

AGREEMENT AND UNDERTAKING

The Competition and Consumer Protection Commission
("the Commission")

-And-

Byrnes Garage, Tinnock, Gorey, Co.Wexford

This Agreement and Undertaking is made by and between the Commission and Byrnes Garage, of Tinnock, Gorey, County Wexford. The Undertaking of Byrnes Garage contained herein is accepted by the Commission pursuant to Section 73 of the Consumer Protection Act 2007 (the '2007 Act'). The Competition and Consumer Act 2014, (the 2014 Act) and the 2007 Act is cited together as the Consumer Protection Acts 2007-2014, ('the 2007-2014 Acts') where appropriate. The Commission and Byrnes Garage are referred to collectively herein as the "Parties."

WHEREAS:

- A. Byrnes Garage makes available in the course of its business used cars for sale to members of the public.

- B. 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.

- C. On or about 18 January 2016, the Commission commenced an investigation into alleged misleading commercial practices in respect of the sale and offer for sale of a used car by a person describing himself as Felix Byrne. The investigation ascertained that the person was Felix Byrne, the owner of Byrnes Garage who was selling vehicles in the course of business, and is a trader within the meaning of the 2007 Act.
- D. In its investigation, the Commission considered whether the sale and offer for sale by Byrnes Garage of a used car displaying an odometer showing an incorrect measurement of mileage constituted a misleading commercial practice as defined and prohibited under the Act.
- E. As a result of its investigation, the Commission has reason to believe that Byrnes 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.
- F. As a result of this investigation, the Parties have reached an agreement, as more particularly described below, wherein the Commission accepts an undertaking of certain obligations by Byrnes Garage in respect of used cars intended for sale in the course of its business.

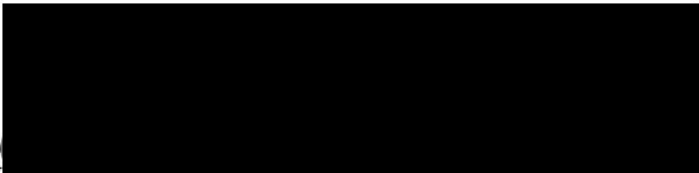
IT IS HEREBY AGREED AS FOLLOWS:

- 1. Byrnes Garage undertakes that:
 - a) it shall comply with the prohibition on misleading commercial practices imposed by section 42 of the 2007 Act;
 - b) it shall refrain from engaging in misleading commercial practices in the course of its business, in particular, as prescribed by section 43(3)(b)(vii) of the 2007 Act;
- 2. In consideration of the undertaking furnished by Byrnes Garage as set out herein, the Commission agrees that it will not take further action with respect to criminal proceedings or to initiate criminal proceedings against Byrnes Garage, pursuant to Section 71 of the 2007 Act. 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.

3. This Agreement and Undertaking shall be, and is intended by the Parties to be, a binding and enforceable agreement which may be enforced by action in any Court of competent jurisdiction in the State.
4. The undertaking provided herein shall be binding on the partners, directors, officers, employees, servants, agents, and successors and assigns Byrnes Garage.
5. The terms "and" and "or" as used herein have both conjunctive and disjunctive meanings.
6. The Agreement will take effect on the date specified below.

AGREED TO AND ACCEPTED BY:Signed: **Eksteen Maritz**

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

Date: 3/11/17Print name and signed: **On behalf of Byrnes Garage**Date: 3 Nov 2017