

Compliance Notice

Section 75 of the Consumer Protection Act 2007

Andrew Lyons Kenny
10 Beechdale Court
Ballycullen
Dublin 24

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, duly authorised under section 35 of the Competition and Consumer Protection Act 2014, hereby give you, Andrew Lyons Kenny, notice, pursuant to section 75(2) of the Consumer Protection Act 2007, as amended (hereinafter 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 you Andrew Lyons Kenny** to remedy that contravention in the manner set out below.

A. Statement of alleged contravention:

1. That you, Andrew Lyons Kenny, a trader, for the purposes of the 2007 Act, on 10th January 2022 engaged in a prohibited commercial practice by making a representation or creating an impression that you were not acting for purposes related to your trade, business or profession, when you were so acting for those purposes as described by Section 55(1)(x) of the 2007 Act.
2. Further, such a prohibited commercial practice is a "prohibited act or practice" in accordance with section 67(c) of the 2007 Act.

B: My opinion

1. I am of the opinion that you, Andrew Lyons Kenny, engaged in the prohibited act or practice outlined in the statement of alleged contravention above, by making a representation or creating an impression that you were not acting for the purposes relating to your trade, business or profession.

C: The reasons for my opinion in this regard are based on the following:

1. That you, Andrew Lyons Kenny, can be described as a trader for the purposes of the 2007 Act. Between November 2021 and February 2022, you published 4 advertisements for the sale of motor vehicles on the website www.donedeal.ie. Each advertisement was marked as a "private ad".
2. That you, Andrew Lyons Kenny on 10 January 2022 sold a Skoda Octavia, registration number 11 C 10040 to a consumer and took the consumer's vehicle as a trade-in as part of the transaction. The Skoda Octavia had been advertised on the website www.donedeal.ie and the advertisement was marked as a "private ad". The Skoda Octavia was advertised for sale on the personal *DoneDeal* account which belonged to Mr Lyons Kenny under the name "Andy". This account was used to advertise a large volume of vehicles for sale between June 2013 and February 2022, all of these advertisements were marked as "private sales". The consumer discovered several issues with the vehicle and when they contacted you, you told them that you were a private seller.
3. That you, Andrew Lyons Kenny were identified by online research conducted by the consumer as the owner of AK Automotive. CCPC enquiries indicate the phone number linked to the *DoneDeal* personal account named Andy was the same phone number listed on another *DoneDeal* account registered as a trade account named AK Automotive with an address at

Greenhills Road, Tallaght, Dublin 24. Since August 2020, you are the registered owner of the business name "AK Automotives" with an address of 10 Beechdale Court, Ballycullen, Dublin 24.

4. AK Automotives is the business name registered with the Companies Registration Office. AK Automotive is the name you use online.
5. Therefore, I believe that you Andrew Lyons Kenny, a trader for the purposes of the 2007 Act, made a representation or created an impression in the advertisement reviewed by the consumer that you were not acting for purposes related to your trade, business or profession, when you were so acting.

D: Compliance direction and requirements

1. You, Andrew Lyons Kenny, when offering for sale motor vehicles, which relate to your trade, business or profession are hereby required to do the following:
 - i. Provide true and accurate information in all your communications, including advertisements on any account, with or to consumers with respect to the fact that you are acting for purposes related to your trade, business or profession, and are not a private seller when advertising or offering motor vehicles for sale.
2. You must comply with this compliance direction and requirements by 19 July 2024.
3. 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

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 form 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 under Section 75(5) of the 2007 Act, you must, at the same time under section 75(6) of the 2007 Act, notify the Competition and Consumer Protection Commission of the appeal at, Bloom House, Railway Street, Dublin 1, D01 C576. You must also notify the Competition and Consumer Protection Commission of the grounds for the appeal.
4. If an appeal is not made in accordance with Section 75(5) of the 2007 Act 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 requirements. 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.

Signature:

Authorised Officer
Competition and Consumer Protection Commission

Date: 27 June 2024