

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 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 a prohibited act or practice by contravening Part 5 of the Consumer Rights Act 2022 (the "2022 Act"), namely that you failed to comply with your obligations as a trader under section 117 (3) of the 2022 Act.

A. Statement of alleged contravention

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, engaged in a contravention of Part 5 of the 2022 Act by breaching section 117(3) of the 2022 Act, by failing to reimburse a consumer (order confirmation no. 610277144) for the purchase price of their returned order which had been placed on the Glencara website at www.glencara.ie not later than 14 days after the day on which you were notified of the consumer's decision to cancel the contract.

Such a failure to comply with your obligations as a trader being a prohibited act or practice as described by section 67(s) of the 2007 Act.

B. My opinion

I am of the opinion that you, TRK Holdings Limited, trading as “Glencara”, engaged in the prohibited act or practice outlined in the statement of alleged contravention above by failing to reimburse two consumers for the purchase price of their returned orders which had been placed on the Glencara website at www.glencara.com not later than 14 days after the day on which you were notified of the consumer’s decision to cancel their contract.

C. The reasons for my opinion

The reasons for my opinion are based on the following:

1. TRK Holdings Limited, trading as “Glencara”, can be described as a “trader” for the purposes of the 2007 Act.
2. TRK Holdings Limited, on its website, www.glencara.ie, provided a facility for consumers to conclude distance contracts with TRK Holdings Limited, trading as “Glencara”. Distance contracts are defined by section 2 of the 2022 Act as *“a contract concluded between a trader and a consumer under an organised distance sales or service provision scheme without the simultaneous physical presence of the trader and the consumer, and with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded”*.
3. Through the website, TRK Holdings Limited, trading as “Glencara”, entered into contracts with consumers which are distance contracts within the meaning of section 2 of the 2022 Act. On “16 December 2023, a consumer purchased a 14K two tone gold silver Irish Celtic horse bangle bracelet (order confirmation no. 610277144)” via your website. The consumer received email confirmation of their purchase on 16 December 2023. The consumer received their order on the 9 January 2024.

4. On 15 January 2024, the consumer returned the product by registered post and unequivocally informed you of their decision to exercise their right to immediately terminate the contract by requesting a refund. This notice was sent to you by registered post to the listed returns address 'Unit 11F, Ballybane House, Ballybane Beg Ind. Est, Tuam Road, Galway, H91 T2VA'.
5. The consumer did not receive a refund within 14 days of their notice of cancellation.

D. Compliance directions and requirements

1. TRK Holdings Limited, trading as Glencara, is hereby directed to comply with its obligation under the 2022 Act to reimburse any consumer who informs it of their decision to cancel their contract. TRK Holdings Limited, trading as Glencara, must reimburse all such consumers without undue delay and in any event not later than 14 days after the day on which it is informed of the relevant consumer's decision to cancel the contract.
2. You must comply with this compliance direction and requirements by **13 December 2024**.
3. This compliance notice is in no way impacts your obligations 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)

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| 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. | If on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following <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. | If there is no appeal under section 75(5) 2007 Act, the compliance notice takes effect on the later of the following: <ul style="list-style-type: none"> a) 14 days after the notice is served. b) the day specified in the notice. |
| 4. | An Authorised Officer may- <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. |

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| 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. |