

## Compliance Notice

### Section 75 of the Consumer Protection Act 2007

**To:**

Antanas Stankus  
51 The Lane,  
Foxlodge Woods,  
Ratoath,  
Co Meath

Competition and Consumer Protection Commission  
Bloom House  
Railway Street  
Dublin 1

I, Stephen Bass, an Authorised Officer of the Competition and Consumer Protection Commission, duly appointed under section 35 of the Competition and Consumer Protection Act 2014, **hereby give you, Antanas Stankus, notice**, pursuant to section 75(2) of the Consumer Protection Act 2007, that I am of the opinion that you engaged in prohibited acts or practices as further described herein and **hereby direct Antanas Stankus** to remedy these contraventions in the manner set out below.

#### A. Statement of alleged contraventions

That you, Antanas Stankus, a trader within the meaning of the Consumer Protection Act 2007 (the "2007 Act") on 27 August 2018, 14 February 2019 and 7 May 2019, made a representation or created an impression that you were not acting for purposes related to your trade, business or profession, when you were so acting for those purposes, as described by section 55(1)(x) of the 2007 Act.

That you, Antanas Stankus, a trader within the meaning of the 2007 Act, on 14 February 2019, engaged in a misleading commercial practice by providing false information in relation to the usage or prior history of a motor vehicle and that information would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make as described by section 43(1) of the 2007 Act and such being a matter set out in section 43(3)(b)(vii) of that Act.

Section 47 of the 2007 Act provides that it is an offence to engage in a misleading commercial practice as described by section 43(1) of the 2007 Act.

That you, Antanas Stankus, a trader within the meaning of the 2007 Act, on 27 August 2018 and on 7 May 2019 engaged in misleading commercial practices by omitting or concealing material information, that the average consumer would need, in the context, to make an informed transactional decision and such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make, as described by section 46 of the 2007 Act.

Material information constitutes the main characteristics of the product, to an extent appropriate to the medium and the product where the commercial practice is or includes an invitation to purchase,

unless already apparent to the consumer in the context of the commercial practice as set out in section 46(3) of the 2007 Act.

Section 46 of the 2007 Act is defined as a prohibited practice under section 67 of the 2007 Act.

## **B. My opinion**

I am of the opinion that you, Antanas Stankus, have made a representation or created an impression that you were not acting for purposes relating to your trade, business or profession, when you were so acting for purposes relating to your trade, business or profession such a practice being a prohibited commercial practice for the purposes of the 2007 Act.

I am of the opinion that you, Antanas Stankus, have committed or engaged in a misleading commercial practice, namely that you provided false information in relation to the usage or prior history of a motor vehicle, such a practice being a misleading commercial practice for the purposes of the 2007 Act.

I am of the opinion that you, Antanas Stankus, have engaged in misleading commercial practices, namely that you omitted or concealed the main characteristics of two motor vehicles, which the average consumer would need, in the context, to make an informed transactional decision, such a practice being a misleading commercial practice for the purposes of the 2007 Act.

## **C. Reasons for my opinion**

The reasons for my opinion are based on the following:

### **Section 55 of the 2007 Act**

1. You, Antanas Stankus, can be described as a trader for the purposes of the 2007 Act. Between 27 June 2018 and 7 May 2019, you published 22 advertisements for the sale of 22 motor vehicles on the website [www.donedeal.ie](http://www.donedeal.ie)
2. You, Antanas Stankus, published 22 advertisements for the sale of 22 motor vehicles on the website [www.donedeal.ie](http://www.donedeal.ie) during the period 27 June 2018 and 7 May 2019 and each advertisement was marked as “private ad”.
3. Therefore, I believe that you, Antanas Stankus, a trader for the purposes of the 2007 Act, made a representation or created an impression that you were not acting for purposes related to your trade, business or profession, when you were so acting.



**Consumer A**

1. You, Antanas Stankus, can be described as a trader for the purposes of the 2007 Act.
2. You, Antanas Stankus, obtained a motor vehicle Peugeot 2008 registration number 142MH1763 in the course of your trade. The motor vehicle had been involved in an incident in the UK on 16 January 2018 and was assessed at that time on behalf of the owner's insurers as a Category C write off. On 27 June 2018, you advertised the motor vehicle for sale on [www.donedeal.ie](http://www.donedeal.ie). There was no reference to the fact that the motor vehicle had been previously damaged and written off in the advertisement.
3. On 27 August 2018, at 51 The Lane, Foxlodge Woods, Ratoath, Co Meath, you, Antanas Stankus, sold the motor vehicle to an individual who was a consumer within the meaning of the 2007 Act. I believe that in the course of that transaction you omitted or concealed material information that Consumer A would need, in the context, to make an informed transactional decision, the material information in this instance being the main characteristics of the product to an extent appropriate to the medium and to the product in circumstances where the commercial practice is an invitation to purchase i.e. you did not inform Consumer A that the vehicle had been previously damaged or written off during the course of the transaction.
4. Consumer A would not have purchased the motor vehicle if you had informed Consumer A that the motor vehicle had been previously damaged and was a Category C insurance write off.
5. Therefore, I believe that you, Antanas Stankus, a trader within the meaning of the 2007 Act, 51 The Lane, Foxlodge Woods, Ratoath, Co Meath, omitted or concealed material information that the average consumer would need, in the context, to make an informed transactional decision and such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

**Consumer B**

1. You, Antanas Stankus, can be described as a trader for the purposes of the 2007 Act.
2. You, Antanas Stankus, obtained a motor vehicle Hyundai i30 registration number 152MH2295 in the course of your trade. The motor vehicle had been involved in an incident in the UK on 24 August 2018 and was assessed at that time on behalf of the owner's insurers as a Category C write off. On 26 January 2019, you advertised the motor vehicle for sale on [www.donedeal.ie](http://www.donedeal.ie). There was no reference to the fact that the motor vehicle had been previously damaged and written off in the advertisement.

3. On 14 February 2019, in or around Dublin 6W, you, Antanas Stankus, sold the motor vehicle to Consumer B, an individual who was a consumer within the meaning of the 2007 Act. I believe that in the course of the transaction you provided false information in relation to the prior history of the motor vehicle. Consumer B questioned whether the motor vehicle had been previously crashed and you replied in the negative.
4. Consumer B would not have purchased the motor vehicle if you had informed the consumer that the motor vehicle had been previously crashed and had been categorised as a Category C insurance write-off. In other words, Consumer B was caused to make a transactional decision that the average consumer would not otherwise make.
5. Therefore, I believe that you, Antanas Stankus, a trader, provided false information in respect of the motor vehicle's prior history, and that information would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

### Consumer C

1. You, Antanas Stankus, can be described as a trader for the purposes of the 2007 Act.
2. You, Antanas Stankus, obtained a motor vehicle Hyundai i10 registration number 162MH2205. The motor vehicle had been involved in an incident in the UK on 27 November 2018 and was assessed at that time on behalf of the owner's insurers as a Category N write off. In or around April 2019, you advertised the motor vehicle for sale on [www.carzone.ie](http://www.carzone.ie).
3. On 7 May 2019, at 51 The Lane, Foxlodge Woods, Ratoath, Co Meath, you, Antanas Stankus, sold the motor vehicle to an individual who was a consumer within the meaning of the 2007 Act. I believe that in the course of that transaction you omitted or concealed material information that Consumer C would need, in the context, to make an informed transactional decision, the material information in this instance being the main characteristics of the product to an extent appropriate to the medium and to the product i.e. you did not inform Consumer C that the vehicle had been previously crashed and written off during the course of the transaction.
4. Consumer C would not have purchased the motor vehicle if you had informed Consumer C that the motor vehicle had been previously crashed and was a Category N insurance write off.
5. Therefore, I believe that you, Antanas Stankus, a trader within the meaning of the 2007 Act, 51 The Lane, Foxlodge Woods, Ratoath, Co Meath, omitted or concealed material information that the average consumer would need, in the context, to make an informed transactional decision and such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.



**D. Compliance direction and requirements**

1. You, Antanas Stankus, are hereby required to remedy the matter occasioning this notice by compensating Consumer A the amount of €800.00, Consumer B the amount of €900.00 and Consumer C the amount of €500.00.
2. You, Antanas Stankus, when offering for sale motor vehicles for purposes relating to your trade, business or profession are hereby required to do the following:
  - i) provide true and accurate information in all your communications, including advertisements, with or to consumers with respect to the fact that you are acting for purposes related to your trade, business or profession, and are not a private seller when advertising or offering motor vehicles for sale by you.
  - ii) provide true and accurate information in all your communications, including advertisements, with or to consumers with respect to the usage and prior history of every motor vehicle advertised or offered for sale by you.
  - iii) ensure that appropriate due diligence is carried out in respect of the usage and prior history of every motor vehicle offered for sale by you. If you are selling vehicles that have been imported from the UK, you are required to complete a full UK history check on every vehicle.
  - iv) ensure that a record of the due diligence carried out in respect of the usage and prior history referred to in Direction 2.iii) above is maintained 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 you. This record must be made available to the CCPC for inspection on request.
3.
  - a) You must comply with this compliance direction and requirements by **7 June 2022**.
  - b) You may appeal this Compliance Notice to the District Court in the district court district in which the notice is served within **14 days after its service**
  - c) The form and manner of such an appeal is that to be found in the District Court Rules, Form 40D.01 Schedule C, a copy of which is attached to this Compliance Notice. If you wish to appeal, this form should be completed and lodged with the District Court Clerk at your local District Court office.
  - d) In the event that you decide to appeal the Compliance Notice, you must, at the same time, notify the Competition and Consumer Protection Commission at the above address. You must also notify the Competition and Consumer Protection Commission of the grounds for the appeal.

- e) If an appeal is not made in accordance with section 75 of the Consumer Protection Act 2007 and within 14 days after service of the Compliance Notice, this notice will be treated as not
- f) disputed and you will be deemed to have accepted the notice and to have agreed to comply with the compliance direction and requirements.
- g) 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 Consumer Protection Act 2007, namely:
  - a. "...on a first summary conviction for any such offence, to a fine not exceeding €4,000 and/or imprisonment for a term not exceeding 6 months or both; and
  - b. on any subsequent summary conviction for the same offence or any other offence under this Act...to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both."

Signature: \_\_\_\_\_



Stephen Bass

Authorised Officer

Competition and Consumer Protection Commission

6 May 2022