

Compliance Notice

Section 75 of the Consumer Protection Act 2007

Company Secretary,
Holland & Barrett Limited,
45 Henry Street,
Dublin 1,
D01 E9 X8

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

I, William Fahy, 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; Holland & Barrett Limited, with a registered office at 45 Henry Street, Dublin 1, Ireland, D01 E9X8, and trading as "Holland & Barrett" at 75 Grafton Street, Dublin 2, D02 YV32, 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 are engaging in a prohibited act or practice, namely a misleading commercial practice under Part 3 of the 2007 Act, such a misleading commercial practice being a prohibited act or practice as defined by section 67(a) of the 2007 Act.

A. Statement of alleged contravention:

1. That you, Holland & Barrett Limited, a trader, for the purposes of the 2007 Act, as of 25 January 2024, have engaged in a misleading commercial practice by providing false information in relation to the price of a product, and that information 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)(c) of that Act, is an offence contrary to section 47 of the 2007 Act.



2. Further, such a misleading commercial practice is a “prohibited act or practice” in accordance with section 67(a) of the 2007 Act.

B: My opinion

1. I am of the opinion that you, Holland & Barrett Limited, engaged in the prohibited act or practice outlined in the statement of alleged contravention above, by providing false information in relation to the price of a product and that information would be likely to cause the average consumer to make a transactional decision that they would not otherwise make.

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

1. My opinion follows an inspection on 25 January 2024, at Holland & Barrett, 75 Grafton Street, Dublin 2, D02 YV32.
2. The reasons for my opinion are based on the following:
 - a. Holland & Barrett Limited, trading as Holland & Barrett, is a legal person and can be described as a “trader” for the purposes of section 2 of the 2007 Act.
 - b. The products identified below, were displayed for sale to consumers at a certain price but scanned at the till at a price different to that displayed, namely:
 - HB BBQ Sauce with Benefit S250: Displayed two different sale prices; €3.89 and €3.29, buy 1 get 1 half price, charged at till price €5.52. The till receipt for HB BBQ Sauce indicated that 2 Items were charged at €3.29 but it seems 1 item was charged at the higher displayed price of €3.89 and 1 item charged at half of the lower displayed price of €3.29. This is an over charge of €0.58.
 - Man Cave Face Wash: Displayed for sale price; €7.55, Charged at till price; €9.00, overcharge of €1.45,
 - H&B Sea Salted Popcorn: Displayed for sale price; €1.05 buy 1 get 1 half price, Charged at till price for 2 items; €1.97, over charge of €0.40.



- c. Section 2 of the 2007 Act defines “transactional decision” as being:
- “...in relation to a consumer transaction, whether or not that transaction is completed, 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;”

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 is different than the price that is scanned and would be charged at the till.

D: Compliance direction and requirements

1. Holland & Barrett Limited is hereby directed to remedy the contraventions identified in this notice, namely, to remedy the prohibited acts or practices described above under Sections A, B and C of this notice.
2. You must comply with this compliance direction and requirements by **18 June 2024**.

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:



William Fahy,
Authorised Officer,
Competition and Consumer Protection Commission.

Date: 28 May 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 (CPA 2007)

1.	Section 75(6) of the CPA 2007 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.	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 CPA 2007, 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 CPA 2007, 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 CPA 2007, 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 of the CPA 2007 requires the Commission 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 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 of the CPA 2007.
9.	Section 79(1) of the CPA 2007 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) 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. If, after being convicted for 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) of the CPA 2007 the issuing of this notice does not prevent the commencement of proceedings for an offence.