

AGREEMENT AND UNDERTAKING**The Competition and Consumer Protection Commission****-and-****Kieran McArdle****-and-****Doohamlet Motors Limited**

This Agreement and Undertaking (the “Undertaking”) is made by and between the Competition and Consumer Protection Commission (the “CCPC”) and Kieran McArdle and Doohamlet Motors Limited on the date set forth below. The Undertaking contained herein is accepted by the CCPC pursuant to section 73 of the Consumer Protection Act 2007 (the “2007 Act”). The CCPC, Kieran McArdle and Doohamlet Motors Limited are referred to collectively herein as the “Parties”.

WHEREAS:

- A. The CCPC is a statutory body and its functions pursuant to section 10 of the Competition and Consumer Protection Act 2014 (the “2014 Act”) include *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 2007 Act;
 - (iii) to enforce the 2007 Act;
 - (iv) to encourage compliance with the 2007 Act.
- B. Doohamlet Motors Limited, a company incorporated within the State having its registered office at Doohamlet, Castleblaney, Co. Monaghan, makes used cars available for sale to consumers in the course of business. Doohamlet Motors Limited is a trader for the purposes of the 2007 Act.
- C. Kieran McArdle is, and was at all material times, a director of Doohamlet Motors Limited and makes used cars available for sale to consumers in the course of his business. Kieran McArdle is a trader for the purposes of the 2007 Act.
- D. On 7 November 2015, Doohamlet Motors Limited sold a Vauxhall Insignia car, registration number 10MN6908, (“the Vehicle”), to a consumer at its trading premises at Doohamlet, Castleblaney, Co. Monaghan. The sale was conducted on behalf of Doohamlet Motors Limited by Kieran McArdle.

- E. On or about 14 August 2017, the CCPC commenced an investigation into alleged misleading commercial practices in respect of the sale of the Vehicle on 7 November 2015, namely that Kieran McArdle and Doohamlet Motors Limited misled and/or deceived the consumer regarding the usage and prior history of the Vehicle, in particular the previous write-off status of the Vehicle.
- F. Following its investigation, the CCPC has reason to believe that Kieran McArdle and Doohamlet Motors Limited have engaged in a misleading commercial practice prohibited under section 42 (and as described by sections 43(2) and 43(3)(b)(vii)), and contrary to section 47 of the 2007 Act.
- G. As a result of the CCPC's investigation, Kieran McArdle has agreed to enter into this Undertaking and to give the undertakings set out in paragraph 1 below.

IT IS HEREBY AGREED AS FOLLOWS:

1. Doohamlet Motors Limited and Kieran McArdle each undertake to: -
 - a) comply with the prohibition on misleading commercial practices provided by section 42 of the 2007 Act;
 - b) refrain from engaging in misleading commercial practices in the course of business, in particular, as described by sections 43(2) and 43(3)(b)(vii) of the 2007 Act;
 - c) carry out appropriate due diligence on the usage or prior history of every vehicle offered for sale in the course of their trade;
 - d) provide consumers with the usage or prior history, in particular any crash history and a correct and accurate mileage reading and accurate details of the standard of repair of every vehicle offered for sale in the course of their trade; and
 - e) maintain a record of the due diligence carried out on the usage or prior history referred to at c) above for a period of three (3) years from the date of advertisement or the date of sale, whichever is later, of every used vehicle advertised or offered for sale by Kieran McArdle and Doohamlet Motors Limited.
2. In consideration of the Undertaking furnished by Kieran McArdle and Doohamlet Motors Limited as set out herein, the CCPC agrees that it will not initiate criminal proceedings or take any further action against Kieran McArdle or Doohamlet Motors

Limited, arising out of the circumstances of the sale of the Vehicle on 7 November 2015 as detailed in this Undertaking, for so long as Kieran McArdle and Doohamlet Motors Limited remain in compliance with this Undertaking. Nothing in this Undertaking shall be construed so as to impair the CCPC's right to institute civil or criminal proceedings for any matter not specifically described herein.

3. This Undertaking shall be and is intended by the Parties to be a binding agreement. Pursuant to section 73(7) of the 2007 Act, should Kieran McArdle or Doohamlet Motors Limited fail to comply with the terms and condition of the Undertaking, the CCPC may apply to the Circuit Court or the High Court for a prohibition order pursuant to section 71 of the 2007 Act
4. This Undertaking shall be binding on the successors and assigns of Doohamlet Motors Limited and on its employees, servants and agents.
5. The terms "and" and "or" as used herein have both conjunctive and disjunctive meanings.
6. This Undertaking will take effect on Friday 7 December 2018

Dated this 7th day of December 2018

AGREED TO AND ACCEPTED BY:

Signed: _____

Eksteen Maritz

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

Signed: _____

Kieran McArdle

Signed: _____

Kieran McArdle

For and on behalf of Doohamlet Motors Limited