



AGREEMENT AND UNDERTAKING

The Competition and Consumer Protection Commission (“the Commission”)

-And-

Marcin Okurowski and Martin’s Garage

This Agreement and Undertaking is made by and between the Commission and Marcin Okurowski and Martin’s Garage on the date set forth below. The Undertaking of Marcin Okurowski and Martin’s Garage contained herein is accepted by the Commission pursuant to Section 73 of the Consumer Protection Act 2007 (the ‘2007 Act’).

WHEREAS:

- A. Marcin Okurowski of Tyone, Nenagh County Tipperary and Martin’s Garage of William Street Nenagh County Tipperary makes available in the course of business used cars for sale to members of the public.

It is a function of the Commission pursuant to section 10 of the 2014 Act, *inter alia* -

- (i) to promote and protect the interests and welfare of consumers;
- (ii) to carry out an investigation into any suspected breach of the relevant statutory provisions;
- (iii) to enforce the relevant statutory provisions;
- (iv) to encourage compliance with the relevant statutory provisions.



- B. On or about 27 April 2016, the Commission commenced an investigation into alleged misleading commercial practices in respect of an offer for sale of a certain used car by Marcin Okurowski and/or Martin's Garage of William Street Nenagh County Tipperary.
- C. The Commission then further investigated whether the sale on the 13 May 2016 of the used car to a consumer displaying an odometer showing an incorrect measurement of mileage constituted a misleading commercial practise as defined and prohibited under the Act. The Commission's investigation found that the said practices on the part of Marcin Okurowski and/or Martin's Garage has committed or engaged in misleading commercial practices prohibited under Section 42, described by section 43(3)(b)(vii), and contrary to section 47 of the 2007 Act.
- D. As a result of this investigation's findings, the Parties have reached an agreement, as more particularly described below, wherein the Commission accepts an undertaking of certain obligations by Marcin Okurowski and/or Martin's Garage in respect of used cars intended for sale in the course of its business.

IT IS HEREBY AGREED AS FOLLOWS:

1. Marcin Okurowski and Martins Garage undertakes that: -
 - a) they shall comply with the prohibition on misleading commercial practices as provided by section 42 of the 2007 Act;
 - b) they shall refrain from engaging in misleading commercial practices in the course of its business, in particular, as described by section 43(3)b(vii) of the 2007 Act and contrary to section 47 of the 2007 Act.
 - d) and, within four weeks of receiving an application from any consumer prejudiced by the misleading commercial practices in which it has engaged, shall undertake to compensate the said 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.

2. In consideration of the undertaking furnished by Marcin Okurowski/Martin's Garage set out herein, the Commission agrees that it will not take further action in this matter with respect to criminal proceedings or to initiate criminal proceedings against Marcin Okurowski/Martin's Garage. Nothing in this agreement shall be construed so as to impair the Commission's right to institute civil or criminal proceedings for any matter not specifically described herein.
4. The terms "and" and "or" as used herein have both conjunctive and disjunctive meanings.
5. The Agreement will take effect on ~~July 2017.~~
23rd September 2017

SEPTEMBER
Dated this *23rd* day of ~~July~~ **2017**

AGREED TO AND ACCEPTED BY:

Signed: _____

Eksteen Maritz

Director for and on behalf of the Competition and Consumer Protection Commission

Signed: _____

Marcin Okurowski

Signed: _____

Marcin Okurowski

For and on behalf of Martin's Garage