

Compliance Notice

Section 75 of the Consumer Protection Act 2007

To:
Mr John McLoughlin
Mac Autos
142 Woodbine Road,
Raheny
Dublin 5
D05YR28

Competition and Consumer Protection Commission
Bloom House
Railway Street
Dublin 1

I, Mariusz Lokasto, 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, John McLoughlin, notice**, pursuant to section 75(2) of the Consumer Protection Act 2007, that I am of the opinion that you engaged in a prohibited act or practice as further described herein and **hereby direct you, John McLoughlin**, to remedy that contravention in the manner set out below.

A. Statement of alleged contraventions

That you, John McLoughlin, a trader, trading as “Mac Autos”, 142 Woodbine Road, Raheny, Dublin 5, Co. Dublin, within the meaning of the Consumer Protection Act 2007 (the “2007 Act”), on 6 May 2020 for the purposes of Section 43(1) of the Consumer Protection Act 2007, engaged in a prohibited act or practice by providing false information in relation to a motor vehicle’s usage or prior history.

Section 42(1) of the 2007 Act provides that a trader shall not engage in a misleading commercial practice.

Section 43(1) of the 2007 Act provides that a commercial practice is misleading if it includes the provision of false information in relation to the main characteristics of a product, including its usage or prior history, as identified by Section 43(3)(b)(vii), and that information would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

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 Consumer Protection Act 2007.

B. My opinion

I am of the opinion that you, John McLoughlin, trading as “Mac Autos”, have committed or engaged in prohibited act or practice, namely that you provided false information in respect

of a vehicle's usage or prior history, such a practice being a prohibited act or practice pursuant to section 67 of the 2007 Act.

C. Reasons for my opinion

The reasons for my opinion are based on the following:

1. That you, John McLoughlin, trading as Mac Autos of 12 Woodbine Road, Raheny, Dublin 5, County Dublin are a legal person and that you can be described as a trader within the meaning of the 2007 Act;
2. That you, John McLoughlin, trading as Mac Autos, obtained a motor vehicle, a Ford Focus with registration number 161D34806 (the "Motor Vehicle") in the course of your trade.
3. The prior history of the car is that it was previously written off in the first quarter of 2017 and had also a mileage discrepancy.
4. In a statement given to the CCPC by you on 15 April 2021 you confirmed that you conducted a history check of the Motor Vehicle before you bought it.
5. On or about 6 May 2020, a consumer within the meaning of the Consumer Protection Act 2007, enquired about the motor vehicle and visited you at Mac Autos at the above address.
6. The consumer repeatedly asked about the car whether it was previously crashed or not; You told the consumer it was not crashed.
7. On or about 6 May 2020, the consumer made a transactional decision to purchase the Motor Vehicle from you and you sold the Motor Vehicle to the consumer for the sum of €8,100.00.
8. In my opinion, the consumer would not have purchased the Motor Vehicle if you had not provided false information about the car's usage or prior history.
9. €4,000.00 was redeemed by the consumer in a subsequent sale of the car hence I have established that the loss incurred by the consumer is €4,100.00;
10. Therefore, I believe that you, John McLoughlin, trading as "Mac Autos", trading at 142 Woodbine Road, Raheny, Dublin 5, Co. Dublin, on or about 6 May 2020 engaged in a prohibited act or practice under section 43(1) of the Consumer Protection Act 2007 providing false information in relation to the main characteristics of the Motor Vehicle, including its prior history, as identified by Section 43(3)(b)(vii), and that such information 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, John McLoughlin, a trader, are hereby required to 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
2. You, John McLoughlin, a trader, are hereby required to ensure that appropriate due diligence is carried out on the history and usage of every motor vehicle offered for sale by you, whether on behalf of your employer or otherwise;
3. You, John McLoughlin, a trader, are hereby required to ensure that a record of the due diligence carried out on the history and usage referred to in paragraph D(2) 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;
4. John McLoughlin, a trader, is hereby required to remedy the matter occasioning this notice by compensating the consumer €4,100.00;
5.
 - a) You must comply with this compliance direction and requirements by **11 August 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 disputed, you will be deemed to have accepted the notice and to have agreed to comply with the compliance direction and requirements and 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 Chapter 4 of the Consumer Protection Act 2007;

Signature: [REDACTED]

Mariusz Lokasto

Authorised Officer

Competition and Consumer Protection Commission

12 July 2022