

Compliance Notice

Section 75 of the Consumer Protection Act 2007

Company Secretary
TRK Holdings Limited,
Suite 10327,
Unit 1, 77 Sir John Rogerson's Quay,
Dublin 2,
D02 F540

Competition and Consumer
Protection Commission,
Bloom House,
Railway Street,
Dublin 1,
D01 C576

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 you, TRK Holdings Limited trading as "Glencara" notice, pursuant to section 75(2) of the Consumer Protection Act 2007 (the "2007 Act"), that I am of the opinion that you have engaged in prohibited acts or practices as defined in section 67(a) of the 2007 Act as further described herein.

A. Statement of alleged contravention

1. That you, TRK Holdings Limited, trading as "Glencara", of Suite 10327, Unit 1, 77 Sir John Rogerson's Quay, Dublin 2, D02 F540, a trader for the purposes of the 2007 Act, on 5 December 2022, 13 February 2023 and 16 December 2023, engaged in a misleading commercial practice by providing false information in relation to the method or date of a product's delivery, supply or provision, that would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make. Such a misleading commercial practice, being prohibited under section 42(1) of the 2007 Act as described by sections 43(1) and 43(3)(b)(xii)(I) of that Act, is an offence contrary to section 47 of the 2007 Act.
2. Further, such misleading commercial practices are a "prohibited act or practice" in accordance with section 67(a) of the 2007 Act.

B. My opinion

I am of the opinion that you, TRK Holdings Limited, trading as “Glencara”, engaged in a misleading commercial practice, as outlined in the statement of alleged contravention above by providing false information in respect of the delivery date of two online orders made on your website, www.glencara.ie, such practice being a misleading commercial practice for the purposes of the 2007 Act.

C. The reasons for my opinion

The reasons for my opinion are based on the following:

Consumer A

1. You, TRK Holdings Limited, trading as “Glencara”, can be described as a “trader” for the purposes of the 2007 Act.
2. On 16 December 2023, consumer A visited your website, www.glencara.ie to purchase a Christmas present. Your website indicated “delivery was guaranteed before Christmas” and this influenced consumer A’s transactional decision to make a purchase on your website. Consumer A paid for a “14K two tone gold silver Irish Celtic horse bangle bracelet (order confirmation no. 610277144)” on the 16 December 2023 but the product was not delivered until the 9 January 2024.
3. The provision of this false information is likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make. In my opinion, consumer A would not have purchased the jewellery from your website if you had provided true and accurate information about the delivery date or in the absence of you having asserted this guarantee regarding the delivery timeframe.
4. Therefore, I believe that you, TRK Holdings Limited, a trader within the meaning of the 2007 Act, provided to the consumer false or misleading information which prevented them, in the context, from making an informed transactional decision and such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

Consumer B

1. You, TRK Holdings Limited, trading as “Glencara”, can be described as a “trader” for the purposes of the 2007 Act.
2. On 5 December 2022, consumer B visited your website, www.glencara.ie to purchase a gift. Your website indicated “two-day delivery” if the order was placed that day and this influenced consumer B’s transactional decision to make a purchase on your website. Consumer B paid for a set of two Claddagh rings, a male and female set of 14K white & yellow gold coated over solid silver and a 14K white and yellow gold coated silver Celtic Claddagh band rings (order confirmation no. 6010265393) on the 5 December 2022. Consumer B made this transaction believing that the products would be delivered on either the 6 or 7 December 2022.
3. On the 6 December 2022, consumer B received an email from you from to state that the order had shipped. The order had not been delivered by the 8 December 2022, and consumer B sent an email to you at shipping@glencara.ie querying why the order had not been delivered, within the delivery timeframe advertised on the website. On the 8 December 2022, you emailed consumer B from shipping@glencara.ie stating that the order was “dispatched December 6th and it takes 1-5 days, untracked via An Post”. Consumer B’s order was not delivered until six days after the indicated delivery timeframe provided had elapsed.
4. On the 13 February 2023, consumer B visited your website to purchase a 14K white and yellow gold coated over solid silver Celtic Claddagh band ring and the website had a banner indicating that “any orders placed today would be delivered by Valentine’s Day” which was the 14 February 2023. This influenced consumer B’s transactional decision to make this purchase on your website, and consumer B made the transaction on the 13 February 2023 and paid for express shipping.
5. On the 14 February 2023, consumer B received an email from you to state that the order had been shipped. Consumer B’s order was not delivered on the 14 February 2023 and sent an email to you at shipping@glencara.ie in relation to this. You emailed consumer B on the 16 February 2023 and stated that “the driver collected early as he was very busy with Valentines, so the delivery went express on the 14 February and was delivered the next day”. Consumer B’s order was delivered on 16 February 2023.

6. The provision of this false information is likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make. In my opinion, consumer B would not have purchased the jewellery from your website if you had provided true and accurate information about the delivery date.
7. Therefore, I believe that you, TRK Holdings Limited, a trader within the meaning of the 2007 Act, provided to the consumer false or misleading information which prevented them, in the context, from making 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 directions and requirements

1. TRK Holdings Limited, trading as Glencara, is hereby required to provide true and accurate information in all your communications, including website advertisements, with or to consumers with respect to the delivery dates of any product advertised or offered for sale by you on your website, www.glencara.ie.
2. TRK Holdings Limited, trading as Glencara, is hereby required to provide true and accurate information in all your communications, including website advertisements, with or to consumers with respect of the availability of any product advertised or offered for sale by you on your website, www.glencara.ie.
3. You must comply with this compliance direction and requirements by **13 December 2024**.
4. This compliance notice is 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

1. You may appeal this Compliance Notice to the District Court in the district court district in which the notice is served **within 14 days after its service**.
2. The form and manner of such an appeal is to be found in the District Court Rules, Form 40D.01 Schedule C. This is available from the registrar at your local District Court office or on the Courts Service website.
3. In the event that you decide to appeal the Compliance Notice, you must, at the same time, notify the CCPC at the above address. You must also notify the CCPC of the grounds for the appeal.
4. If an appeal is not made in accordance with section 75 of the 2007 Act and within 14 days after service of the 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.
5. Any failure or refusal to comply with this notice is an offence and, on summary conviction, you will be liable to the fines and penalties set out in Part 5, Chapter 4 of the 2007 Act.

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Authorised Officer

Competition and Consumer Protection Commission

Date: 26 November 2024

This information is intended for information purposes only and does not constitute part of the Compliance Notice.

Compliance Notice Notes

Consumer Protection Act 2007 (2007 Act)

1.	Section 75(6) 2007 Act requires a person, when lodging an appeal, to, at the same time, notify the Competition and Consumer Protection Commission (CCPC) of the appeal and the grounds for the appeal. The Commission is entitled to appear, be heard and adduce evidence on the hearing of the appeal.
2.	<p>If on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following</p> <ul style="list-style-type: none"> a) the day after the day on which the notice is confirmed or varied on appeal, b) if the appeal is withdrawn by the appellant the day after the day it is withdrawn, c) the day specified in the notice.
3.	<p>If there is no appeal under section 75(5) 2007 Act, the compliance notice takes effect on the later of the following:</p> <ul style="list-style-type: none"> a) 14 days after the notice is served. b) the day specified in the notice.
4.	<p>An Authorised Officer may-</p> <ul style="list-style-type: none"> a) withdraw a compliance notice at any time, or b) if no appeal is made or pending under section 75(5) 2007 Act, extend the date by which the recipient is to comply with the compliance direction and requirements.
5.	Withdrawal of a compliance notice does not prevent the service of another compliance direction or requirement specified in a compliance notice, whether it relates to the same matter or a different matter.

6.	In accordance with section 75(13) 2007 Act, if a compliance notice takes effect, the CCPC is required to publish the compliance notice, or cause it to be published in any form or manner it considers appropriate.
7.	Section 86 2007 Act requires the CCPC to maintain a “Consumer Protection List” of names and addresses together with a description of their trade, business or profession in respect of any enforcement actions taken by the Commission. This includes persons against whom compliance notices have taken effect.
8.	Any person who, without a reasonable excuse, fails to comply with a direction or requirement specified in a compliance notice, commits an offence and, on summary conviction, is liable to the fines and penalties set out in section 79 2007 Act.
9.	<p>Section 79(1) 2007 Act provides that a person guilty of an offence under the 2007 Act is liable on summary conviction to the following fines and penalties:</p> <ul style="list-style-type: none"> a) a Class B fine not exceeding €4000 or up to 6 months imprisonment or both, b) on any subsequent summary conviction, a fine not exceeding €5000, or imprisonment for a term not exceeding 12 months or both. c) If, after being convicted of an offence, a person continues to contravene the requirement or prohibition to which the offence relates, the person is guilty of a further offence on each day the contravention continues and for each such offence is liable on summary conviction to a fine not exceeding €500.
10.	According to section 75(14) 2007 Act the issuing of this notice does not prevent the commencement of proceedings for an offence.