

Compliance Notice

Section 75 of the Consumer Protection Act 2007

To:
Solid Motors Limited
Unit G2
Ballymount Drive
Ballymount Road Lower
Dublin 12
D12 A725

Competition and Consumer Protection Commission
Bloom House
Railway Street
Dublin 1

I, [REDACTED] an Authorised Officer of the Competition and Consumer Protection Commission (the “CCPC”), duly appointed under section 35 of the Competition and Consumer Protection Act 2014, **hereby give, Solid Motors Limited, notice**, pursuant to section 75(2) of the Consumer Protection Act 2007 (the “2007 Act”), that I am of the opinion that you engaged in a prohibited act or practice as further described herein and **hereby direct, Solid Motors Limited, more commonly known as 7 Seaters Ireland** to remedy that contravention in the manner set out below.

A. Statement of alleged contravention

That you, Solid Motors Limited, a trader, more commonly known as 7 Seaters Ireland, trading at Naas Road Business Park, Unit 1A Naas Road, Newlands Cross, Bushelloaf, Dublin 22, D22 N7N3, within the meaning of the 2007 Act, on 3 September 2022 for the purposes of Section 46(1) of the 2007 Act, have engaged in a misleading commercial practice by omitting or concealing material information that the average consumer would need, in the context, to make an informed transactional decision and such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

Section 46(2) of the 2007 Act provides that a commercial practice is misleading if—

(a) the trader—

(i) provides material information referred to in subsection (1) in a manner that is unclear, unintelligible, ambiguous or untimely, or

(ii) fails to identify the commercial intent of the practice (if such intent is not already apparent from the context),

and

(b) such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

As set out in section 46(3) of the 2007 Act, where the commercial practice includes an invitation to purchase, information about the main characteristics of the product constitutes material information.

(3) If a commercial practice is or includes an invitation to purchase, each of the following constitutes material information for the purposes of this section, unless already apparent to the consumer in the context of the commercial practice:

(a) the main characteristics of the product, to an extent appropriate to the medium and the product;

(b) the geographical address of the trader, the identity of the trader (such as his or her trading name) and, if the trader is acting in a consumer transaction as an agent of another trader, the geographical address and the identity of that other trader;

(c) the price of the product (inclusive of taxes) or, if the nature of the product is such that the price cannot reasonably be calculated in advance, the manner in which the price is calculated;

(d) any freight, delivery or postal charges that apply in relation to the product or, if such charges cannot reasonably be calculated in advance, a statement of the fact that such charges will apply and be payable by the consumer;

(e) the handling of consumer complaints in relation to the product or the arrangement for payment, delivery or performance, if such handling or arrangement does not meet or accord with—

(i) the standard of skill and care that the trader may reasonably be expected to exercise in respect of consumers, or

(ii) the general principle of good faith in the trader's field of activity;

(f) if applicable, the legal rights of a consumer (whether contractual or otherwise) to withdraw from or cancel the consumer transaction.

A misleading commercial practice, as described in section 46 of the 2007 Act is defined as a prohibited act or practice under section 67 of the 2007 Act.

67.— In this Part “prohibited act or practice” means any of the following:

(a) any unfair, misleading or aggressive commercial practice under Part 3 ;

(b) any contravention of section 48 (3) or 49 (1);

(c) any contravention of section 55 (1) or (3), 59 (2) or 60 (1);

(d) any contravention of section 65 (1);

(e) any contravention of a regulation under section 50 or 57 or an order referred to in section 92 ;

(f) any contravention of an order under section 62 (1),

but subject to the exclusion of one or more of the foregoing provisions provided for in section 71 , 73 , 74 or 75 .

B. My opinion

I am of the opinion that you, Solid Motors Limited, more commonly known as 7 Seaters Ireland, trading at Naas Road Business Park, Unit 1A Naas Road, Newlands Cross, Bushelloaf, Dublin 22, D22 N7N3, have committed or engaged in a prohibited act or practice, namely that you omitted or concealed material information in respect of a vehicle's usage or prior history, such a practice being a prohibited act or practice pursuant to section 67 of the 2007 Act.

C. Reasons for my opinion

The reasons for my opinion are based on the following:

1. That you, Solid Motors Limited, more commonly known as 7 Seaters Ireland can be described as a trader within the meaning of the 2007 Act;
2. That you, Solid Motors Limited, more commonly known as 7 Seaters Ireland, obtained a motor vehicle, a Mercedes Benz E250 with registration number 12D51970 (the "Motor Vehicle") in the course of your trade.
3. On 4 May 2022, you advertised the motor vehicle for sale on www.donedeal.ie. The advertisement did not refer to the Motor Vehicle's previous damage.
4. The prior history of the Motor Vehicle is that it was in a collision on 11 November 2021 and incurred damage to such an extent that an insurance company classified it as a Category D write off. A Category D is where the vehicle is damaged but repairable, but the insurer decided not to repair the vehicle. In December 2021 the Motor Vehicle was purchased by Solid Motors Limited from a salvage yard.
5. In a statement given to the CCPC on 22 February 2023 by Mr Alaa Hamad, the sales assistant at Solid Motors Limited, more commonly known as 7 Seaters Ireland, dealing with the consumer in this transaction, Mr Hamad confirmed that a history check was not conducted of the Motor Vehicle before it was sold.
6. On or about 3 September 2022, a consumer within the meaning of the 2007 Act, enquired about the Motor Vehicle and visited the business premises of 7 Seaters Ireland, at Naas Road Business Park, Unit 1A Naas Road, Newlands Cross, Bushelloaf, Dublin 22, D22 N7N3.

7. On or about 3 September 2022, the consumer made a transactional decision to purchase the Motor Vehicle from you and you sold the motor vehicle to the consumer for the sum of €13,200.00. I believe that in the course of that transaction you omitted or concealed material information that the consumer would need, in the context, to make an informed transactional decision, the material information in this instance being the main characteristics of the product to an extent appropriate to the medium and the product - being the fact that the Motor Vehicle had previous damage.

8. The consumer would not have purchased the Motor Vehicle if you had disclosed information about the Motor Vehicle's previous damage.

Therefore, I believe that you, Solid Motors Limited, more commonly known as 7 Seaters Ireland, on or about 3 September 2022 engaged in a prohibited act or practice under section 46(1) of the 2007 Act wherein a commercial practice is misleading if the trader omits or conceals material information that the average consumer would need, in the context, to make an informed transactional decision and such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

D. Compliance direction and requirements

1. You, Solid Motors Limited, a trader, more commonly known as 7 Seaters Ireland, are hereby required to provide true, accurate and complete information in all your communications, including advertisements with or to consumers with respect to the usage and prior history, accurate vehicle odometer readings and NCT status of every motor vehicle advertised or offered for sale by you.
2. You, Solid Motors Limited, a trader, more commonly known as 7 Seaters Ireland, are hereby required to ensure that appropriate due diligence is carried out on the history and prior usage of every motor vehicle offered for sale by you.
3. You, Solid Motors Limited, a trader, more commonly known as 7 Seaters Ireland, are hereby required to ensure that a record of the due diligence carried out on the history and prior usage referred to in paragraph D(2) above is maintained for a period of three (3) years from the date of advertisement or the date of sale, whichever is later, of every used vehicle advertised or offered for sale by you. This record must be made available to the CCPC for inspection on request.
4. You must comply with this compliance direction and requirements by **10 April 2024**.
5. This compliance notice in no way impacts your obligation to fully comply with all legal obligations between the date of this compliance notice and the date on which this compliance notice takes effect.

E. Appeal procedure

You may appeal this Compliance Notice to the District Court in the district in which the notice is served within **14 days after its service**.

The form and manner of such an appeal is that to be found in the District Court Rules, Form 40D.01 Schedule C, a copy of which is attached to this Compliance Notice. If you wish to appeal, this form should be completed and lodged with the District Court Clerk at your local District Court office;

In the event that you decide to appeal the Compliance Notice, you must, at the same time, notify the CCPC at Bloom House, Railway Street, Dublin 1. You must also notify the CCPC of the grounds for the appeal.

If an appeal is not made in accordance with section 75 of the 2007 Act and within 14 days after service of this Compliance Notice, this notice will be treated as not disputed, you will be deemed to have accepted the notice and to have agreed to comply with the compliance direction and requirements and any failure or refusal to so comply is an offence and, on summary conviction, you will be liable to the fine and penalties set out in Part 5, Chapter 4 of the 2007 Act.

Signature: _____

Authorised Officer

Competition and Consumer Protection Commission

22 March 2024