

## 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 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”), from 11 May 2018 and 12 May 2018 for the purposes of Section 46(1) of the Consumer Protection Act 2007, engaged in misleading commercial practice by omitting or concealing material information that the average consumer would need, in the context, to make an informed transactional decision (“material information”) and such practice would be likely to cause that the average consumer to make a transactional decision that the average consumer would not otherwise make.

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

Section 46(1) of the Consumer Protection Act 2007 provides that a commercial practice is misleading if the trader omits or conceals 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 they would not otherwise make.

#### **B. My opinion**

I am of the opinion that you, John McLoughlin trading as “Mac Autos”, have committed or engaged in a prohibited act or practice, namely that you engaged in a misleading commercial practice by omitting or concealing material information that the average consumer would

need, in the context, to make an informed transactional decision, 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, 142 Woodbine Road, Raheny, Dublin 5, Co. Dublin are a legal person and can be described as a trader for the purposes of the 2007 Act.
2. That you, John McLoughlin, trading as Mac Autos, obtained a motor vehicle, a Citroen C1 with registration number 12D52975 (the “Motor Vehicle”) in the course of your trade. The motor vehicle was previously registered in the UK with registration number FD120XV.
3. That the history of the Motor Vehicle is that it had been damaged and was classified as a “category C” write-off in the UK. Motor assessor report received from the UK insurance company.
4. That you, on or about 24 April 2018 and 10 May 2018, advertised the Motor Vehicle on DoneDeal.ie. The advert did not mention that the Motor Vehicle had been damaged and was classified as a “category C” write-off in the UK. The car was advertised as “*in mint / showroom condition inside and out*”.
5. That on or about 12 May 2018, a consumer for the purposes of the Consumer Protection Act 2007, enquired about the motor vehicle and visited you at Mac Autos at 142 Woodbine Road, Raheny, Dublin 5, Co. Dublin, and purchased the Motor Vehicle. You did not inform the consumer that the Motor Vehicle had been damaged and was a category C write-off in the UK.
6. On or about 12 May 2018, the consumer made a transactional decision to purchase the Motor Vehicle from you and that you sold the motor vehicle to her on or about that date.
7. Section 2 of the 2007 Act defines “transactional decision” as:

“...means in relation to a consumer transaction, whether or not the transaction is completed, any decision by the consumer concerning whether, how or on what terms to do, or refrain from doing, any of the following:

  - (a) purchase the product;
  - (b) make payment in whole or in part for the product;
  - (c) retain or return the product after its purchase;
  - (d) dispose of the product;
  - (e) exercise a contractual right in relation to the product;”

8. In my view, the consumer would not have purchased the Motor Vehicle if you had informed the consumer that the Motor Vehicle had been damaged and was a Category C write off in the UK;
9. I have established that the loss incurred by the consumer is €3,300.00;
10. Therefore, I am of the opinion that you, John McLoughlin, trading as “Mac Autos”, trading at 142 Woodbine Road, Raheny, Dublin 5, Co. Dublin, on or about 12 May 2018 engaged in a prohibited act or practice by omitting or concealing material information that an average consumer needed, in the context, to make an informed transactional decision (“material information”) that the average consumer would not otherwise have made;

#### **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;
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, whether on behalf of your employer or otherwise. 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 €3,300.00;
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: 

Mariusz Lokasto

Authorised Officer

Competition and Consumer Protection Commission

12 July 2022