaged in a prohibited commercial practice when you made the representation or created the impression in an advertisement for a motor vehicle on the classified website, www.donedeal.ie, that you were not acting for purposes relating to your trade, business or profession when you were so acting, by publishing an advertisement as a private advertisement.

Section 55(1)(x)(i) of the 2007 Act provides that a trader shall not engage in the practice of making a representation or creating the impression that the trader is not acting for purposes relating to the trader's trade, business or profession when the trader is so acting. Section 56 of the 2007 Act provides that it is an offence to contravene section 55(1) of the 2007 Act.

My Opinion

I am of the opinion that you, Jalal Khan, made a representation that you were not acting for purposes relating to your trade, by publishing advertisements as private advertisements on the online classified website, www.donedeal.ie, such a practice being a prohibited commercial practice for the purposes of the 2007 Act.

The reasons for my opinion are based on the following:

1. You, Jalal Khan, can be described as a “trader” for the purposes of the 2007 Act. You were a director of Greenhill Motors Limited at all material times.
2. You, Jalal Khan, offered for sale a motor vehicle, Renault Megane registration number 05 KK 249, (the Motor Vehicle) on the classified advertisement website, www.donedeal.ie, between 12 October 2017 and 25 November 2017.
3. You, Jalal Khan, made a representation or created the impression that you were not acting for purposes relating to your trade, in the advertisement for the Motor Vehicle you placed on the website, www.donedeal.ie, by publishing the advertisement containing the description “Private Ad”.
4. In my opinion, by publishing the advertisement with the description “Private Ad”, you made the representation or created the impression that the advertisement was placed by a consumer offering a vehicle for sale rather than being an offer for sale by a trader for purposes relating to his/her trade.
5. In my opinion, you engaged in a prohibited commercial practice by making a representation or creating the impression that you were not acting for purposes relating to your trade, business or profession when you were so acting.

Compliance direction and requirements

1. You, Jalal Khan, a trader, are hereby directed to comply with the prohibition on prohibited commercial practices provided by section 55(1)(x)(i) of the 2007 Act.
2. You, Jalal Khan, a trader, are hereby directed to cease engaging in prohibited commercial practices provided by section 55(1)(x)(i) of the 2007 Act.
3. You, Jalal Khan, a trader, are hereby required to provide true and accurate information with respect to your status as a trader in all communications, including advertisements, to consumers of every motor vehicle advertised or offered for sale by you.
4. You, Jalal Khan, a trader, are hereby required to publish all advertisements to consumers for motor vehicles offered for sale by you on online classifieds websites as an advertisement by a trader rather than as an advertisement by a private seller or as a consumer.

You must comply with this compliance direction and requirements by **20 November 2018**.

You may appeal this Compliance Notice to the District Court in the district in which the notice is served within **14 days after its service**.

The form and manner of such an appeal is that to be found in the District Court Rules, Schedule C, Form No: 40.D 01. This is available from the registrar at your local District Court office.

In the event that you decide to appeal the Compliance Notice, you must, at the same time, notify the CCPC at the above address. You must also notify the CCPC of the grounds for the appeal.

If an appeal is not made in accordance with section 75 of the 2007 Act 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 2007 Act.

A copy of section 75 of the 2007 Act is attached to this Compliance Notice. It is intended for information purposes only and does not constitute part of the Compliance Notice.

Signed: 

John McNally

Authorised Officer

Competition and Consumer Protection Commission

Dated: 24 October 2018