



**national consumer agency**

# **National Consumer Agency**

## **Annual Report for 2007**

# Contents

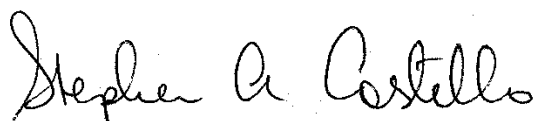
- **Introduction**
- **Board Members & Senior Executives**
- **Chairman’s Statement**
- **Chief Executive’s Report**
- **Operational Areas**
  - Pillar 1 – Enforcement**
  - Pillar 2 – Advocacy and Research**
  - Pillar 3 – Information and Awareness**
  
- **Corporate Governance**
- **Financial Statements**
- **Appendices**
  - I. Summary of Complaints & Queries
  - II. Fixed Payment Notices
  - III. Prosecutions
  - IV. Product Safety Notifications \ Recalls
  - V. Investigations Carried Out
  - VI. Consumer Legislation Enforced by NCA

## Introduction

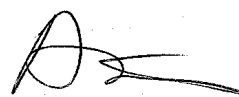
The National Consumer Agency was set up with effect from 1<sup>st</sup> May 2007. This Annual Report sets out the activities and the financial statements of the Agency for the period from 1<sup>st</sup> May to 31<sup>st</sup> December 2007.

The Board is pleased to submit to the Minister for Enterprise, Trade and Employment the inaugural report and accounts in accordance with Section 23 of the Consumer Protection Act 2007.

The Agency took over the functions previously undertaken by the former Office of the Director of Consumer Affairs and the operational activities of that Office between January and April 2007 are also included in this report.



Stephen Costello  
Chairman



Ann Fitzgerald  
Chief Executive

## **Board Members & Senior Executives**

### **Board Members**

Stephen Costello – Chairperson

Ann Fitzgerald – Chief Executive Officer

Inez Bailey

Marie Barry-Ring

Eddie Hobbs

Celia Larkin

Deirdre McDonnell

Neilus Moriarty

Robin O’Sullivan

Bill Prasifka

Edward Shinnick

Alex Schuster

### **Senior Executives**

Ann Fitzgerald – Chief Executive Officer

Sean Murphy – Legal Advisor

John Shine – Director Commercial Practices

Maria Hurley – Director Research, Advocacy & Communications

Sean O’Sullivan – Head of Corporate Services

Thomas Bourke – Secretary to the Board & Asst. Director Corporate Services

Catherine Lenihan – Asst. Director Commercial Practices

Catherine Courage – Asst. Director Advocacy & Communications

Fergal O’Leary – Senior Research Officer

## Chairman's Statement

The Government's decision to establish the National Consumer Agency was in response to the Consumer Strategy Group's recommendation that 'a new agency should be established with a robust and expanded mandate to protect consumer welfare and represent the interests of consumers'. To begin this process, the Minister established the Agency on an interim basis in June 2005. A board and interim chief executive were appointed to put in place the infrastructure of the new organisation to ensure a seamless transition from ODCA to the new Agency. The Bill establishing the Agency represented, in the Minister's words, "..... the next logical step towards a fundamental re-focusing of national consumer policy by providing the Agency with all the statutory powers and functions it needs to do an effective job on behalf of consumers."

This, the first Annual Report of the Agency, details the work undertaken between 1 May 2007, when the Agency was formally established under the Consumer Protection Act 2007, and end 2007. This report also includes the operational activities of the former Office of the Director of Consumer Affairs (ODCA) from 1 January 2007 to 30 April 2007.

The NCA's remit – encompassing enforcement, advocacy, research, information, education & awareness – is structured in such a way that all aspects of our business work to deliver the best possible outcomes for consumers. For example, requests for advice from consumers can lead us to take enforcement actions where breaches of consumer law occur. They also give us an invaluable insight into issues which are of concern to consumers. They enable us to identify the emergence of particular trends which, if left unchecked, could be detrimental to consumer interests. They also feed into our advocacy and research activities. This integration of functions, within the one organisation, means that we make the most effective use of our resources.

The Agency has an approved staffing complement of 80 and has recently recruited its senior management team. The remainder of our current staff are on secondment, primarily from the Dept. of Enterprise, Trade and Employment and the majority are scheduled to return prior to the end of the secondment period in April 2009. (Our current staffing complement is 58, compared with ODCA's 62). Accordingly, preparations were underway to recruit permanent Agency staff and manage the staff transition over the latter part of 2008 and into early 2009. This would have us well positioned to fully meet our mandate, with a full staffing complement, from mid 2009 onwards.

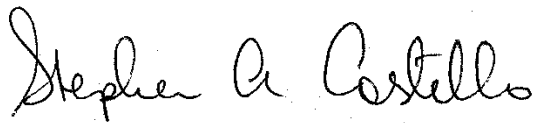
I would like to record my thanks to the Board and the staff of the Agency for their support, endeavour and commitment during the year.

Given the recent package of measures (July 2008) announced by the Government in response to the current budgetary environment, work on staffing and recruitment has been suspended until further clarification becomes available.

In times of economic uncertainty there is an even greater need for consumers to be aware of their rights, confident that they can identify areas of consumer detriment and know that they have a strong Agency to defend their interests, and their interests alone.

Although we are in a period of major organisational transition, I believe that much has been achieved in the first 12 months of the Agency's existence across a wide range of areas. We are building on that work to ensure that the Agency is a major force for positive change; is an effective enforcer of consumer legislation and ensures that a strong consumer culture is developed in Ireland.

We must be realistic, however. It is not possible to develop overnight the strong consumer culture evident in other highly developed countries. Nevertheless we can, and will, make steady progress year on year. Our aim is an empowered consumer culture, which drives competitiveness through demanding - and receiving - realistic and transparent pricing, appropriate quality, excellent service and a positive attitude to complaint handling and redress when problems occur.

A handwritten signature in black ink that reads "Stephen A. Costello". The signature is written in a cursive, flowing style.

**Stephen Costello**

**Chairman  
National Consumer Agency**

# Chief Executive's Report

## Introduction

The past year has been one of particular change from the perspective of consumer protection. The Consumer Protection Act, which came into force on 1<sup>st</sup> May 2007, is the most far reaching and comprehensive consumer legislation in over 30 years.

The Act updated and modernised consumer law; provided for significantly greater protection for consumers, with the availability of additional and powerful enforcement options; and also provided for significant penalties for businesses found guilty of offences.

The Act also placed the National Consumer Agency on a statutory basis with a considerable range of additional powers to enforce consumer legislation; advocate on behalf of consumers across a range of issues; conduct research and undertake information and awareness activities – all designed to bring consumers and consumer welfare to the forefront.

The NCA had been operating on an interim basis since 2005 and had been working closely with the Office of the Director of Consumer Affairs (ODCA). This ensured a seamless transition when ODCA was incorporated into the Agency, with effect from 1<sup>st</sup> May 2007.

## Consumer Protection Legislation

Our approach to enforcement of consumer protection legislation has changed substantially in 2007 to reflect the increased powers and enforcement tools available under the Consumer Protection Act, 2007. Our enforcement efforts are concentrated on those areas where there is the greatest potential for consumer loss or detriment, while not losing sight of other areas which impact on consumers' welfare.

Historically, ODCA devoted considerable resources to the enforcement of price display and misleading pricing breaches. We continue to take such breaches very seriously. However we now deal with complaints on a risk basis, using a combination of written procedures and follow up visits. We also carry out a number of proactive visits to traders over a year to assess compliance and take whatever enforcement actions might be warranted. This risk based approach enables us to maximise our resources and ensure that we can tackle the many areas where there is large consumer detriment, for example, the need for fair contract terms in consumer contracts or the problem of car clocking.

We expect business to comply fully with consumer law and to treat consumers fairly, as they themselves would wish to be treated in their personal lives as consumers. We do not hesitate to take a robust approach to enforcement when necessary and we are now able to use the wide range of enforcement tools contained in the Consumer Protection Act in addition to the option of pursuing prosecutions through the Courts. These tools include the ability to impose fixed payment notices (on-the-spot fines) in the case of breaches of price display legislation.

The Agency can also seek undertakings from traders; issue compliance notices and seek prohibition orders from the Courts.

The NCA can 'name and shame' businesses with the publication of a consumer protection list. We have begun to use these additional tools and I expect that they will be of invaluable assistance in the future as we continue to target businesses that break consumer law.

As an Agency, we have an obligation to engage with business to ensure that the legal requirements in relation to consumer protection are fully understood. We are anxious to promote best practice to ensure that consumers are treated fairly. We are happy to work with representative bodies and directly with retailers to ensure that they are fully aware of their legal obligations. We have also considerably strengthened our 'fast track' access to large individual retailers and have liaison arrangements with 34 retailers. We use this access arrangement to bring compliance issues to the attention of senior management in these businesses in a speedy manner. Increasingly it also serves to raise with the companies concerned service, pricing and other issues, which come to our attention. . In this way, we can resolve practices or problems, which have impacted on consumers who have contacted us and which, without NCA intervention, may affect other consumers. This access arrangement is also an opportunity for retailers to seek advice from Agency staff on aspects of consumer law.

## **Advocacy & Research**

We are building our Advocacy and Research functions from the ground up, as these did not form part of ODCA's work. In 2007, work began on three major projects, one relating to the cost to consumers in Ireland of buying goods, primarily groceries and the other two relating to home ownership.

The Agency has been putting a particular focus on price comparison surveys in the Groceries Sector, given the importance of this sector to consumers. This is against a background of increasing world food prices and the impact of grocery prices on those on low incomes.

Publication of a pilot survey of branded grocery prices by the Agency in mid 2007 was the precursor to an extensive grocery price survey – across all grocery categories and retailer types – carried out in December 2007 and which was published in February 2008. These surveys, which have continued into 2008, have shown the lack of real competition amongst grocery retailers in Ireland and have led, our market research shows, to a significant change in shopping habits by consumers in Ireland. Given that the average family spends €151 per week on groceries and that those on low incomes spend proportionately more of their income on food, this is an area in which we are going to continue to play a major role.

House purchase is the largest financial commitment most of us will make in our lifetimes. It is extremely important that we, as consumers, are aware of our rights and that those rights are protected. In March 2007, in response to ongoing consumer concerns around buying and living in multi-unit development properties, the Agency established and chaired a voluntary Forum drawing together representatives from each of the key interest groups involved in Multi-Unit Developments. The Forum completed its work in mid 2008 and the results are available on the Agency's website.



The key outputs arising from the Forum include:

- A Consumer Information Guide
- A Code of Practice for Irish Home Builders Association members.
- Selected guidance documentation, to assist consumers owning/living in Multi-Unit Developments.
- A dedicated micro-site for the information guide and other property related material.

In 2007, we commissioned Grant Thornton to carry out an in-depth evaluation of the extent to which consumers' rights are protected when they buy a house or apartment, or carry out major renovations in the home. This in-depth study will be published shortly.

In order to gain a better understanding of the consumer experience in Ireland the Agency, in 2007, commissioned Amárach Consulting to undertake independent market research. The purpose of the research was to examine consumers' attitudes and behaviour with regard to complaints, satisfaction, switching and e-commerce. The research also assessed consumers' knowledge and awareness of their rights and the activities of the Agency.

A summary report outlining the findings of the research conducted during 2007 was issued to coincide with International Consumer Day in March 2008 and may be viewed at:

[http://www.consumerconnect.ie/eng/Hot\\_Topics/Campaigns/2007\\_Consumer\\_Market\\_Research.doc](http://www.consumerconnect.ie/eng/Hot_Topics/Campaigns/2007_Consumer_Market_Research.doc))

This research is the first of a series of such reports on the Irish consumer environment that we intend to publish. Over time, these reports will enable us to monitor the evolution of the consumer environment in Ireland and to identify future policy interventions to support consumers.

Over the coming years, we intend to develop our research and advocacy work. In particular, we plan to focus on particular sectors and assess – using all information at our disposal – the extent to which a particular sector impacts on consumers, any negative issues for consumers in the sector, emerging trends which may impact on consumers and resolutions to consumer problems in relation to that sector. In doing this, all aspects of the Agency's remit will work together to ensure the best outcome for consumers.

## **Information & Awareness**

The provision of information to consumers and awareness of their rights are key elements in the creation of a strong consumer culture in Ireland. We have put considerable effort into our website, [www.consumerconnect.ie](http://www.consumerconnect.ie), which provides a wealth of information for consumers. The site is updated at least weekly and has received in excess of 120,000 visits since May 2007. Over time we will also use this website as an educational resource, linking in with educators. Indeed, the website already includes a number of consumer rights quizzes which business teachers and their students have found particularly useful.

As we expand our outreach to particular sectors and publish information materials for consumers based on Agency research, the website will become an invaluable resource.

The provision of advice to consumers is an integral part of our work. Our call centre (LoCall 1890 432 432) received almost 70,000 requests in 2007, compared with just over 37,000 received by ODCA in 2006. Almost 5% of these calls had enforcement of consumer law implications and were followed through by the Agency.

We also published 8 consumer booklets in 2007, all of which are available in hard copy and on the website.

## **European Consumer Centre**

During 2007, the Agency continued to jointly fund the European Consumer Centre (ECC), together with the European Commission. The ECC provides information and assistance to Irish consumers experiencing difficulties abroad and to consumers from other EU member states having difficulties with retailers in Ireland.

## **Conclusion**

Considerable progress has been made in 2007 and the Agency is well placed to fulfill its mandate and maximise the potential arising from the Consumer Protection Act, when our full staffing complement is reached in 2009.

I would like to pay particular tribute to the Chairman and Board of the Agency for their unstinting support and advice over the year. My thanks are also due to the staff of the Agency who have shown considerable flexibility over the past year as we have restructured and refocused our activities. Our staff have a vital role to play in enabling us to meet the challenging objectives set by our legislation. I would also like to thank the Minister and staff of the Department of Enterprise, Trade and Employment for their assistance and support during the year.



**Ann Fitzgerald**

**Chief Executive  
National Consumer Agency**

## **Pillar 1 – Enforcement**

### **EU Unfair Commercial Practices Directive**

The Consumer Protection Act (CPA) 2007 gives effect to the EU Unfair Commercial Practices Directive, which brings a greater level of harmonisation to consumer protection across the EU. There are now new statutory protections for consumers, which make illegal a wide range of unfair, misleading and aggressive commercial practices.

There is a general prohibition on unfair commercial practices, which is intended to address situations where a trader is not acting in good faith or with the standard of skill and care that could reasonably be expected. This provision can also be used to tackle novel commercial practices that are not covered by specific provisions in consumer legislation and practices that are consciously designed by unscrupulous traders to fall outside the scope of such legislation.

There is a prohibition on misleading commercial practices, which covers situations where false or misleading information is provided to consumers or where consumers are misled by the omission of material information.

The legislation also prohibits aggressive commercial practices. This covers the use of harassment, coercion or undue influence on consumers including pressure sales tactics and practices that seek to take advantage of vulnerable consumers.

There is also an extensive list of practices that are prohibited in all circumstances including prize promotions where there is either no prize or the consumer must make a payment before claiming a prize; persistent unwanted cold calling; false claims that a trader is about to move premises or cease trading; false claims that a product can cure illnesses etc.

### **Cross border co-operation**

The EU Regulation on Consumer Protection Co-operation (CPC) came into effect on 29<sup>th</sup> December 2006. This legislation provides for the sharing of information and cross-border enforcement cooperation between Member States and also empowers enforcement authorities to seek and obtain action from their counterparts across the EU. It gives the NCA the ability to request and receive assistance from enforcement authorities in other Member States in relation to cross-border breaches in a variety of areas, covering 14 EU Directives, including misleading advertising, package holidays, timeshares and distance selling. Equally, NCA is obliged to assist enforcement authorities elsewhere in the EU if similar breaches occur in Ireland. Other enforcement authorities in Ireland, including the Financial Regulator, the Financial Ombudsman and the Broadcasting Commission of Ireland, will have the same powers in relation to their specific areas of responsibility.

## **Enforcement Policy**

The general NCA approach to enforcement of consumer legislation is to promote voluntary compliance where possible and if this is not forthcoming, take appropriate measures to ensure that the rights of consumers are protected. During the year, the NCA pursued a number of initiatives in its objective of obtaining voluntary compliance:

- Active liaison arrangements with larger retailers, multiples, symbol groups etc
- Working with representative bodies to improve compliance levels
- Raising consumer awareness through the media and provision of information on the NCA websites – [www.consumerconnect.ie](http://www.consumerconnect.ie) and [www.nca.ie](http://www.nca.ie).
- In the context of complaints received, writing to traders advising them of the allegations, pointing out their obligations and giving them the opportunity to put measures in place to rectify any identified problems.

In circumstances where voluntary measures were not achieved to the satisfaction of the NCA, appropriate enforcement actions were taken, as set out below, to bring about compliance.

## **Enforcement Tools**

### **Fixed Payment Notices (On the Spot Fines)**

Under Section 85 of the Consumer Protection Act, the NCA is empowered, as an alternative to taking prosecutions, to issue Fixed Payment Notices to retailers who fail to display prices of consumer products or who fail to comply with the requirements of Price Display Orders, such as displaying catering and drinks price display lists. A fixed penalty of €300 applies and this must be paid within 28 days of issue. If the trader fails to pay the fine within the statutory time limit, the NCA can initiate prosecution proceedings. Depending on the number of identified breaches, it is possible to issue more than one Fixed Payment Notice.

The Act requires that the Fixed Payment Notice must be in a form prescribed by Regulations made by the Minister. The enabling Statutory Instrument (S.I.) came into effect on 13 October 2007. This cleared the way for the NCA to use the new enforcement tool. Six Fixed Payment Notices were issued in 2007 and three were paid. Two were subsequently paid in early 2008 and the remaining retailer was successfully prosecuted by the NCA in 2008.

### **Compliance Notices**

Section 75 of the Consumer Protection Act empowers an authorised officer of the NCA to issue a Compliance Notice to a trader who in his/her opinion is engaging in or has committed a prohibited act or practice under the Act or contravened other consumer legislation listed in schedule 5 of the Act. The Compliance Notice requires the trader to cease the practice. The trader has 14 days to appeal the Notice to the District Court. If no appeal is made, the Notice takes effect. No Compliance Notices were issued in 2007.

## **Undertakings**

If the NCA has reason to believe that a trader is involved in a prohibited act or practice, the Agency may seek and obtain a written undertaking that the trader will comply with the requirements of the Act. If the trader reneges on the undertaking and resumes the prohibited act or practice, the NCA may apply to the Circuit Court for a Prohibition Order. One undertaking was obtained by the Agency in 2007.

## **Prohibition Orders**

Under Section 71 of the Act any person including the NCA may apply to the Circuit or the High Court for an order prohibiting a trader from committing or engaging in a prohibited act or practice. Having considered the circumstances and the various interests involved, the Court may make a Prohibition Order. In making the Order the Court may impose terms and conditions which it considers appropriate, including a requirement on the trader to publish corrective statements at his own expense. Failure to comply with a Prohibition Order without a reasonable excuse is an offence and the trader is liable on conviction to the penalties set down on in the Act. In the case of summary conviction a fine not exceeding €3000 or six months imprisonment or both may be imposed for a first offence. A fine not exceeding €5000 or 12 months imprisonment or both may be imposed in respect of subsequent offences. No Prohibition Orders were obtained by the NCA during 2007.

## **Consumer Protection List**

Under Section 86 of the Consumer Protection Act, all enforcement actions taken by the NCA, including Fixed Payment fines must be included in a 'Consumer Protection List'. This may be published in whatever manner the NCA considers appropriate.

Details of the various enforcement tools used by the Agency in 2007 are set out in appendices II and III.

## **Liaison with business / representative bodies**

The NCA has considerably extended liaison arrangements with businesses and now has liaison structures in place with 34 traders and retail groups. Most of these are in the grocery business but traders operating in the electrical, computers, furniture and DIY sectors are also included. These arrangements are used to bring compliance issues to the attention of senior management in the retailers and, increasingly, to raise with the companies concerned service, pricing and other issues which come to our attention, particularly through our helpline or website.

During 2007, the Agency met with various representative bodies operating in the retail and other sectors, primarily to outline its plans for raising consumer awareness and delivering improved consumer protection. The requirements of the new Consumer Protection Act were outlined and the Agency made a number of presentations on the Act at various events.

## **Seminar for Retail Sector**

The NCA organised an inaugural seminar in September 2007 for the retail sector that addressed various aspects of the Consumer Protection Act and outlined the Agency's risk based approach to enforcement. Some 45 different retail interests were represented including larger retailers and 14 representative bodies, including RGDATA, Retail Ireland, ISME, Small Firms Association, Vintners Associations, Hotel & Restaurant Associations, together with representatives from the grocery, fashion, footwear, DIY, furniture & furnishings, floor covering & electrical retail outlets.

## **Overview for business of the Consumer Protection Act**

At the aforementioned seminar, the NCA launched an overview of the Act for businesses. This is available on the NCA Business website, [www.nca.ie](http://www.nca.ie) and highlights the main requirements of the Act, outlines details of the enhanced role of the NCA and provides examples of the types of unfair and misleading practices prohibited under the Act.

## **Enforcement actions - summary**

### **Retail Sector**

To enable it to concentrate on areas with the greatest potential for consumer detriment, the NCA changed the approach towards enforcement of price display adopted by its predecessor the Office of the Director of Consumer Affairs (ODCA), to risk based compliance monitoring. The Agency recognises the need for accurate price display so that consumers can make informed choices on where they can get the best value. As an alternative to following up each consumer complaint with an on-site investigation, the Agency contacts the traders by letter, advising them of the alleged breach and asking them to complete a questionnaire outlining their procedures for ensuring accurate price display. Analysis of responses received informs the programme of compliance checks carried out in trader premises.

Between May and December 2007, the NCA issued 323 letters on foot of complaints alleging breaches of the prices legislation. Responses were received from 213 retailers. The new approach places the onus on retailers to achieve voluntary compliance with price display requirements, thereby freeing up Agency resources from automatic on-site follow up for every complaint. However, if in the course of subsequent compliance checking, the NCA finds that retailers do not have a satisfactory level of compliance, then appropriate enforcement actions are taken.

### **Risk based blitz**

A risk based enforcement campaign was undertaken during November. Stores who were the subject of complaints were the primary focus of this activity. Over 550 visits were made. Enforcement actions were taken against the non-compliant traders (see appendix II). Further risk based blitz activities are planned for 2008.

In addition to checking on price display, Agency staff also carried out checks to establish that the price displayed is the price charged at the checkout point.

### **Prosecutions for Pricing and Price Display Offences during 2007**

Of the 16 prosecutions taken in 2007, 12 related to price display offences. Convictions were obtained in respect of 13 cases, while the Probation Act was applied in respect of the other three. Appendix III provides a list of all prosecutions taken by NCA during 2007.

### **Commercial Practices in Furniture Retailing**

Arising from complaints received, the NCA carried out an examination of certain practices in the furniture retailing sector during 2007. The initial survey involved a scoping exercise to assess the range of practices involved; the impact they could have on consumers and identify what measures could be taken to address the various issues which may negatively impact on consumers. The investigation covered 15 major outlets including Irish registered chains, independent traders and manufacturing/retail operators. The issues examined included advertising, delivery issues including charges, product description, guarantees and extended warranties, and consumer credit.

The most significant issues identified were in respect of -

- **Advertising:** encouraging consumers to take hasty decisions by giving the impression that limited stocks are available or that the offer is only available for a very limited period e.g. one day sales. As the limited offers are, in practice, often extended the NCA has concerns that this type of advertising could be misleading
- **Product descriptions:** furniture that contain synthetic material is described as “leather match” “bi cast leather” “re-constituted leather” “leather split” and “faux leather”. The NCA feels that while the information is factually correct some consumers could be misled into believing that they were buying 100% leather products
- **Extensions /Continuation of Post-Promotion or “After Promotion Pricing”:** This type of promotion involves a trader advertising an item at a relatively low price for a limited period-say a week-, after which the cost of the item would increase substantially. At the end of the promotion period the offer is extended (e.g. suite of furniture advertised at €500- post-promotion price €2000: the offer is to run for a week but the promotion continues). The NCA has concerns at the tendency by some traders to extend these offers beyond the original promotion period, often for an indefinite period. This form of promotion could be regarded as misleading as it is designed to encourage consumers to make impulsive purchases in order to avail of what is represented as a substantial saving during the period of the promotion.
- **Extended warranties:** applying what could be regarded as pressure selling to get consumers to pay for up to four years insurance to cover possible problems or faults with the product. Consumers would have rights under the Sale of Goods and Supply of Services Act 1980 if the products were faulty or not fit for their intended purpose without the need to take out additional insurance protection.

- **Price delivery issues:** a large proportion of complaints received by the NCA referred to delivery problems, delivery charges and delays in delivery of items where payment had been made, possibly several months in advance.

The Agency is continuing to liaise with the sector with the objective of following up on the various issues. The NCA has particular concerns in relation to the post promotion advertising practice and legal advice was sought in early 2008 on whether this form of advertising could be in breach of the Consumer Protection Act. Arising from ongoing monitoring of advertisements, the Agency notes that the sector has not in recent months used this form of advertising.

## **Advertising Guidelines for the Retail Sector**

The Consumer Protection Act provides for the NCA to draw up guidelines for traders in relation to commercial practices. These guidelines, while not compulsory, may be admitted as evidence in court proceedings.

The Agency is preparing draft guidelines for the retail sector, which include best practice relating to a variety of advertising issues, price discounts and introductory offers and including issues identified in the course of the aforementioned review of the furniture sector. The guidelines will extend to Gift Vouchers and provide clarification on issues such as:

- What can be regarded as a “reasonable period” (which replaced the old 28 day rule) in the context of advertising a product sold at a previous price higher, and
- Recommended retail pricing.

A public consultation was undertaken in November 2007 on what could be regarded as a “reasonable period”. The feedback from the sector will be reflected in the published guidelines. Before publishing the guidelines the NCA intends inviting the sector to provide their views on the proposals. It is expected that the guidelines will be published towards the end of 2008.

## **Unfair Terms in Consumer Contracts**

The EU Unfair Terms in Consumer Contracts Regulations, 1995, require that the terms and conditions of standard contracts should be clear, unambiguous and not weighted against the consumer. The NCA has powers to investigate and take appropriate action where it has reason to believe that clauses in standard contracts may be unfair. These include:

- Seeking and obtaining an undertaking to change/delete any unfair terms from the contract
- Applying to the High Court to have a clause/clauses deemed unfair
- Applying to the Circuit Court for an Injunctive Order against a supplier under the European Communities (Protection of Consumers’ Collective Interests) regulations, 2001



## **(i) Guidelines for the Leisure Sector**

In 2007 the NCA conducted a review of potentially unfair terms in the standard consumer contracts used by the fitness and leisure sector. This review was initiated on foot of the NCA receiving in the region of 40 complaints from consumers about potentially unfair terms in their standard gym membership agreements. Most of these issues centred on problems relating to certain contractual issues, such as termination clause and notice periods.

As part of the review, the NCA examined the terms and conditions of fifteen fitness and leisure clubs. Based on this review, four main areas of concern relating to potentially unfair terms in this sector were identified as follows:

1. Terms that seek to exclude a club's liability for death or personal injury to a consumer resulting from an act or omission of that seller or supplier
2. Terms that were unclear about the minimum membership period and the notice period for cancellation
3. Terms that are unclear about cancellation charges
4. Terms that allowed clubs to make unrestricted changes to the services that are contracted for.

The NCA wrote to the fifteen businesses recommending they review and, where necessary, revise their terms to ensure they complied with the Unfair Terms in Consumer Contracts Regulations. Arising from this approach, the NCA agreed revised terms with Ben Dunne's three fitness clubs – Carlisle, Westpoint and Northwood gyms. In addition, the NCA has made significant progress towards revising the terms and conditions of four other large operators.

Given the large number of facilities in the leisure and fitness sector operating throughout the country (estimated to be in excess of 600 - 40% Hotel based - 40% Private/Commercial - 20% Public/Community based) it would not be possible for the NCA to review each individual contract. It decided therefore to draw up guidelines for the sector to facilitate individual operators to review their membership agreements to ensure that they are evenly balanced and clearly understood by their customers. In late October 2007, the Agency invited the sector to provide views on the draft Guidelines. In tandem with the publication of the guidelines the NCA published a draft of "Seven Principles" which it is encouraging the sector to adopt. These principles form the nucleus of a "best practice approach" for the sector.

As part of the Agency's consultative approach, and in the interest of advancing sectoral compliance, the Agency has met with the representative body for gyms – Irish Leisure and Amenity Management (ILAM) and made a presentation at ILAM's Annual Conference in October 2007.

The NCA is currently considering submissions made during the consultative process and it is intended to publish "Guidelines for Fairer Terms in the Fitness and Leisure Sector" in 2008. It is envisaged that these guidelines will assist the sector in identifying and addressing potentially unfair terms in their consumer contracts and strike an even balance between the rights and interests of fitness clubs and those of their members.

## **(ii) Riding School contracts**

AIRE is the National Association for Horse Riding schools in Ireland. There are approximately 240 riding establishments affiliated to the Association with approximately 100 members in each riding school (24,000 consumers). Each establishment operates a registration/waiver form system. This waiver form was centrally adopted and approved by the Association. The NCA challenged four terms as being potentially unfair as they excluded the riding schools from liability for personal injury to consumers, and allowed the Association's members to vary the rules unilaterally without prior consultation with their customers. The NCA, has held protracted negotiations with AIRE and at the end of 2007 was in the process of finalising the terms and conditions being used by the riding schools representative body. It is expected that when the negotiated new terms are finally agreed all the riding schools affiliated to AIRE will use the revised form.

## **(iii) Fair Terms and Conditions in the Airline sector**

Transparency in airline pricing and fair terms and conditions have long been an issue for consumers in Ireland. Following a review of the practices of Ryanair, Aer Lingus and Aer Arann, the NCA raised a number of issues with them including:

- Non-refundability of fees and charges, where consumers do not travel
- Charging an administration fee for the refund of taxes
- Up-front pricing (the fare including all non avoidable costs / fees / charges should be available at the outset of the booking process)
- Automatic opt-in to optional services such as travel insurance / priority boarding
- Price transparency in the context of the actual costs being levied by the airport authorities on the airlines and the costs being passed on by the airlines to their passengers

The NCA brought its concerns to the attention of the airlines and responses were received from them in early 2008. Progress has been made in relation to the material included in advertising so that up front prices are available inclusive of taxes, charges and fees. The Agency is currently examining the responses received in light of forthcoming EU legislation to determine the best course of action in relation to a number of other issues.

## **Car Clocking**

The NCA has placed particular focus on the area of "car clocking" (i.e. changing the odometer reading) in the past year. Car clocking is a very serious and dangerous issue causing serious detriment to consumers in Ireland. Clocking can unfairly add hundreds if not thousands of euro to the asking price of a used vehicle. The buyer could end up paying over the odds for a vehicle that could have much more wear and tear than the mileage suggests. As a rule of thumb each one thousand miles removed adds approximately €100 to the value of the car. A mileage discrepancy of 30,000 miles means unwary consumers could be overcharged by up to €3,000

The deception does not stop at price; often service histories are also doctored, leaving the new owner, not only out of pocket, but unclear on what maintenance the car needs and when.

In the past year, NCA efforts have concentrated on promoting consumer awareness of the problem backed up by a targeted enforcement campaign.

### **Providing information to Consumers**

In June 2007, the NCA launched “A Guide to Buying a Car”. This guide sets out practical advice and tips for consumers buying new and second hand cars. The booklet was widely publicised at the time and distributed to Motor Tax Offices, National Car Test Centres, Driver Testing Centres and to the Society of Irish Motor Industry (SIMI) for distribution to their member garages. The booklet is available on the Agency web site [www.consumerconnect.ie](http://www.consumerconnect.ie) and from our call centre (Tel: 1890 432 432) and anyone contemplating a car purchase is encouraged to read the advice provided.

### **Complaints**

Over 100 complaints/enquiries relating to alleged car clocking were received during 2007. However, in the majority of cases (approximately 75%), complaints could not be progressed beyond the initial stage for a variety of reasons including

- Inability / reluctance of consumers to provide NCA with detailed information
- The Statute of Limitations (i.e. the statutory time limit of 18 months during which a case can be taken) had expired before the issue was brought to the attention of the NCA
- No evidence of breaches could be established
- Traders gone out of business.

### **Proactive campaign**

In addition to following up on complaints received, the NCA undertook a risk based investigation during the year. This consisted of developing a profile of cars to be investigated based on various factors including make/model, engine size, age and odometer reading. Over two hundred cars were selected from a number of sources including forecourt checks on car dealers countrywide, car websites, imported cars and tracking sales of lease/fleet cars.

A total of 20 cases were identified for investigation arising from this initiative. As part of the NCA’s work in this area, it obtained assistance/cooperation from a variety of stakeholders, including the Gardaí, Revenue / Customs authorities, Vehicle Registration Office and colleagues in Trading Standards in Northern Ireland and Britain. The NCA also received co-operation from SIMI and car hire and car lease/management companies.

## **Enforcement actions**

In June 2007, the Agency successfully prosecuted a car dealer for selling a clocked car. The Agency initiated a second case for prosecution in 2007, which did not come before the Courts until June 2008.

Following the enactment of the Consumer Protection Act, the NCA decided that other avenues of enforcement should also be explored. In particular, the option of obtaining undertakings from dealers to cease the misleading practice of clocking or selling clocked cars and to compensate consumers who may be affected could be used as a speedy and effective alternative to prosecution. In 2008, the Agency began using undertakings as an additional tool in dealing with the misleading practices connected with selling or offering clocked cars for sale and providing compensation to consumers.

## **Disclosure of Business Interest in Advertising- Mainly relating to 2<sup>nd</sup> hand car sales**

The Disclosure of Business Interest in Advertising Order 1984 requires that persons placing advertisements (mainly in the context of selling second hand cars) must identify if they are acting in a business capacity. Section 55 subsection 1(x) of the Consumer Protection Act 2007) prohibits representations or creating the impression that a trader is not acting in a business capacity. The purpose of this requirement is to enable consumers to be aware whether they are dealing with a business or a private individual. The consumer protection laws would not extend to consumers who purchase used cars or any other product directly from another consumer.

During 2007, as an extension of the car clocking project, the NCA contacted the printed media and owners of websites drawing their attention to the requirements of the legislation. The NCA obtained commitments from 10 national newspapers, 72 provincial newspapers 45 free newspapers and 29 car sales websites to comply with the requirements of the legislation and to put procedures in place to bring this about.

Having the cooperation of the media in requiring traders to disclose their status in the context of placing small ads will help ensure better protection for consumers. It will also facilitate the NCA in the context of its car clocking campaign. The NCA is carrying out periodic monitoring of the advertisements to establish that

- (a) The media are complying with the commitments provided
- (b) That the promoters of the small ads are not traders disguised as consumers

## **Compliance with the Tax Inclusive Order - Legal profession**

The NCA became aware that a small number of solicitors were advertising fixed price conveyancing packages, exclusive of VAT. This is a breach of the Tax Inclusive Order 1973. In addition to achieving voluntary compliance in relation to the individual complaints, the Agency contacted the Law Society of Ireland to alert them to the need for their members to comply with the Tax Inclusive legislation. The Law Society brought the matter to the attention of their members in an article in the November 2007 edition of the Law Society Gazette.

## **Product Safety**

### **Market Surveillance**

The NCA has responsibility for market surveillance in respect of the safety of products, which come within the scope of a number of the European Directives. These are:

- Low Voltage (incl. most electrical devices in domestic use)
- Personal Protective Equipment (bicycle helmets, lifejackets etc)
- Gas Burning Appliances (cookers, heaters, gas BBQs etc)
- Toy Safety
- General Product Safety Directive (all consumer products not covered by specific Directives).

The General Product Safety Directive (GPSD) covers all non-food products and places the primary responsibility for product safety on manufacturers, importers, distributors and retailers of the product. They must ensure that they place only safe products on the market. If any operator becomes aware that it has placed a product on the market that could pose a risk to consumers, it must take appropriate action, up to and including recall of the product to make the item safe. Details of any measures must be notified to the NCA who in turn must advise the European Commission. The placing of the primary onus on the operators is a significant change to product safety market surveillance and is proving very effective.

This is evidenced by the increasing number of voluntary measures notified to the European Commission via the Rapid Alert System (RAPEX). Over 50% of the 1,600 notifications of recalls/remedial actions made during 2007 were notified as a result of actions initiated by the economic operators. Toys were top of the RAPEX list with over 400 notifications in 2007.

### **Toy Safety and recalls**

The NCA and its predecessor, the Office of the Director of Consumer Affairs, have acted as the market surveillance body for toy safety since 1990. Over the years the focus on toy safety has shifted from the physical risks such as sharp edges, to the risks associated with the composition of the toy; for example lead content and possible carcinogenic substances.

In the latter part of 2007, a number of high profile recalls were made by Mattel and other toy manufacturers due to excessive levels of chemicals used in the production of the toys and risks associated with magnetic toys. In response to these recalls, the NCA engaged with retailers/manufacturers to ensure that consumers were alerted and appropriate systems put in place to facilitate consumers returning the affected toys. The NCA also wrote to the various importers, distributors and toy retailers advising them

- Of their obligations to place safe toys on the market
- To take remedial action if they become aware of problems linked to the safety of any toy
- To complete a questionnaire relating to their toy safety procedures.

The NCA also liaised with the Customs Authorities in identifying operators importing toys directly into Ireland from Non EU Countries. This enabled the NCA to contact these importers to ensure that they are complying with their obligations in relation to toy safety.

### **European Commission review of Toy Safety measures**

The high profile recalls during 2007 prompted the European Commission to review the issue of toy safety. The NCA inputted into the European Commission review exercise. The Commission concluded that a significant amount of work was being done to protect consumers from unsafe products and that there was no immediate need for major changes to the regulatory system. As the vast majority of toys are made in China, it undertook to prioritise its dialogue with the Chinese aimed at getting the manufacturers to fully comply with the toy safety requirements.

### **Action on Magnetic Toys**

The Commission also identified, in the course of its review, that there was a need for developing a standard in relation to magnets in toys. As this was expected to take at least two years, the Commission decided to use the powers of the General Product Safety Directive to introduce interim procedures requiring Member States to take steps to ensure that warnings, outlining the risks to children if they swallow these toys, should be attached to all magnetic toys being placed on the market. The NCA gave advance notice of the Commission Decision, (scheduled to come into effect on 1<sup>st</sup> July 2008) to Irish toy operators. This was done by

- Placing a notice in the Iris Oifigúil
- Advertisements in the daily newspapers
- Notice on the NCA website
- Written communications to toy operators and representative bodies
- A presentation to operators at a seminar for toy operators convened by the NCA in April 2008

### **Draft Toy Safety Directive**

Arising from the review, the European Commission submitted a proposal to Council on a draft revision of the Toy Safety Directive. The draft Directive is currently being discussed at Council Working Group level and is expected to be finalised by end 2008.

The main aims of the draft Directive are

- (i) Enhance the safety of toys to cope with recently identified hazards regarding, in particular, chemicals in toys, choking hazards and toys associated with food
- (ii) Provide for more efficient and effective enforcement by Member States

The draft Directive also proposes to make the CE mark more visible and easily recognisable and seeks to clarify the scope of the Toy Directive and the relationship between the Directive and the General Product Safety Directive.

## **Commission Decision on Cigarette Lighters**

The European Commission decision (2006/502/EC) of 11 May 2006 required Member States to take action on disposable and novelty lighters, as follows:

- (i) To ensure that only lighters which are child-resistant are placed on the market
- (ii) To prohibit the placing on the market of novelty and child appealing lighters.

In arriving at its decision, the Commission took into account the inherent hazards which these products present including:

- The risk of misuse by children which could result in fires, injuries and deaths
- The volume of lighters placed on the market, and the seriousness of the risk posed by lighters to children's safety if used as possible play items.

The requirements of the Commission decision came into effect on the 12<sup>th</sup> March 2007. The transitional period was to allow time for Member States to take appropriate measures to implement the requirements of the Commission decision. As of 12<sup>th</sup> March 2007 Member States are required to ensure that only lighters which are child resistant may be placed on the market and to prohibit the placing of novelty lighters on the market.

The Agency has responsibility for implementing the Commission decision in Ireland. To date, action taken includes the following:

- Letters to representative bodies whose members may be involved in importing, distributing or retailing the lighters
- Notification of the ban to various trade magazines
- Notice placed on website
- Notifications have been issued to the various bodies with whom the agency has set up a liaison arrangement
- Publication of the Commission's decision in Iris Oifigiúil

## **RAPEX**

All EU Member States are required to notify the Commission of any actions taken in respect of potentially hazardous products placed on their market. This in turn is sent to all other countries. The receiving Member States are required to check if the item is on sale on their markets and take appropriate remedial action. A "reaction" must then be made to the Commission, giving details of the action taken. During 2007 over 1600 notifications from across the EU were processed through the system. This is a 53% increase on 2006.

The NCA is the RAPEX contact point for Ireland. It liaises closely with traders and relevant representative bodies to establish whether the particular product is on sale on the Irish market and if so, determine the appropriate actions that should be taken. Over 80 of the notifications in 2007 related to products found on the Irish market, 49 of which related to the motor industry. The NCA also made 32 notifications in relation to products found on the Irish market that gave rise to safety concerns (see appendix IV). Recall notices were placed on the website and press releases / press notifications were issued as appropriate.

Details of the various RAPEX notifications are available on the European Commission website at

[http://ec.europa.eu/consumers/dyna/rapex/rapex\\_archives\\_en.cfm](http://ec.europa.eu/consumers/dyna/rapex/rapex_archives_en.cfm)

The European Commission from its analyses of the RAPEX system over the past few years has established that approx. 50% of hazardous products notified by Member States relate to imports from China. The Commission, with the co-operation of Member States, has held discussions with the Chinese Authorities with a view to their taking action to improve the safety of products being exported into the EU.

The coming into effect of the General Product Safety Directive in 2004, increased awareness of product safety issues and EU enlargement have all contributed to the dramatic increase in the number of RAPEX notifications made in recent years.

Year	Notifications received
2003	139
2004	468
2005	847
2006	1051
2007	1603

### Product Safety Investigations

The NCA received approximately 200 queries / complaints in relation to a variety of product safety issues. All complaints were investigated and appropriate action taken to ensure that the product would not present a safety hazard to consumers. The types of action taken included assessment of technical documentation to determine compliance with the standard, referral of items for testing, requiring operators to attach appropriate warnings/safety instructions, placing consumer alerts and safety tips on the website and in certain cases withdrawal and recall of the item.

The types of products examined included a number of electrical products such as ovens, kettles and hairdryers; toys and childcare articles including prams and cots; cosmetics products; and household items, including water filters.

Examples of the actions taken are as follows:

- **Water filter cartridge.** A consumer had claimed that a filter cartridge purchased contained insufficient information on the lifespan of the cartridge and considered that this posed a health and safety risk. Following the NCA's intervention, the manufacturers of the water filter cartridge agreed to revise the wording on the packaging of the cartridge to include clearer information on its lifespan.
- **Hairdryer.** Over 5000 of these were placed on the Irish market. A number of returns of these items had occurred for varying of reasons, such as overheating. Following intervention by the Agency, the retailer undertook to establish with the manufacturer if the product posed a general safety risk. An independent test report indicated that the item was safe and complied with the relevant standards.



## **Product Safety Workshop**

A workshop was organised by the NCA in conjunction with DG SANCO (European Commission) and was held on 20<sup>th</sup> April 2007. The aim of the workshop was to bring together all of the market surveillance authorities, other relevant organisations and Government Departments to advise them of the roles of the NCA and the European Commission in the area of product safety, particularly RAPEX.

## **Advocacy and Information**

Apart from market surveillance activity, the NCA also has an advocacy and information role in relation to consumer issues, including toy safety. The Agency will continue to use its position to highlight issues arising. Through its business and consumer websites, the Agency provides details of any unsafe products including information in relation to recalls. The NCA also provides tips / advice on toy safety and has published a consumer booklet on toy safety.

The NCA has drawn up a list of best practice usage and safety tips regarding the use of trampolines which is available on its website.

The NCA held a seminar in early 2008 for key stakeholders to advise them of their obligations in relation to toy safety and provide a briefing on the proposed changes envisaged under the new Toy Directive.

## **Scam Awareness Campaign**

The NCA is a member of ICPEN, the International Consumer Protection and Enforcement Network. It comprises the enforcement authorities of more than two dozen countries, most of which are members of the Organization for Economic Cooperation and Development (OECD). The mandate of the Network is to share information about cross-border commercial activities that may affect consumer interests, and to encourage international cooperation among law enforcement agencies.

In 2007, as part of the ICPEN Fraud Prevention Month, the NCA carried out a campaign entitled “Money for Nothing or is it a Scam” which was targeted at the different nationalities working and living in Ireland. A ‘scams poster’ was translated into 11 different languages (including English, Irish, Russian, Latvian, Lithuanian, Polish, Portuguese, Hungarian, Czech, Chinese and Romanian) and distributed widely to the various national organisations that have regular contact with immigrant populations. The intent of the posters was to ensure that all major ethnic groupings residing in this country were made aware of the existence of scams, how to spot them and to which agency they should report any that come to their attention. Advertisements were also placed in 5 different newspapers in English, Russian, Polish, Lithuanian and Latvian and a total of 9 radio interviews on the topic of scams were conducted during the period. Finally advertisements were placed on the backs of “till rolls” in selected grocery retailers in April 2007.

## **Scams**

The NCA has considerably enhanced powers, arising from the Consumer Protection Act, to tackle a whole range of misleading commercial practices ranging from fake lotteries to dodgy dealers and various other sharp practices. Consumers are encouraged to contact the Agency with complaints.

New content was added to the NCA website to alert consumers to the existence of scams, how to spot and ideally avoid them altogether; the top ten most common scams; where to report scams and the existence of new provisions in the Consumer Protection Act 2007 designed to clamp down on scams. In addition two podcasts were produced for the website (5 and 10 minutes long) warning consumers of the attempts which scamsters will make to dupe them out of their hard earned money.

The Agency is investigating a number of cases arising from these new powers and it is expected that enforcement activity will arise during 2008.

## **Food Labelling**

The European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations, 2002, as amended, require that certain information be given on the labels of pre-packaged foods. This information includes the name of the food, a list of ingredients and, in certain circumstances, their quantity, date of minimum durability, net weight and origin where failure to give such particulars might mislead to a material degree. The former ODCA was one of several bodies responsible for information on the labels of foodstuffs. Its function was to check that the information is actually on the label and is easily visible, clearly legible, and not misleading.

The majority of food complaints/queries received in 2007 by the NCA were more appropriate to the FSAI and other Agencies and Departments involved in Food Safety and were forwarded to the relevant areas of specialised expertise. It was agreed between the NCA and the FSAI that responsibility for food labelling would now be better placed under the remit of the FSAI and that a Memorandum of Understanding would be put in place during 2008 to reflect this.

## **Telecoms sector**

During 2007, a large number of complaints and information requests came in to the NCA concerning the activities and operation of telecoms companies. A range of issues was dealt with, including possible misleading advertising.

Two important areas that surfaced as issues were distance selling and the Speed of broadband services.

Distance selling is intrinsically linked to the telecoms industry. Not only do telecom products – e.g. broadband (internet access) and telephone services – constitute the main media through which distance contracts are entered into, but many people also sign up to telecoms services via a distance contract.

In light of this, it has been important to continue to monitor the telecoms companies to ensure that Third Party Verification (TPV) is operating correctly and that consumers are made aware of – and given – all their rights under the Distance Selling Regulations when signing up to a telecoms service over the phone. During 2007 discussions took place on an ongoing basis with ComReg to ensure both organisations had a similar position in relation to the regulations.

During the course of 2007, the National Consumer Agency also received a significant number of complaints about the speed of broadband that consumers were receiving both via landlines and via mobile broadband products in comparison to the speeds indicated by broadband providers in advertisements. During the course of its investigations, the Agency began working in conjunction with the ASAI and ComReg to draft a set of broadband advertising guidelines to prevent any future misleading or inappropriate advertising by broadband providers. These Guidelines were agreed in early 2008.

The Agency also obtained agreement from a number of operators to include the specific terms and conditions applying to advertised “unlimited” talk time. The problem was that if a customer exceeded certain thresholds the company reserved the right to cut them off despite advertising unlimited talk time. Agreement was reached where the operators included the parameters of the unlimited offer in the contract.

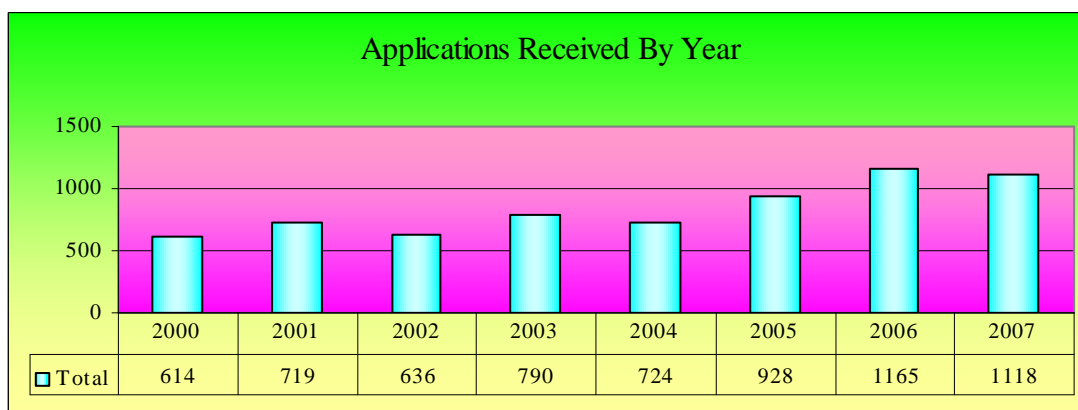
## **Credit Intermediaries**

The NCA also has a role in relation to the authorisation of credit intermediaries. Under the Consumer Credit Act, 1995 (as amended) all credit intermediaries require to be authorised by the NCA in order to provide credit facilities to the public. Credit intermediaries are persons who, in the course of their business, arrange credit for consumers in return for a payment or consideration of any kind. The majority of credit intermediaries are engaged in the motor trade with a minority engaged in other retail sectors, notably furniture and electrical.

Credit intermediaries are required to display their authorisations publicly in their premises and before any agreement is signed, must give consumer’s written details of the agreement and of the financial institution on whose behalf they act. They must also inform the consumer that they are paid for their services. Consumers are advised to deal only with authorised credit intermediaries.

The NCA processed 1,118 applications for a credit intermediary authorisation in 2007 compared to 1165 in 2006. This is a decrease of 3.9% on the number of authorisations issued in 2006. A total of €653,064 was received in fee income for the calendar year 2007.

Details of applications received since 2000 are set out below.



### **Credit Institution Compliance Survey**

In 2007, a compliance survey was undertaken to determine the extent to which consumer credit legislation applied to sectors other than the motor trade. The main areas reviewed were those for large ticket items such as furniture, electrical, electronic, kitchens or bathrooms.

The financial institutions on request provided a list of traders potentially acting as credit intermediaries. These businesses were cross-checked against our database and over 370 were identified for further investigation and follow-up. It subsequently transpired that many of these either did not require authorisation or had closed down. 35 new applications resulted from the survey.

It was further emphasized to the Finance Houses that they are not permitted to pay commission to credit intermediaries unless those intermediaries are in possession of a current credit intermediary authorisation.

### **Pawnbroker licences**

The Agency is also responsible for issuing pawnbroker licences. Five licences were issued to pawnbrokers in 2007. Two licences were being processed at year end. Officers of the NCA visited the premises of the licence holders in the course of the year thus ensuring that they were operating within the terms and conditions of their licences.

### **Public Register**

The NCA maintains a public register of all those who are authorised to operate as credit intermediaries. The register is regularly accessed by the financial institutions and may be inspected by members of the public on the website [www.nca.ie](http://www.nca.ie). Consumers are encouraged prior to organising credit through such intermediaries to consult the public register to ensure that the intermediary they are dealing with is authorised.

## **Pillar 2 – Advocacy and Research**

### **Price Comparison Surveys in the Groceries Sector**

In summer 2007, we undertook a pilot project involving a basket of branded goods in the main retailers – Dunnes, Tesco, Superquinn, Supervalu and the symbol groups, Eurospar, Spar and Centra. That survey showed minimal price difference between the multiples; Supervalu having comparable pricing to the multiples; significant price differences between these larger outlets and the symbol group stores and also large variations between the symbol group stores.

Building on that pilot survey, the NCA undertook a more extensive grocery price comparison survey in December 2007. The results were published in February 2008 and covered a range of branded and own brand goods, meat and fresh fruit & vegetables across the multiples, discounters, symbol group retailers and a range of independent outlets. The survey found that there were minor differences on branded goods between the multiples, repeating the results of the pilot survey. In terms of own brand products, Aldi and Lidl products were positioned against the mid range own brand products of the major multiples; the survey showed that there were significant price differences between discount stores and the multiples. Independent butchers and fruit/veg shops fared well, in general, against the multiples. Symbol group retailers were, as expected, more expensive given their positioning as convenience stores. There was, however, a considerable pricing difference between the symbol groups surveyed.

### **Redress for Consumers**

The NCA has an important role to play in ensuring that the voice of the Irish consumer is heard. Among the results achieved in this regard during the past year are:

- (a) The NCA engaged with the promoter, MCD, to ensure that compensation of varying levels was paid to 2,500 consumers who encountered difficulties at the Barbra Streisand concert in July 2007
- (b) Following intervention by the NCA, offers were obtained from two travel agents to compensate consumers discommoded on trips to the 2007 Champions League final in Athens.

### **Multi Unit Developments Stakeholder Forum**

The NCA has for some time been campaigning for increased consumer empowerment in the area of multi-unit development properties. In October 2006 the NCA published a report on the sector and a consumer friendly booklet "Property Management Companies And You" outlining the basics as to how management companies work and the type of questions consumers should ask when considering purchasing a property in a multi-unit development. In February 2007 we launched a consultation process, inviting consumers to highlight their experiences with regard to these properties. Consumer feedback indicated that issues identified by our previous research were persisting, with a particular emphasis on information provision in relation to the rights and responsibilities of management companies.

Our consultation process underlined the importance of resolving consumer concerns in this area and in response the NCA established and chaired a voluntary forum drawing together representatives from each of the key interest groups involved in multi-unit development properties in March 2007. The Forum completed its work in mid 2008 and the outputs are available on the NCA's website. The key outputs arising from the Forum include:

- **A Consumer Information Guide** to enable consumers to inform themselves of the responsibilities and entitlements associated with buying/living in a property in a multi-unit development. This Training Manual is a complement to the earlier National Consumer Agency publication "*Property Management Companies & You*".
- **A Code of Practice** for Irish Home Builders Association members. This code will become effective in September 2008.
- **Selected guidance documentation** to assist consumers owning/living in multi-unit developments, the following documents have been developed:
  - A checklist specifying the manner and nature of common services for which management companies wish to contract with Managing Agents
  - Financial planning documents which will assist consumers as regards understanding expenditure on day-to-day management and maintenance and longer-term upkeep and improvement of their development.
- **A dedicated micro-site for the information guide and other property related material.**

## **The Home Construction Industry and the Consumer in Ireland**

Given the costs and complexity of purchasing or renovating a property, the NCA commissioned Grant Thornton to undertake a study on its behalf, evaluating the consumer experience when purchasing construction related goods and services.

This study commenced in October 2007 and addresses the following areas:

- Information Provision
- Conveyancing and Legal Issues
- Building Regulation Enforcement & Compliance
- Professional Services and Contractors standards and qualifications
- Consumer Detriment
- Insurance

The report provides the first comprehensive overview of the home construction industry in Ireland from a consumer perspective. It reviews, compares and evaluates international standards in this sector and identifies best practice appropriate to Irish conditions.

The Agency has considered the draft reports prepared by Grant Thornton and has submitted these drafts to key stakeholders with a view to obtaining any comments and views. It is anticipated that the final report will be published in Q4 2008.

## Market Research

In 2007 Amárach Consulting was commissioned by the NCA to undertake independent market research to examine Irish consumers' attitudes and behaviour with regard to complaints, satisfaction, switching and e-commerce. The research also assessed consumers' knowledge and awareness of their rights and the activities of the NCA. The research comprised three elements:

1. A nationally representative survey of 1,000 adults, aged 15 – 74 across 101 sampling points in the Republic of Ireland conducted in April 2007
2. Qualitative research in the form of 8 focus groups carried out in May 2007
3. A second nationally representative survey of 1,000 adults, aged 15 – 74 across the same 101 sampling points in the Republic of Ireland conducted in December 2007

A summary report outlining the findings of the research conducted during 2007 was issued to coincide with International Consumer Day in March 2008 and may be viewed at:

[http://www.consumerconnect.ie/eng/Hot\\_Topics/Campaigns/2007\\_Consumer\\_Market\\_Research.doc](http://www.consumerconnect.ie/eng/Hot_Topics/Campaigns/2007_Consumer_Market_Research.doc))

The research found that with regard to complaints, Irish consumers are proactive, with 83% of those having had cause to complain in the previous 12 months, actually making a complaint. The most frequent cause of complaint related to faulty products or services. The satisfactory handling of a complaint benefits both consumers and retailers with 69% of consumers who have had a positive complaints experience intending to transact again with the complaint-handling outlet.

Consumers in Ireland continue to be cautious with regard to switching product and service providers, with only 42% of respondents having switched any product or service provider. Where consumers have switched, however, the experience has proved positive. With regard to e-commerce, Irish consumers do not appear to be availing of the benefits in terms of the cost savings that can be gained from higher value online purchases, such as in the areas of electronic goods, and furniture. Online shopping is typically a positive experience, with 88% of online shoppers stating they 'never' had cause or reason to complain or return an item or service in the past 12 months.

Another element of the research was the development of a Consumer Empowerment Index to measure consumers' sense of empowerment in terms of how confident, knowledgeable and protected they feel in relation to their rights as a consumer. As at the end of 2007, 16% of Irish consumers can be described as being strongly empowered consumers, in that they feel very confident, knowledgeable and protected with regard to their rights as consumers. 50% may be described as moderately empowered and 34% are weakly empowered. Over successive research & reporting periods the Consumer Empowerment Index should provide a valuable benchmark of the impact and effect of developments in consumer policy, consumer education strategies, changing retailer behaviours and consumer law enforcement activities in Ireland.

This research is the first of a series of such reports on the consumer environment the NCA intends to publish to monitor the evolution of the consumer environment in Ireland and identify future policy interventions to support consumers.

## **Advocacy**

Consumer advocacy can play an integral role in the development and implementation of robust policy and good legislation. The Report of the Consumer Strategy Group identified a need for increased emphasis of the consumer agenda in Government policy. Through its Research and Advocacy function, the NCA has sought to promote and protect consumers' interests through greater advocacy on their behalf. In addition to responding to consultations by the Department of Enterprise, Trade and Employment and the European Commission, during 2007, the NCA has participated in a number of public consultation process, including:

- Private Health Insurance Advisory Group consultation on the health insurance market in Ireland
- Commission for Energy Regulation consultations on Smart Metering, and the regulation of Electrical Contractors with respect to Safety
- Law Reform Commission consultation on multi-unit developments
- Dublin Transportation Office Transport Strategy 2030 Vision
- Dublin City Council consultation on Sustainable Urban Living
- Financial Regulator Review of Insurance of Intermediary Market
- Department of Communications, Marine & Natural Resources Green Paper on Sustainable Energy and
- Broadcasting Commission of Ireland on Digital Terrestrial Television Licensing Policy



## Pillar 3 – information and Awareness

### Publications

In 2007 the NCA published a series of 8 consumer booklets to provide advice on important consumer topics. The NCA distributed hard copies of the booklets nationally, through our dedicated consumer helpline, participation at 2 major national exhibitions and via downloads from our website [www.consumerconnect.ie](http://www.consumerconnect.ie). The full list of the booklets produced in 2007 are listed below:

1. A Guide to the National Consumer Agency
2. A Guide to the Sale of Goods and Supply of Services Act 1980
3. A Guide to the Small Claims Court
4. A Guide to Package Holidays
5. A Guide to Advertising and the Consumer
6. A Guide to Consumer Law and Prices
7. A Guide to Toy Safety
8. A Guide to Buying a Car

### Website

- As part of our mandate to raise awareness of consumer rights The NCA has invested considerable resources in the development of a dedicated consumer website, [www.consumerconnect.ie](http://www.consumerconnect.ie). The site is targeted at consumers seeking information on a wide range of topics and in this way supports the work done by our call centre. Content on the site includes:
  - Easy-to-understand guides
  - Frequently Asked Questions
  - Hot topics,
  - Jargon busters and fun consumer quizzes

The site is updated at least weekly and has received in excess of 120,000 visits since May 2007.

In June 2007 the NCA launched a corporate website [www.nca.ie](http://www.nca.ie) which is aimed at businesses, the media and researchers. Content includes the latest research conducted by the NCA, guides for businesses and a media zone. The site has received in excess of 18,000 visits since its launch.

### Advertising Campaigns

- Raising awareness of consumer rights and the role of the NCA itself was central to our work during the period covered by this report. Campaigns were conducted on the following topics:
- Announcement of the establishment of the NCA as an independent statutory body;
- Extensive Christmas campaign timed to coincide with a major buying period for consumers and promoted the NCA Consumer Helpline. Activities included;
  - TV and Radio Campaign
  - Advertorials in selected media

- Development of a Podcast
- Re-launch of shoppers Rights Cards
- Production and distribution of a Receipt Holder

## **Call Centre**

The provision of information on consumer rights and obligations is an integral part of the work of the NCA. Since our establishment in May 2007 our call centre has responded to 46,450 calls (in excess of 68,000 for the full year) the majority of which related to issues covered by the Sale of Goods and Supply of Services Act 1980. In addition to these calls 3,914 emails were received through our consumer and corporate websites.

As time goes on, and as consumers become more aware of the extent of our enforcement remit under the Consumer Protection Act (particularly in relation to Unfair Commercial Practices), we expect that the range of queries to the helpline will increase and broaden considerably.

Going forward we will continue to upskill our call centre to ensure that callers receive the best possible service.

## **Education**

This is one of the new functions assigned to the NCA.

During 2007 the NCA undertook a joint venture with The Irish Times Business 2000 to provide practical information to students on consumer related topics.

The NCA case study contained up-to-date information on 'The Consumer Protection Act' which is not yet available on the teaching syllabus and provides an opportunity to promote awareness of our newly established NCA guide to students and teachers. Hard copies of this publication were circulated to 1600 educators nationwide.

Preliminary discussions have been held with the National Council for Curriculum & assessment (NCCA) and it is hoped to build on this in the coming year.

Other activities in this area have been in response to ad hoc requests for presentations from other organisations such as Citizens Information Centres.

## **Corporate Governance**

The NCA was established on 1 May 2007 under the Consumer Protection Act, 2007 and operates in accordance with the provisions of that Act and under the aegis of the Minister for Enterprise, Trade and Employment. The NCA has put in place procedures to ensure compliance with the following specific requirements:

### **Board Members – Disclosure of Interest**

The Board adopted procedures in accordance with the Code of Practice for the Governance of State Bodies, in relation to the disclosure of interests by Board Members and these procedures have been adhered to in the year. The NCA has applied to the Department of Enterprise, Trade & Employment to be recognised as a public body under the Ethics in Public Office Acts, 1995 and 2001. In the meantime the members of the Board and staff members holding designated positions are complying on a voluntary basis with the terms of that legislation.

### **Other Obligations under Code of Practice for the Governance of State Bodies**

The NCA has put in place procedures to ensure that it complies with the provisions of the Code of Practice for the Governance of State Bodies.

### **Freedom of Information (FOI)**

The NCA is covered by the provisions of the Freedom of Information (FOI) Acts. These Acts established three new statutory rights

- A legal right for each person to access information held by public bodies
- A legal right for each person to have official information held by a public body relating to him/herself amended where it is incomplete, incorrect or misleading;
- A legal right to obtain reasons for decisions affecting oneself taken by a public body

### **Safety, Health and Welfare Act, 1989**

In accordance with the Safety, Health and Welfare Act (1989), the NCA has prepared a safety statement that encompasses all the aspects affecting staff and visitor welfare.

### **Energy Efficiency**

In each area relevant to energy usage and services to its buildings, the NCA endeavours to employ the most energy efficient and environmentally friendly means available.

### **Audit Committee**

The Board appointed an audit committee in 2007. The role of the committee is to review, monitor and advise on the robustness and effectiveness of the arrangements and status of the corporate governance, financial management, risk management and internal audit functions of the NCA.

### **Internal Audit**

The NCA has appointed external consultants to act as internal auditor who have been commissioned to prepare an audit plan, which will be implemented over the period 2008 to 2010.

### **Remuneration Committee**

The Board appointed a remuneration committee to examine the Chief Executive's performance annually and to set performance criteria consistent with the corporate plans.

### **Standing Orders**

The Board has adopted standing orders to ensure the orderly and effective conduct of the meetings of the Board of the NCA and they have been drawn up as stipulated in Section 12. (7) of the Consumer Protection Act 2007.

# Financial Statements

## Report of the Comptroller and Auditor General

---

I have audited the financial statements of the National Consumer Agency for the period ended 31 December 2007 under the Consumer Protection Act, 2007.

The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the Income and Expenditure Account, the Balance Sheet, the Cash Flow Statement and the related notes.

### **Respective Responsibilities of the Board of the Agency and the Comptroller and Auditor General**

The Agency is responsible for preparing the financial statements in accordance with the Consumer Protection Act, 2007 and for ensuring the regularity of transactions. The Agency prepares the financial statements in accordance with Generally Accepted Accounting Practice in Ireland. The accounting responsibilities of the Members of the Agency are set out in the Statement of Responsibilities.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report my opinion as to whether the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland. I also report whether in my opinion proper books of account have been kept. In addition, I state whether the financial statements are in agreement with the books of account.

I report any material instance where moneys have not been applied for the purposes intended or where the transactions do not conform to the authorities governing them.

I also report if I have not obtained all the information and explanations necessary for the purposes of my audit.

I review whether the Statement on Internal Financial Control reflects the Agency's compliance with the Code of Practice for the Governance of State Bodies and report any material instance where it does not do so, or if the statement is misleading or inconsistent with other information of which I am aware from my audit of the financial statements. I am not required to consider whether the Statement on Internal Financial Control covers all financial risks and controls, or to form an opinion on the effectiveness of the risk and control procedures.

I read other information contained in the Annual Report, and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

## **Basis of Audit Opinion**

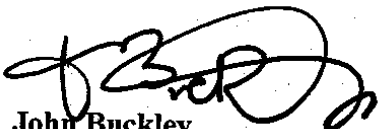
In the exercise of my function as Comptroller and Auditor General, I conducted my audit of the financial statements in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board and by reference to the special considerations which attach to State bodies in relation to their management and operation. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures and regularity of the financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgments made in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Agency's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations that I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.

## **Opinion**

In my opinion, the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of the Agency's affairs at 31 December 2007 and of its income and expenditure for the period then ended.

In my opinion, proper books of account have been kept by the Agency. The financial statements are in agreement with the books of account.



**John Buckley**  
**Comptroller and Auditor General**  
**23 September 2008**

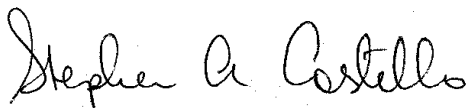
## Statement of Responsibilities

---

Section 23 of the Consumer Protection Act 2007 requires the Agency to keep in such form as may be approved by the Minister for Enterprise, Trade and Employment with the consent of the Minister for Finance, all proper and usual books or other records of account of all money received and expended by it and, in particular, shall keep in such form as aforesaid all special accounts (if any) as the Minister may from time to time direct. In preparing those financial statements, the Agency is required to:

- Select suitable accounting policies and apply them consistently;
- Make judgments and estimates that are reasonable and prudent;
- State whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements;
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Agency will continue in operation.

The Agency is responsible for keeping proper books of account, which disclose with reasonable accuracy at any time its financial position and which enables it to ensure that the financial statements comply with Section 23 of the Act. The Agency is also responsible for safeguarding its assets and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.



**Chairperson**



**Chief Executive**

## **Statement on Internal Financial Control**

---

### **Responsibility for the system of Internal Financial Control**

On behalf of the members of the National Consumer Agency we acknowledge our responsibility for ensuring that an effective system of internal financial control is maintained and operated.

The system can only provide reasonable, and not absolute, assurance that the assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period. Maintaining the system of internal financial controls is a continuous process and the system and its effectiveness are kept under ongoing review.

### **Key control procedures**

As the Agency was only established on 1 May 2007 it has not yet procured its own financial systems. Consequently it is fully dependent on the accounts and payroll systems of the Department of Enterprise, Trade & Employment, which also makes all payments on its behalf. In that respect, the Agency complies with the control procedures operating within the Department.

The Agency has taken steps to ensure an appropriate control environment by:

- ensuring the Agency complies with its Financial obligations under the Act;
- ensuring that assets and liabilities of the Agency are properly identified and safeguarded;
- clearly defining management responsibilities in a defined organisational structure with clear segregation of duties; and
- the establishment of appropriate sub-committees of the Agency to give greater focus on specific areas.

The Agency has appointed external consultants to act as internal auditor who have been commissioned to prepare an audit plan, which will be implemented over the period 2008 to 2010.



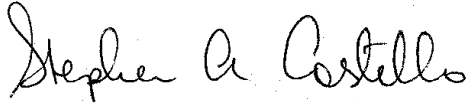
## Statement on Internal Financial Control

---

### Annual Review of Controls

The Board also appointed an audit committee in 2007. The role of the committee will form part of the ongoing review of the control environment and governance procedures within the Board, oversee the internal audit function, and advise the Board in relation to the operation and development of that function. The committee will also review the draft Annual Accounts and make a recommendation, as to their adoption, to the Board.

We confirm that the Board conducted a review of the effectiveness of the system of internal financial control in respect of the period ended 31 December 2007.



**Chairperson**



**Chief Executive**

# National Consumer Agency

## Statement on Accounting Policies

---

The significant accounting policies adopted in these financial statements are as follows:

### 1. Establishment of the National Consumer Agency

The National Consumer Agency was established on 1 May 2007 in accordance with Section 7(1) of the Consumer Protection Act, 2007. On that date, all assets and liabilities of the Office of the Director of Consumer Affairs, were transferred to the Agency in accordance with Section 39(1) of the Act.

As this is the first year of operations, comparative figures are not reported.

### 2. Basis of Accounting

The financial statements are prepared on the accruals basis of accounting except in respect of the Oireachtas Grant and Fee Income, in accordance with generally accepted accounting principles under the historical cost convention and comply with the financial reporting standards of the Accounting Standards Board and are in the form approved by the Minister for Enterprise, Trade & Employment with the consent of the Minister for Finance under the Consumer Protection Act 2007. The accounts are stated in euro.

### 3. Income

#### *Oireachtas Grant*

Oireachtas grants are recognised in the financial statements on the basis of the amount paid by the Department of Enterprise, Trade and Employment in respect of the Agency's expenditure during the year.

### 4. Tangible Fixed Assets

Tangible fixed assets are stated at cost less accumulated depreciation.

Depreciation is provided on a straight line basis at rates which are estimated to reduce the assets to realisable values by the end of their expected useful lives as follows:-

Furniture & fittings	10%	Straight Line
Office equipment	10%	Straight Line
Computer equipment	20%	Straight Line

Assets transferred from the Department of Enterprise, Trade & Employment have continued to be depreciated over the remainder of their useful economic lives.

## **5. Foreign Currencies**

Transactions denominated in foreign currencies are translated into euro at the rates of exchange prevailing at the transaction date. Any differences arising on translation between transaction dates and payment dates are charged to the Income and Expenditure account.

## **6. Capital Account**

State grants used for the purchase of fixed assets are transferred to the capital account in the year in which the expenditure is incurred and are credited to income over the estimated useful lives of the related assets.

The capital account represents the unamortised amount of income used to finance fixed assets.

## **7. Staff Pensions**

In accordance with Section 36 of the Consumer Protection Act, 2007 a draft scheme for the granting of superannuation benefits to staff of the Agency has been prepared and submitted to the Minister for approval. Administrative approval for the staff superannuation scheme has been received from the Department of Finance.

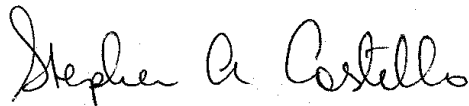
**Income and Expenditure Account**  
**for the period 1 May 2007 to 31 December 2007**

---

	Notes	Period 1 May 2007 to 31 December 2007 €
<b>Income</b>		
Oireachtas Grant	1 & 2	5,369,331
Transfer from Capital Account	7	<u>11,066</u>
		<u>5,380,397</u>
 <b>Expenditure</b>		
Staff Costs & Board Members' fees	3	2,636,575
Operational Expenses	4	<u>3,057,771</u>
		<u>5,694,346</u>
Excess of Expenditure over Income		<u>(313,949)</u>

The Statement of Accounting Policies and Notes 1 to 14 form part of these Financial Statements.

All income and expenditure for the period ended 31 December 2007 relate to continuing activities. The National Consumer Agency had no gains or losses in the financial year other than those dealt with in the Income and Expenditure Account.



Chairperson



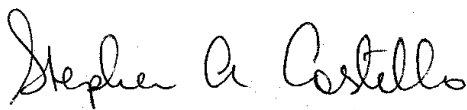
Chief Executive

**Balance Sheet**  
**as at 31 December 2007**

---

	Notes	31 December 2007 €
<b>FIXED ASSETS</b>		
Tangible assets	5	131,720
<b>CURRENT ASSETS</b>		
Prepayments		-
<b>CREDITORS</b>		
(amounts falling due within one year)	6	<u>(313,949)</u>
<b>NET CURRENT LIABILITIES</b>		<u>(313,949)</u>
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>		<u>(182,229)</u>
<b>FINANCED BY</b>		
Income & Expenditure Account	8	(313,949)
Capital Account	7	<u>131,720</u>
		<u>(182,229)</u>

The Statement of Accounting Policies and Notes 1 to 14 form part of these Financial Statements.



**Chairperson**



**Chief Executive**

**Cashflow Statement**  
**for the period ended 31 December 2007**

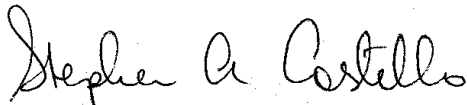
---

	Notes	Period 1 May to 31 December 2007 €
<b>Reconciliation of operating surplus to net</b>		
<b>Cash inflow from operating activities</b>		
Operating deficit for period	8	(313,949)
Depreciation	5	44,153
Transfer from Capital Account	7	(11,066)
Increase in creditors	6	313,949
Net cash inflow from operating activities		33,087
<b>Returns on Investment and Servicing of Finance</b>		
Interest Earned		0
<b>Net Capital Expenditure</b>		
Payments to acquire tangible fixed assets	7	(33,087)
<b>Increase in cash</b>		0

**RECONCILIATION OF NET CASHFLOW TO MOVEMENT IN NET FUNDS**

Net funds at 1 May 2007	0
Net funds at 31 December 2007	0
<b>Increase in cash</b>	0

The Statement of Accounting Policies and Notes 1 to 14 form part of these Financial Statements.



**Chairperson**



**Chief Executive**

## Notes (forming part of the financial statements)

---

### 1. OIREACHTAS GRANT

State funding was provided through the Office of the Minister for Enterprise, Trade and Employment, and amounted to €5,369,331 for the period ended 31 December 2007.

### 2. APPLICATION FEES

Fees received by the Agency for the issuing of credit intermediary licences, pawnbroker licences and costs awarded by the Courts are not income to the Agency as they are paid over to the Exchequer. In 2007 these receipts amounted to €460,984 as follows:

- Credit Intermediary Licence Fees:	€447,310
- Pawnbroker Licence Fees:	€6,349
- Costs Awarded by the Courts:	€7,325

### 3. STAFF COSTS

1 May 2007 to  
31 December 2007  
€

Wages & Salaries	2,034,001
Superannuation	485,368
Board Members Fees	<u>117,206</u>
	<u>2,636,575</u>

The Department of Enterprise, Trade & Employment provided a payroll service to the Agency for 2007.

### 4. OPERATIONAL EXPENSES

1 May 2007 to  
31 December 2007  
€

Post & Telecommunications	81,443
IT Equipment & Services	153,972
Printing & Stationery	130,694
Travel & Subsistence	177,791
Office Premises & General Maintenance	408,530
European Consumer Centre	130,519
Incidental Expenses	29,489
Consultancy Services	121,173
Marketing, Promotion & Consumer Awareness Activities *	1,233,446
Human Resource Development	120,811
Depreciation	44,153
Call Centre	<u>425,750</u>
	<u>3,057,771</u>

\* In performing its functions under the Act to promote and protect the interests of consumers, the Agency is required, inter alia, to carry out public awareness and information campaigns and to conduct and commission research and studies and analysis for the purpose of educating and advising consumers in relation to consumer protection. In 2007 the Agency spent € 832,395 on promotion and consumer awareness activities, including € 587,698 on advertising and a further €401,051 on research.

## 5. TANGIBLE FIXED ASSETS

	Computer Equipment €	Furniture & Fixtures €	Office Equipme nt €	Total €
<b><i>Cost</i></b>				
Original Cost	260,676	301,617	57,345	619,638
Additions 2007	6,841	17,256	8,990	33,087
Disposals	<u>-</u>	<u>(514)</u>	<u>-</u>	<u>(514)</u>
At 31 December 2007	<u>267,517</u>	<u>318,359</u>	<u>66,335</u>	<u>652,211</u>
<b><i>Depreciation</i></b>				
Accumulated Depreciation	220,402	215,423	41,027	476,852
Charge for the period	22,577	14,950	6,626	44,153
Depreciation on disposals	<u>-</u>	<u>(514)</u>	<u>-</u>	<u>(514)</u>
At 31 December 2007	<u>242,979</u>	<u>229,859</u>	<u>47,653</u>	<u>520,491</u>
<b><i>Net Book Value</i></b>				
At 31 December 2007	<u>24,538</u>	<u>88,500</u>	<u>18,682</u>	<u>131,720</u>

## 6. CREDITORS

Amounts falling due within one year

**2007**

€

Staff Costs Accruals

73,362

Other Accruals

156,873

Creditors

83,714

313,949



<b>7. CAPITAL ACCOUNT</b>		<b>2007</b>
		<b>€</b>
Opening Balance 1 May 2007		-
Assets transferred from the Dept. Enterprise, Trade & Employment		142,786
Income used to acquire Fixed Assets	33,087	
Amortisation in line with asset depreciation	<u>44,153</u>	
Transfer to Income and Expenditure account		<u>(11,066)</u>
Closing Balance 31 December 2007		<u>131,720</u>

<b>8. INCOME &amp; EXPENDITURE ACCOUNT</b>		<b>2007</b>
		<b>€</b>
Opening Balance 1 May 2007		-
Excess of Expenditure over Income in Period		<u>(313,949)</u>
Closing Balance 31 December 2007		<u>(313,949)</u>

## **9. SUPERANNUATION**

The Agency employed 59 staff, of which 55 were civil servants on secondment from the Department of Enterprise, Trade & Employment, 3 were on secondment from Forfás and 1 is a member of staff of the Agency. In accordance with Section 36(2) of the Consumer Protection Act 2007, the Agency has prepared and submitted to the Minister for his approval a scheme for the granting of superannuation benefits to this staff member and in respect of such members of the staff of the Agency as it may think fit. Administrative approval for the staff superannuation scheme has been received from the Department of Finance.

Civil Servants on secondment from the Department of Enterprise, Trade & Employment, are covered by Civil Service pension arrangements. Forfás is responsible for the superannuation scheme for the three staff members seconded from that organisation. Contributions are payable to the Department of Enterprise, Trade & Employment and to Forfás at a rate of either 25% or 30% (depending upon date of entry to the public Service), and are charged to the Income and Expenditure Account.

Superannuation liabilities arising in relation to the Agency's one staff member are recorded in the financial statements. Provision has been made at a rate of 30%, which amounts to €8,622. No actuarial review was carried out in the current period.

The Agency's only staff member has superannuation entitlements arising from service with another public sector body prior to joining the Agency. At this stage it has not been decided which body will be responsible for the pension accruing for this service as the Agency is not yet included in the Public Service Transfer Network. The Agency has applied to the Department of Finance for inclusion in this network.

## **10. LATE PAYMENTS IN COMMERCIAL TRANSACTIONS**

The Agency is aware of its responsibilities under the Late Payments in Commercial Transactions Act 2002 and is implementing appropriate procedures and processes to ensure that all payments are made in accordance with the Act. No late payment interest was paid by the Agency during the period 1 May to 31 December 2007.

## **11. CONTINGENT LIABILITIES**

There are no contingent liabilities.

## **12. PERIOD OF ACCOUNT**

The Financial Statements cover the 8 month period from 1 May 2007 to 31 December 2007.

## **13. Board Members' Interests**

The Board adopted procedures in accordance with guidelines issued by the Department of Finance in relation to the disclosure of interests by Board Members and these procedures have been adhered to in the year. There were no transactions in the period in relation to the Board's activities in which the Board members had any beneficial interest. The Board has applied to the Department of Enterprise, Trade & Employment to be recognised as a public body under the Ethics in Public Office Acts, 1995 and 2001. In the meantime the members of the Board are complying on a voluntary basis with the terms of that legislation.

## **14. APPROVAL OF FINANCIAL STATEMENTS**

The Financial Statements were approved by the Board on the 5 September 2008.

## **Appendix I**

### **Complaints and Queries received by the National Consumer Agency**

During 2007 the NCA dealt with over 76,000 queries and complaints from consumers on a wide range of issues. The majority of these, 68,762, were received and dealt with by our dedicated consumer information line, with the remainder received by post, email, through our website or from personal callers to the NCA.

The majority of contacts were seeking advice and information. Complaints which suggested a possible breach of consumer legislation and which necessitated follow up or investigation were referred to the Commercial Practices Division of the NCA. These amounted to less than 3% of the total received.

Over the first four months of 2008, the rate of queries received has increased with 26,700 received to the end of April. Over 50% of the queries received related to the sale of goods or supply of services, where the products or services were faulty, not fit for the purpose sold, not as described or where the consumer has simply changed their mind after purchase.

The top six product categories for all queries, together with their breakdowns, are shown on the next page.

<b>Product Category</b>	<b>Item</b>	<b>Number of queries</b>	<b>% Total</b>
<b>Household Appliances</b>	Audio Equipment	163	
	Cameras	187	
	Computers	972	
	Cookers	276	
	Games Consoles	269	
	Others Goods	1134	
	Televisions	682	
	White Goods	839	
	<b>Total</b>	<b>4522</b>	<b>17%</b>
<b>Motor Vehicles</b>	New Cars	702	
	Second Hand Cars	2116	
	Motorbikes	75	
	Repairs	425	
	Other issues	91	
		<b>Total</b>	
<b>Clothing/Footwear/Accessories</b>	Clothing	1999	
	Footwear	403	
	Jewellery	495	
	Dry Cleaning	153	
	Accessories	105	
		<b>Total</b>	
<b>Telecoms</b>	Billing issues	259	
	Broadband	374	
	Mobile Phones	1060	
	Other Issues	268	
	Service	242	
		<b>Total</b>	
<b>Home Furnishings</b>	Bedroom Furnishing	232	
	Sofas	679	
	Soft Furnishings	330	
	Tables/Chairs	226	
	Other Items	274	
		<b>Total</b>	
<b>Holidays/Travel</b>	Air Travel	909	
	Hotels/B&Bs	116	
	Package Holidays	509	
	Other Issues	60	
		<b>Total</b>	

## Appendix II

### Fixed Payment Notices Paid in 2007

#### **Alice Seagrave, Keoghs Newsagent, Sutton Cross, Sutton, Dublin 13**

On 20 December 2007, a fine of €300 was paid on foot of a Fixed Payment Notice issued by the NCA in respect of failure to display the price of a grocery product.

#### **Joyces Supermarket Ltd., Church Road, Headford, Co. Galway**

On 24 December 2007, a fine of €300 was paid on foot of a Fixed Payment Notice issued by the NCA in respect of failure to display the price of a grocery product.

#### **Gerry Mc Inerney, Gala Ferry Service Station, Lorrha, Nenagh, Co. Tipperary**

On 31 December 2007, a fine of €300 was paid on foot of a Fixed Payment Notice issued by the NCA in respect of failure to display the price of a grocery product.

### Undertakings received in 2007

#### **Mr. David Lam, 36 Williamson Place, Dundalk, Co. Louth - Undertaking signed on 27th June 2007**

Mr. Lam has given an undertaking not to represent, advertise or promote water treated in a Leveluk SD Ionised Electrolysis Water Generator or "Kangan Water" as being able to cure an illness, dysfunction or malformation, when this is not the case contrary to Section 55(1)(g) of the Consumer Protection Act 2007.

## Appendix III

### Prosecutions in 2007

#### Retail Prices (Beverages in Licences Premises) Display Order, 1999

- Moriarty Investments Ltd, in respect of offences at the Courtyard Hotel, Leixlip, Co Kildare.  
**Fined €2800. Costs €500 plus VAT.**
- Westar Hotels Ltd, in respect of offences at the Westgrove Hotel and Conference Centre, Clane, Co Kildare.  
**Fined €700. Costs €750 plus VAT. Expenses €200**
- Eric Mc Donnell, in respect of offences at McDonnells, Main St, Newbridge, Co Kildare.  
**Fined €700. Costs €500 plus VAT. Expenses €50**

#### EC (Requirement to Indicate Product Prices) Regulations, 2002

- Thomas Farrell & Sons, in respect of offences at Pickardstown Service Station, Waterford Road, Tramore Co Waterford & Tramore Service Station, Waterford Road, Tramore, Co Waterford.  
**Fined €3900.**
- Gerard Claffey, in respect of offences at Moorepark Filling Station , Roscrea, Birr, Co Offaly.  
**Fined €1000. Costs €500 plus VAT**
- Vincent & Joseph Byrne, in respect of offences at Costcutter, Centrepoint Shopping Centre, Portlaoise, Co Laois.  
**Fined €750. Expenses €250**
- Rynaghs Filling Station Ltd, in respect of offences at Rynagh Filling Station, Clontotan, Banagher, Co Offaly.  
**Fined €1000. Costs €500 plus VAT. Expenses €250**
- Biddiford Foods Ltd, in respect of offences at Byrnes Londis, O'Carroll St, Tullamore, Co Offaly.  
**Fined €650. Costs €500 plus VAT. Expenses €250**
- Cecilia Stores Ltd, in respect of offences at Number 1 Shop, 4-5 Lower Kevin St, Dublin 8.  
**Fined €3450. Costs €500 plus VAT**

### **Charges (Hairdressing) Display Order, 1976**

- Trish Mullins, in respect of offences at Gruaig le Trish, Main St, Tramore, Co Waterford.  
**Fined €300. Costs €500 plus VAT**

### **Consumer Information Act 1978 (Section 7)**

- John McGrath, in respect of offences at Spar, 134 Milltown Road, Dublin 6.  
**Fined €400. Costs €500 plus VAT**

### **Merchandising Marks Act 1887 (Amended by Section 4 Consumer Information Act 1978)**

- John Joseph Reilly, in respect of offences at JJ Reilly Cars, Reillys Garage, Abbeyschule, Co Longford.  
**Fined €500. Costs €1210 plus VAT. Expenses €710**

### **EC (Labelling, Presentation and Advertising of Foodstuffs) Regulations, 2002 and 2003**

- Lidl Ireland GMBH, in respect of offences at Lidl, Rathnew Road, Wicklow.  
**Fined €200. Costs €1250 plus VAT.**

## **PROBATION ACT APPLIED**

### **Consumer Information Act 1978, Section 7**

- Colomeria Supermarkets Ltd, trading as Eurospar, Bayside Shopping Centre, Dublin 13.  
**Costs €500 plus VAT.**

### **Retail Price (Food in Catering Establishments) Order 1984**

- Princegrange Ltd, trading as La Boulangerie, 10 Upper Camden St, Dublin 2.  
**Payment of €500 to Merchants Quay Drug Programme plus €500 costs plus VAT.**

### **EC (Requirement to Indicate Product Prices) Regulations 2002**

- Thor Retail Ltd, trading as Knights Londis, Main St, Borris in Ossory, Co Laois.  
**€1000 donation to Jack & Jill Foundation plus costs of €500 plus VAT.**

## Appendix IV

### Recalls submitted to the European Commission by Ireland in 2007

	<b>Company conducting recall</b>	<b>Product</b>
1	3 Com Corporation USA.	AC Power Adapter for 3108 Wireless Phone.
2	Argos Ltd. UK	13" Trampoline Argos brand.
3	Argos Ltd. UK	Reebok Fusion Treadmill
4	Argos Ltd. UK	Mitre saws Challenge brand
5	Boots Retail (Ireland) Ltd.	Boots mini mode zebra rattle toy.
6	Chevrolet Ireland	Stop Lamp Switch,
7	Dept. of Health & Children	Nail Varnish Collection 2000 range
8	Dept. of Health & Children	Nail Varnish Julie France range
9	Dept. of Health & Children	Nail Varnish Colours and Beauty by Julia France
10	Dept. of Health & Children	Cosmetic Set Girlz brand
11	Dept. of Health & Children	Sensodyne toothpaste Counterfeit product
12	Dunnes Stores Ireland	Tealight holder
13	Enniskerry Trading Co.	Tin gingerbread house with candles
14	Forcefield (Tekelet Europe Ltd.)	4 in 1 Pest Repeller
15	Heatons Retail Ltd.	Portland folding chair, Stanford brand
16	Homebase Ltd. UK	Mitre Powerbase brand
17	Homebase Ltd. UK	Homebase Convector Heater Turbo- 2kw.
18	Homebase Ltd. UK	Homebase Convector Heater with Timer- 2kw.
19	KTM Motorcycle UK Ltd.	KTM 990 Super Duke R motorcycle - steering damper bracket
20	KTM Motorcycle UK Ltd	KTM SX EXC Motorbikes- Fuel filler cap
21	Motor Distributors Ltd.	Audi A3 2.0 TDI Gearbox.
22	Motor Distributors Ltd.	Volkswagen Transporter. backrest.



23	Motor Distributors Ltd.	Volkswagen Golf, Flywheel.
24	Motor Distributors Ltd.	Volkswagen Passat Flywheels.
25	Motor Distributors Ltd.	Fabia II and Roomster-Side airbag
26	Musgraves, (SuperValu outlets)	Buoyancy aid; marketed as a lifejacket.
27	Next Retail Ltd. UK	Toy Dog
28	Paramount Pictures International UK Ltd.	"Shrek" Headbands. "Shrek" Ears, Shrek the Third. Dreamworks brand
29	Smyths Toys Trading Ltd.	Wooden Puzzles
30	Smyths Toys Trading Ltd.	Water Filled Teethers, Dreambaby brand
31	Tesco Ireland Ltd.	Tesco Rapid Boil Cordless Jug Kettle
32	Universal Honda Ltd.	Honda Civic 4 door saloon, Civic Hybrid Electric connector

## Appendix V

Investigations 2007	Complaints	Proactive Cases	Totals
Product pricing / Price display	611	799	1410
Consumer Protection Act incl. misleading advertising and other unfair practices	453	120	573
Sale of Goods & Supply of Services Act	246	6	252
Car Clocking	120	20	140
Product Safety incl. Toys	160	18	178
Price Display - drink, catering, petrol / diesel, hairdressing	131	129	260
Package Travel / Airfares Order / Timeshare	84		84
Food Labelling	61	7	68
Distance Selling	60	2	62
Disclosure of Business Interests	33		33
E-Commerce	16	7	23
Unfair Terms	22		22
Consumer Credit	18	2	20
Adulterated Drink	13	2	15
VAT Inclusive Order	15		15
Concert & Theatre Tickets	13		13
Doorstep Selling	11		11
<b>Totals</b>	<b>2067</b>	<b>1112</b>	<b>3179</b>
Issues outside the remit of ODCA/NCA and referred elsewhere	94		94

## Appendix VI

### **CONSUMER LEGISLATION RELEVANT TO / ENFORCED BY NATIONAL CONSUMER AGENCY**

#### ***ADVERTISING:***

- Comparative Advertising Directive, 1997; (repealed by the EC (Misleading and Comparative Marketing Communications Regulations 2007 S.I. 774 of 2007).
- EC (Misleading Advertising) Regulations, 1988; (repealed by the EC (Misleading and Comparative Marketing Communications Regulations 2007 S.I. 774 of 2007).

#### ***MISLEADING AND UNFAIR COMMERCIAL PRACTICES:***

- Consumer Protection Act 2007

#### **CONSUMER CREDIT:**

- Consumer Credit Act, 1995 as amended by Central Bank and Financial Services Authority of Ireland Act, 2003;
- Pawnbrokers Act, 1964 as amended by the Consumer Credit Act, 1995;

#### ***CONSUMER INFORMATION:***

- Consumer Information (Advertisements for Concert or Theatre Performances) Order 1997;
- Consumer Information (Advertisements) (Disclosure of Business Interests) Order, 1984;
- Consumer Information (Diesel and Petrol) (Reduction in Retail Price) Order, 1997;

- Consumer Information (Advertisements for Airfares) Order 2000;

***RESTRICTIVE PRACTICES:***

- Restrictive Practices (Amendment) Act, 1987 (Act now repealed by the Consumer Protection Act, 2007);

***CONSUMER PROTECTION:***

- Package Holidays and Travel Trade Act, 1995;
- Occasional Trading Act 1979;
- EC (Cancellation of Contracts Negotiated away from Business Premises) Regulations 1989;
- EC (Contracts for Time Sharing of Immovable Property) (Protection of Purchasers) Regulations, 1997 and 2000;
- EC (Protection of Consumers' Collective Interests) Regulations, 2001;
- EC (Unfair Terms in Consumer Contracts) Regulations, 1995 and 2000;
- EC (Unfair Terms in Consumer Contracts)(Amendment) Regulations, 1995 and 2000;
- EC (Protection of Consumers in respect of Contracts made by means of Distance Communication) Regulations, 2001;
- EC (Directive 2000. 31. EC) Regulations 2003; [E-Commerce Regulations]
- EC (Amendment of S.I. No. 68 of 2003) Regulations, 2004;

***FOOD LABELLING and FOOD SAFETY:***

- Food Safety Authority of Ireland Act 1998;

- EC (Labelling, Presentation and Advertising of Foodstuffs) Regulations, 2002 (S.I. No. 483 of 2003);
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations, 2003 (S.I. No. 257 of 2003);
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No.2) Regulations, 2003 (S.I. No. 451 of 2003);
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No.3) Regulations, 2003 (S.I. No. 528 of 2003);
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations, 2005 (S.I. No. 228 of 2005);
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No.2) Regulations, 2005 (S.I. No. 514 of 2005);
- European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No. 3) Regulations, 2005 (S.I. No. 647 of 2005);

***LABELLING OF NON-FOOD PRODUCTS:***

- EC (Labelling of Footwear) Regulations, 1996;
- EC (Names and Labelling of Textile Products) Regulations, 1998;

***PRICES/PRICE DISPLAY:***

- Prices Act, 1958; Prices (Amendment) Act, 1972 (Acts now repealed by the Consumer Protection Act, 2007);
- Prices and Charges (Tax-inclusive Statements) Order, 1973;
- Charges (Hairdressing) Display Order, 1976;
- Retail Price (Food in Catering Establishments) Display Order, 1984;
- Retail Price (Beverages in Licensed Premises) Display Order, 1999;
- Retail Price (Diesel and Petrol) Display Order, 1997;
- EC (Requirements to Indicate Product Prices) Regulations, 2002;

***SAFETY OF PRODUCTS:***

- Liability for Defective Products Act 1991;
- EC (Safety of Toys) Regulations, 1990 and 1994;
- EC (Appliances Burning Gaseous Fuels) Regulations, 1992 and 1995;
- EC (Personal Protective Equipment) Regulations, 1993 and 1994;
- EC (General Product Safety) Regulations, 2004;
- EC (Food Imitations)(Safety) Order, 1991;
- EC (Low Voltage Electrical Equipment) Regulations, 1992 and 1994;
- Industrial Research and Standards (Hood Cords for Children's Clothing) Order, 1976;
- Industrial Research and Standards (Fire Safety) (Domestic Furniture) Order, 1995;
- Industrial Research and Standards (Section 44) (Babies Dummies) Order, 1988;

- Industrial Research and Standards (Section 44) (Children 's Cots) Order, 1983;
- Industrial Research and Standards (Section 44) (Gas Catalytic Heaters) Order, 1984;
- Industrial Research and Standards (Section 44) (Gas Operated Ovens) Order, 1983;
- Industrial Research and Standards (Section 44) (Perambulators and Pushchairs) Order, 1981;
- Industrial Research and Standards (Toxicity of Pencils and Graphic Instruments) Order, 1983;
- National Standards Authority of Ireland (Section 28) (13A Plugs and Conversion Adaptors for Domestic Use) Regulations, 1997;
- National Standards Authority of Ireland (Section 28) (Electrical Plugs, Plug Similar Devices and Sockets for Domestic Use) Regulations, 1997;
- National Standards Authority of Ireland Act, 1996;

***SALE OF GOODS:***

- Sale of Goods and Supply of Services Act, 1980;
- EC (Sale of Consumer Goods and Associated Guarantees) Regulations, 2003;

***MERCHANDISE MARKS:***

- Merchandise Marks Act, 1887, 1891, 1911, 1931 (Acts now repealed by the Consumer Protection Act, 2007);
- Merchandise Marks Act, 1970;
- Merchandise Marks (Prepacked Goods) (Marking and Quantities) Order, 1973 as amended by subsequent Orders;

## MISCELLANEOUS:

- Liability for Defective Products Act, 1991;
- EC (Liability for Defective Products) Regulations, 2000;
- Occasional Trading Act, 1979;
- Trading Stamps Act, 1980.

National Consumer Agency  
4 Harcourt Road  
Dublin 2  
Tel: +3531 4025 500  
Fax: +3531 4025 501  
[www.nca.ie](http://www.nca.ie)

Consumer Helpline: 1890 432 432

Consumer website: [www.consumerconnect.ie](http://www.consumerconnect.ie)