



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

Company Secretary
Kivaway Limited
8/9 South William Street,
Dublin,
D02 ND76

Sent by registered post

Our reference: 24/000301

25 November 2024

Dear Sir/Madam,

Please find enclosed a Compliance Notice issued pursuant to Section 75 of the Consumer Protection Act 2007.

The findings are set out in the Compliance Notice attached. Full details of the legislative provisions for the relevant contraventions can be located on www.irishstatutebook.ie.

You must comply with the notice by the date stated at Section D therein. Information on the appeal procedure can be found in Section E should you wish to appeal the notice.

If you do not appeal the notice, it will be deemed to have been accepted and that you have agreed to comply with the direction and requirement set out in the notice. Please be aware that any failure or refusal to comply is an offence.

Please do not hesitate to contact me via compliance@ccpc.ie should you have any queries.

Yours sincerely,

[Redacted Signature]

[Redacted Name]

Authorised Officer

Email: compliance@ccpc.ie

Bloom House,
Railway Street,
Dublin 1, Ireland.
+353 1 402 5500

www.ccpc.ie

Compliance Notice

Section 75 of the Consumer Protection Act 2007

Company Secretary
Kivaway Limited,
8/9 South William Street
Dublin 2,
D02 ND76

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

I, [REDACTED] an authorised officer of the Competition and Consumer Protection Commission, duly authorised under Sections 35(1), 35(2)(a) and Section 36 of the Competition and Consumer Protection Commission Act 2014, hereby give you notice, pursuant to Section 75(2) of the Consumer Protection Act 2007 that I am of the opinion that you have committed a prohibited act. The alleged prohibited act is contrary to Section 42 and 43(1) & (3)(c) of the Consumer Protection Act 2007 ("the 2007 Act").

A. Statement of alleged contravention:

That on 20 August 2024, Kivaway Limited, the trader operating the Odeon Bar located on 57 Harcourt St, Saint Kevin's, Dublin 2, D02 VE22, committed an offence by providing false information regarding the price of drinks. The displayed price of specified drinks (Listed below) on its website, www.odeon.com was lower than the price displayed on the drink's menu on the premises. This constitutes a misleading commercial practice which would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.

1. Section 42(1) of the 2007 act provides that a trader shall not engage in a misleading commercial practice.
2. Section 43(1) of the 2007 Act provides that commercial practice is misleading if it includes the provision of false information in relation to the any matter set out in subsection (3) and that information would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.



Comisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

3. Section 43(3)(C) provides for the purposes of section 43(1) that a commercial practice is misleading if the trader provides false information about the price of the product, the manner in which that price is calculated or the existence or nature of a specific price advantage.

B: My opinion

I am of the opinion that Kivaway Limited have committed or engaged in a misleading commercial practice by providing false information in respect of the price of specified drinks on your website, which differed to prices displayed within the premises. Such a practice is misleading for the purposes of the 2007 Act.

C: The reasons for my opinion:

1. Kivaway Ltd can be described as a "trader" for the purposes of the 2007 Act.
2. That Kivaway Ltd, at its premises at The Odeon Bar on 57 Harcourt St, Saint Kevin's, Dublin 2, D02 VE22 as of 20 August 2024, displayed a lower price of specified drinks on its website, than that which was displayed on the drink's menu on the premises. The website was visible to consumers intending to visit the premises to purchase drinks. The following infringements were identified:

Beverage	Price online	Price onsite
Guinness draught	€6.50	€6.80
Smithwick's draught	€6.50	€7
Rockshore Cider draught	€6.80	€7.40
Heineken draught	€6.80	€7.80
Coors draught	€6.80	€7.90
Moretti draught	€7.20	€7.90

3. I believe that as a result, Kivaway Limited have provided false information to the consumer in respect of the price display of drinks. I believe that this information would be likely to cause the average consumer to make a transactional decision that they would not otherwise make.
4. Section 2 of the 2007 act defines "transactional decision"
"means, in relation to a consumer transaction, any decision by the consumer concerning whether, how or on what terms to do, or refrain from doing, any of the following:
(a) purchase the product;
(b) make payment in whole or in part for the product;
(c) retain or return the product after its purchase;
(d) dispose of the product;
(e) exercise a contractual right in relation to the product;



Cóimisiún um
Iomláiocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

In my view, the average consumer would be likely to make a transactional decision that the average consumer would not otherwise make where the price displayed on the website of the licensed premises is lower than the higher price displayed on the drink's menu.

D: Compliance direction and requirements

I hereby direct Kivaway Limited to remedy this contravention or prohibited act by updating its website to ensure that all prices displayed are matched to what is charged on the premises.

1. You must comply with this notice by 16 December 2024.

E: Appeal Procedure

1. You may appeal this notice to the District Court within 14 days after its service.
2. The form and manner of such an appeal is that to be found in the District Court Rules. This is available from the registrar at your local District Court office or on the Courts Service website
3. In the event that Kivaway Limited decides to appeal the Compliance Notice, it must, at the same time, notify the Competition and Consumer Protection Commission at the above address. It must also notify the Commission of the grounds for the appeal.
4. If an appeal is not made in accordance with Section 75 Consumer Protection Act 2007 and within 14 days after service of the notice, this notice will be treated as not disputed, Kivaway Limited will be deemed to have accepted the notice and have agreed to comply with the compliance direction and requirements. Any failure or refusal to comply with this notice is an offence and it will be liable, on summary conviction, to the fines and penalties as set out in Chapter 4 of Part 5 of the Consumer Protection Act 2007.

[Redacted signature]

[Redacted name]

Authorised Officer
Competition and Consumer Protection Commission
15 November 2024



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

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

Compliance Notice Notes - Consumer Protection Act 2007 ("CPA")

1.	Section 75(6) CPA requires a person, when lodging an appeal, to, at the same time, notify the Competition and Consumer Protection Commission 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.	on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following - the day after the day on which the notice is confirmed or varied on appeal, - if the appeal is withdrawn by the appellant the day after the day it is withdrawn, - the day specified in the notice.
3.	If there is no appeal under Section 75(5) CPA, the compliance notice takes effect on the later of the following: 14 days after the notice is served. - the day specified in the notice.
4.	An Authorised Officer may- - withdraw a compliance notice at any time, or - if no appeal is made or pending under Section 75(5) CPA, 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.	Under Section 75(13) CPA, if a compliance notice takes effect, the Commission is required to publish the compliance notice, or cause it to be published in any form or manner it considers appropriate.
7.	Section 86 CPA requires the Commission 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 CPA.
9.	Section 79(1) CPA provides that a person guilty of an offence under the Consumer Protection Act 2007 is liable on summary conviction to the following fines and penalties: - a fine not exceeding €3000 or up to 6 months imprisonment or both, - on any subsequent summary conviction, a fine not exceeding €5000, or imprisonment for a term not exceeding 12 months or both. - 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



Coimisiún um
Iomaloíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

	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) CPA the issuing of this notice does not prevent the commencement of proceedings for an offence.