



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

Consumer Protection List 2020

In accordance with section 86 of the Consumer Protection Act 2007, as amended.

1 January 2020 to 31 December 2020



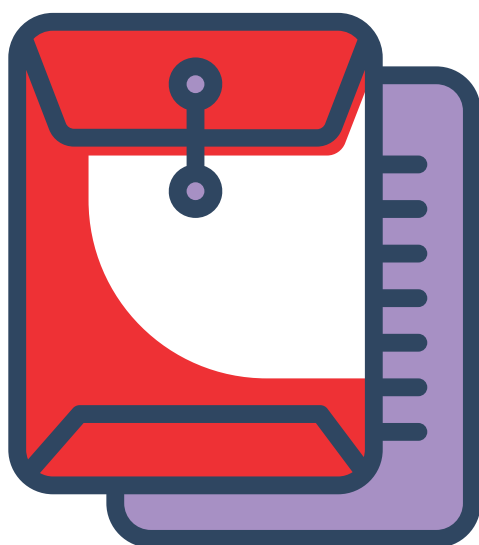
Consumer Protection List 2020

The Competition and Consumer Protection Commission (CCPC) strives to improve consumer welfare across the economy by promoting compliance with, and enforcing where necessary, over 40 legislative instruments, including consumer protection law.

The Consumer Protection Act 2007 (CPA) provides a range of enforcement measures to help the CCPC achieve compliance with consumer protection law escalating from engagement, to administrative action by the CCPC, to criminal prosecution. When an enforcement action has been taken, the CCPC is required to keep and maintain the Consumer Protection List (CPL) which details the names and addresses of the relevant companies and individuals in the following circumstances:

- Fine or other penalty has been imposed by a court.
- A prohibition order has been made.
- An undertaking has been given.
- A compliance notice takes effect.
- A fixed payment notice has been paid.

The CCPC will place the names and addresses of the relevant companies and individuals together with the description of the trade, business or profession and any particulars the CCPC may consider appropriate in respect of the enforcement actions, on this list.



The CPL details the enforcement actions taken under the CPA. In addition to the enforcement actions detailed in the CPL, the CCPC undertakes a range of activities to increase business compliance with consumer protection law. Further details of CCPC activities in relation to consumer protection can be found in our Annual Reports.

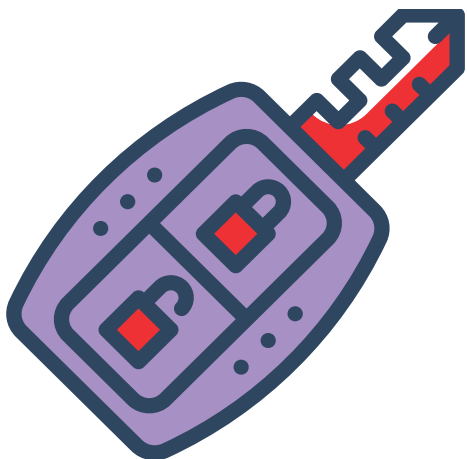
In 2020, the following enforcement actions were completed:

- One conviction
- Two undertakings from traders in Meath and Kildare
- Five Compliance Notices were served on traders in Dublin and Clare
- Five Fixed Payment Notices were served on traders in Dublin, Clare and Galway

Additional details of the enforcement actions can be found from page 6.

2020 consumer enforcement highlight: vehicle crime

Consumer protections are particularly important when buying and selling second hand cars. If a trader doesn't provide the full car history to a consumer or if they try and cover up the car history this can have very serious consequences. Consumer protection laws don't just prevent consumers from losing their money, they also prevent consumers from buying cars that could be dangerous.



In July 2020, a court convicted a trader in a case brought by the CCPC where a trader sold a car while giving incorrect information on the car's previous mileage. The CCPC opened the investigation after a consumer complained that they suspected the car's odometer had been tampered with. The trader was convicted of four breaches of the law and received a four month suspended prison sentence. The trader was also required by the Court to pay the CCPC's costs in taking the case and to pay compensation to the consumer.

This case was the first conviction in Ireland for disguised trading. Disguised trading is when a trader creates an impression that they are not a trader during a transaction such as in the sale of a car. This is most commonly seen in online advertisements and it is illegal.

In 2020 the CCPC carried out a number of unannounced inspections of car traders who were suspected of selling clocked or previously crashed cars and had been subject of multiple complaints made to the CCPC. Search warrants were executed as part of criminal investigations into a number of traders suspected of offences of misleading commercial practices.

Enforcement actions under the CPA are just one part of the CCPC's actions to protect consumers buying second hand cars. The CCPC ran a public information campaign on radio, online and outdoor advertising to highlight the risks of buying a second hand car and publicise the information resources available on ccpc.ie. The CCPC helpline also provided information to over 1,800 consumers on their rights when buying or having trouble with a second hand car.

Every second-hand car has a story to tell.

but I've actually driven 127,000km.



I've only 50,000km on my clock

2020 consumer enforcement highlight: COVID-19

In 2020, the impact of COVID-19 on consumers and businesses was unprecedented. Consumers shopped online more than ever before while closures, travel restrictions, cashflow difficulties and supply chain issues meant that many traders were not able to deliver their goods and services. Consumers then in turn experienced new challenges in engaging with businesses to try and get redress.

The CCPC's initial activity at the beginning of the pandemic was to monitor compliance with on-premises pricing requirements which included visiting 185 stores and checking over 1,300 items to assess whether traders met pricing rules. With on-premises inspection activity being limited due to the COVID-19 crisis, the CCPC moved the focus to online inspections with over 50 websites selling goods and services inspected for the following consumer protection legislation requirements:

- Product Pricing,
- Consumer Rights,
- E-Commerce,
- Unfair Commercial Practices,
- Gift Vouchers and,
- Online Dispute Resolution.



Two consumer warnings

82,224 visits to our online COVID-19 Hub

185 store visits

1,300 item price checks

A further 47 websites were assessed as part of a broader CCPC response to COVID-19 and emerging consumer issues. The CCPC also examined a number of websites as part of a European wide sweep of COVID-19 related products on websites and online platforms to identify false claims and scam products. Separately, the CCPC also wrote to 11 of the largest online platforms in Ireland advising them of their obligations under Irish consumer protection legislation.

The CCPC took enforcement actions against two online traders in 2020. One trader was issued with a Fixed Payment Notice and three Compliance Notices. A second trader was issued with two Compliance Notices. In both cases the CCPC issued a consumer warning in relation to the non-compliant websites.

Consumer protection enforcement measures under the Consumer Protection Act

Fixed Payment Notice

A Fixed Payment Notice (FPN) is a set fine of €300 that the CCPC can issue to a trader if they don't display prices properly or provide certain required information to a consumer. An FPN can also be issued in some cases if a consumer is charged extra or is not refunded properly. An FPN must be paid within 28 days. More than one FPN may be issued to a trader. Failure to pay an FPN is an offence that may be prosecuted by the CCPC [s.85 CPA].



Undertakings

Undertakings are a formal written agreement between the CCPC and a trader where a trader agrees to take certain actions. Undertakings can include an agreement to take action to address a breach of the law. That agreement could include actions such as publishing a corrective statement or paying compensation to a consumer [[s.73 CPA].



Compliance Notice

A Compliance Notice (CN) is a written legal notice that the CCPC can issue to a trader who has committed a 'prohibited act or practice' or is currently committing a 'prohibited act or practice'. The CN tells the trader that they have to fix the issue and make things right. A trader can appeal a CN to the District Court within 14 days. If a trader does not carry out the instructions in the CN they will be breaking the law and can be taken to Court [s.75 CPA].

Prohibition Orders

A Prohibition Order is a legal order that is issued by the Circuit Court or the High Court to a trader to tell them not to do something that is illegal under the CPA. Under Section 71 of the CPA, any person, including the CCPC, can apply to the Circuit or the High Court for a Prohibition Order.

Prosecution

A prosecution is when the CCPC takes a trader to court because they have broken the law set out in the CPA. Prosecuting a trader who has broken the law is the ultimate sanction available to the CCPC. A trader can be issued with high fines and even get a jail sentence. If convicted, the trader can also have to pay the cost of the CCPC taking the case to court.

Consumer protection enforcement concluded in 2020

Fines, penalties and compensation orders imposed by a Court

Relevant legislation

- 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.

James Hughes, Carramore, Manulla, Castlebar, County Mayo, who is active in the automotive parts trade. The CCPC opened an investigation following an allegation by a consumer that the odometer on a vehicle they had purchased from Mr Hughes had been tampered with and did not show the correct mileage. The consumer also alleged that Mr Hughes presented himself as a private seller of a vehicle when he was acting as a trader. On 16 June 2020 at Castlebar District Court, James Hughes was convicted of 3 counts of 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.

Mr Hughes was also convicted on one count 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. At a sentencing hearing on 16 July 2020, James Hughes received a four month sentence of imprisonment, suspended for two years.

Undertakings pursuant to section 73 of the Consumer Protection Act 2007

Relevant legislation

- Engaging in a misleading commercial practice prohibited under section 42 and as described by section 43(2) and 43(3)(b)(i) & (vii) contrary to section 47 of the of Consumer Protection Act 2007.

Gintas Kundrotas and G.E.R Car Sales, 17 Windtown, Navan, County Meath, who is active in the motor trade. On 21 August 2020, 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, Gintas Kundrotas and G.E.R Car Sales trading at 17 Windtown, Navan, County Meath (formerly trading at Balmoral Industrial Estate, Navan, County Meath) gave an undertaking, pursuant to section 73 of the Consumer Protection Act 2007. Gintas Kundrotas and G.E.R Car Sales undertook 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(2) and 43(3)(b)(i) & (vii) and contrary to section 47 of the Consumer Protection Act 2007.
- compensate the consumer.

Relevant legislation

- 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 of Consumer Protection Act 2007.

Paul Byrne and Paul Byrne Car Sales Limited trading at Athy Road, Timolin, County Kildare, who is active in the motor trade. On 16 September 2020, 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, Paul Byrne and Paul Byrne Car Sales Limited trading at Athy Road, Timolin, County Kildare gave an undertaking, pursuant to section 73 of the Consumer Protection Act 2007. Paul Byrne and Paul Byrne Car Sales Limited undertook to:

- comply with the prohibition on engaging in misleading commercial practices as provided by section 42 of the 2007 Act.
- refrain from committing or engaging in misleading commercial practices in the course of its business, as described by sections 43(2) and 43(3)(b)(vii) of the 2007 Act, to wit, in respect of a vehicle's usage or prior history.
- compensate the consumer.

Compliance Notices pursuant to section 75 of the Consumer Protection Act 2007

Relevant legislation

- Engaging in a prohibited commercial practice contrary to section 42(1) of the Consumer Protection Act 2007 as described by section 43(2) and section 43(3)(j) and thus committing an offence contrary to section 47 of the Consumer Protection Act 2007.

Dalton Flynn, Swift IT Solutions, trading at 75 Inis Cláir, Kildysart Road, Ennis, Co. Clare, V95 DNY6, who is an online trader operating the website whatadeal.ie, selling consumer goods including hand sanitiser products. During an inspection of the website, the CCPC found that the trader provided information that misled consumers as to their rights.

On 2 December 2020, the CCPC served a Compliance Notice on Dalton Flynn, Swift IT Solutions, directing him to do the following:

- to cease engaging in the prohibited commercial practice as described by section 43(2) and section 43(3)(j) and contrary to section 47 of the Consumer Protection Act 2007.
- to provide to consumers with whom he concludes distance contracts, information with respect to consumers' rights, in accordance with the CRD Regulations.

Zipcore Limited, trading at Nesta Building, 4-5 Burton Hall Road, Sandyford, Dublin, D18 A094, which is an online trader operating the website irelandsstore.com, selling consumer goods including electronic goods such as mobile phones. During an inspection of the website, the CCPC found that the trader provided information that misled consumers as to their rights.

On 4 December 2020, the CCPC served a Compliance Notice on Zipcore Limited, directing it to do the following:

- to remedy the instances of information provided to consumers on the website irelandsstore.com, as identified.
- to provide to consumers with whom it concludes distance contracts, information with respect to consumers' rights, in accordance with the CRD Regulations.

Relevant legislation

- Contravening a relevant enactment specified in Schedule 5 to the Consumer Protection Act 2007, namely the European Union (Online Dispute Resolution for Consumer Disputes) Regulations 2015 (S.I. No. 500 of 2015), as amended.

Dalton Flynn, Swift IT Solutions, trading at 75 Inis Cláir, Kildysart Road, Ennis, Co. Clare, V95 DNY6, who is an online trader operating the website whatadeal.ie, selling consumer goods including hand sanitiser products. The trader was required to display an easily accessible Online Dispute Resolution (ODR) link on his website. During an inspection of the website, the CCPC found the trader to be in breach of this requirement.

On 2 December 2020, the CCPC served a Compliance Notice on Dalton Flynn, Swift IT Solutions, directing him to do the following:

- cease contravening Article 14(1) of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (EU Regulation on Consumer ODR).
- when entering online sales contracts with consumers, to comply with Article 14(1) of the EU Regulation on Consumer ODR and provide on his trading website(s) an electronic link to the ODR platform which is easily accessible to consumers.

Zipcore Limited, trading at Nesta Building, 4-5 Burton Hall Road, Sandyford, Dublin, D18 A094, an online trader operating the website irelandsstore.com, selling consumer goods including electronic goods such as mobile phones. The trader was required to display an easily accessible Online Dispute Resolution (ODR) link on his website. During an inspection of the website, the CCPC found the trader to be in breach of this requirement.

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- cease contravening Article 14(1) of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (EU Regulation on Consumer ODR).
- when entering online sales contracts with consumers, to comply with Article 14(1) of the EU Regulation on Consumer ODR and provide on its trading website(s) an electronic link to the ODR platform which is easily accessible to consumers.

Relevant legislation

- Failing to provide the information requirements set out in paragraph (1)(a) of Regulation 10 of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (S.I. No. 484 of 2013) (“CRD Regulations”)

Dalton Flynn, Swift IT Solutions, trading at 75 Inis Cláir, Kildysart Road, Ennis, Co. Clare, V95 DNY6, who is an online trader operating the website whatadeal.ie, selling consumer goods including hand sanitiser products. The trader was required to provide certain information to consumers on his website, in compliance with the CRD Regulations. During an inspection of the website, the CCPC found the trader to be in breach of certain requirements under the CRD Regulations.

On 2 December 2020, the CCPC served a Compliance Notice on Dalton Flynn, Swift IT Solutions, directing him to do the following:

- cease contravening paragraph 1(a) of Regulation 10 of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (S.I. No. 484 of 2013).
- when undertaking activities involving the conclusion of distance contracts, to give or make available to consumers before such consumers are bound by a distance contract, the information requirements for distance contracts as set out in Regulation 10 of S.I. No. 484 of 2013.
- comply with all the requirements laid down in S.I. No. 484 of 2013, which relate to his trading activities on the website whatadeal.ie and any and all other websites/domain names owned and operated by him.

Fixed Payment Notices pursuant to section 85 of the Consumer Protection Act 2007

Relevant legislation

- Failing to indicate the selling price of a product, in contravention of Regulation 4(1) and thus committing an offence contrary to Regulation 4(3) of the European Communities (Requirements to Indicate Product Prices) Regulations 2002.

Tesco Ireland Limited trading at Tesco Express, 98 South Circular Road, Leonards Corner, Dublin 8, D08 H9X7, trader operating a supermarket. The trader was required to display the selling price of goods offered for sale. During an inspection at their premises, the CCPC found the trader to be in breach of this requirement.

Tesco Ireland Limited trading at Tesco Extra, Clearwater Shopping Centre, Finglas Road, Dublin, D11 XY4E, a trader operating a supermarket. The trader was required to display the selling price of goods offered for sale. During an inspection at their premises, the CCPC found the trader to be in breach of this requirement.

Tesco Ireland Limited trading at Tesco, Merrion Shopping Centre, Merrion Road, Dublin 4, a trader operating a supermarket. The trader was required to display the selling price of goods offered for sale. During an inspection at their premises, the CCPC found the trader to be in breach of this requirement.

Relevant legislation

- Failing to display a notice as required by Article 3 of the Retail Price (Beverages in Licensed Premises) Display Order 1999.

Corrib View Taverns Limited trading at The Universal, 9 William St West, Galway, is a gastropub selling food and drinks. The trader was required to display a price list for drinks that are for sale. During an inspection, the CCPC found the trader to be in breach of this requirement.

Relevant legislation

- Failing to give or make available to consumers before binding them to a distance contract, where a right to cancel the contract existed, the cancellation form set out in Part B of Schedule 3 of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (S.I. No. 484 of 2013)(CRD Regulations).

Dalton Flynn, Swift IT Solutions trading at 75 Inis Cláir, Kildysart Road, Ennis, Co. Clare, V95 DNY6, who is an online trader operating the website whatadeal.ie, selling consumer goods including hand sanitiser products. The trader was required to make a cancellation form available to consumers before they were bound to a distance contract, in compliance with the CRD Regulations. During an inspection of the website, the CCPC found the trader to be in breach of this requirement.

