Coimisiún um Iomaíocht agus Cosaint Tomhaltóirí
Competition and Consumer Protection Commission

Compliance Notice

Section 75 of the Consumer Protection Act 2007

Caroline O'Mahony
[redacted]

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, namely a prohibited commercial practice under section 55(1)(q) of the 2007 Act.

A. Statement of Alleged Contravention

1. That you, Caroline O'Mahony, a trader for the purposes of the 2007 Act, from 18th March 2024 to 30th April 2024 have engaged in a prohibited commercial practice by using editorial content in the media to promote a product (where a trader has paid for that promotion) and it is not made clear that the promotion is a paid promotion, whether in the content itself or in any oral, written, visual or descriptive representation in the promotion.

2. Such a prohibited commercial practice, as described by sections 55(1)(q) of the 2007 Act, is an offence contrary to section 56 of that Act.

3. Further, such prohibited commercial practice is a "prohibited act or practice" in accordance with section 67(c) of the 2007 Act.

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B. My Opinion

1. I am of the opinion that you, Caroline O'Mahony, engaged in the prohibited act or practice outlined in the statement of alleged contravention above, by failing to disclose that products or services relating to Caroline O'Mahony Coaching promoted on your Instagram account were promoted in a paid capacity, and without using disclosure labels such as 'Ad', '#ad' etc[1]. We suggest that you familiarise yourself with the CCPC & ASAI Guidance on Influencer Advertising and Marketing[2], which provides useful information regarding disclosure language, and the scenarios when such indications should be made apparent to consumers.

C. The Reasons for my Opinion

1. My opinion follows an online inspection of your Instagram account **@caroline_omahony**, between 18th March 2024 and 30th April 2024.

2. The reasons for my opinion are based on the following:

    a. You, Caroline O'Mahony, operating the Instagram account **@caroline_omahony**, are a person and can be described as a "trader" for the purposes of the 2007 Act. Trader is defined in section 2 of the 2007 Act.

    b. Caroline O'Mahony trading as Caroline O'Mahony Coaching is also a person and can be described as a "trader" for the purposes of the 2007 Act.

    c. Caroline O'Mahony trading as Caroline O'Mahony Coaching paid you to use the editorial content in the media identified below to promote a product or service and such editorial content fails to clearly and appropriately disclose that the promotion is a paid promotion;

        - **A post promoting Caroline O'Mahony Coaching @carolineomcoaching dated 21st March 2024**

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[1] Please refer to the CCPC & ASAI (Advertising Standards Authority) Guidance on influencer marketing and advertising for further information: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2023/10/CCPC-ASAI-Guidance-on-Influencer-Advertising.pdf

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- **A post promoting Caroline O'Mahony Coaching 'Summer Sculpt' challenge including €2000 grand prize; dated 20th April 2024**

- **A post promoting Caroline O'Mahony Coaching 'Summer Sculpt' challenge including €3000 in prizes; dated 21st April 2024**

- **A post advertising Caroline O'Mahony Coaching 'Summer Sculpt' challenge; dated 23rd April 2024**

D. Compliance Directions and Requirements

1. You, Caroline O'Mahony, a trader, are hereby directed to remedy the contraventions in the editorial content identified in Section C of this notice by making it clear that each promotion is a paid promotion. You may achieve this by using clear and appropriate disclosure labels such as 'Ad' or '#Ad".

2. You, Caroline O'Mahony, a trader, are hereby directed to ensure that, in all instances where a trader has paid you to use editorial content in the media to promote a product or service, you make it clear that such promotion is a paid promotion. You may achieve this by using clear and appropriate disclosure labels such as 'Ad' or '#Ad'.

3. You must comply with this compliance direction and requirement by 5th December 2024.

4. Your social media channels will be the subject of further inspection to ensure adherence to this compliance direction.

E. Appeal Procedure

1. 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.

2. The form and manner of such an appeal is to be found in the District Court Rules, Form 40D.01 Schedule C. This form is available from the registrar at your local District Court office or on the Courts Service website www.courts.ie.

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3. In the event that you decide to appeal the Compliance Notice, you must, at the same time, notify the CCPC of the appeal at, Bloom House, Railway Street, Dublin 1, D01 C576. 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 have agreed to comply with the compliance direction and requirement. 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.

[redacted]

Authorised Officer
Competition and Consumer Protection Commission
5th November 2024

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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) of the 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 CCPC 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: 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) of the 2007 Act, the compliance notice takes effect on the later of the following: a) 14 days after the notice is served. b) the day specified in the notice.
4.	An Authorised Officer may- a) withdraw a compliance notice at any time, or b) if no appeal is made or pending under section 75(5) of the 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) of the 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 of the 2007 Act requires the CCPC to maintain a "Consumer Protection List" of names and addresses of persons together with a description of their trade, business or profession and the particulars of the matter occasioning any enforcement actions taken by the CCPC. 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 of the 2007 Act.
9.	Section 79(1) of the 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: 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

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	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) of the 2007 Act, the issuing of this notice does not prevent the commencement of proceedings for an offence.