
STATUTORY INSTRUMENTS

2008 No. 1277

The Consumer Protection from Unfair Trading Regulations 2008

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Consumer Protection from Unfair Trading Regulations 2008 and shall come into force on 26th May 2008.

Interpretation

2.—(1) In these Regulations—

“average consumer” shall be construed in accordance with paragraphs (2) to (6);

“business” includes [^{F1}—]

(a) a trade, craft or profession[^{F2}, and

(b) the activities of any government department or local or public authority;]

[^{F3}“CMA” means the Competition and Markets Authority;]

“code of conduct” means an agreement or set of rules (which is not imposed by legal or administrative requirements), which defines the behaviour of traders who undertake to be bound by it in relation to one or more commercial practices or business sectors;

“code owner” means a trader or a body responsible for—

(a) the formulation and revision of a code of conduct; or

(b) monitoring compliance with the code by those who have undertaken to be bound by it;

“commercial practice” means any act, omission, course of conduct, representation or commercial communication (including advertising and marketing) by a trader, which is directly connected with the promotion, sale or supply of a product to or from consumers, whether occurring before, during or after a commercial transaction (if any) in relation to a product;

[^{F4}“consumer” means an individual acting for purposes that are wholly or mainly outside that individual’s business;]

[^{F5}“DETINI” means “the Department of Enterprise, Trade and Investment in Northern Ireland;]

[^{F6}“digital content” means data which are produced and supplied in digital form;]

[^{F7}“enforcement authority” means the [^{F8}CMA], every local weights and measures authority and DETINI;]

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[^{F9}“goods” means any tangible moveable items, but that includes water, gas and electricity if and only if they are put up for sale in a limited volume or set quantity;]

“invitation to purchase” means a commercial communication which indicates characteristics of the product and the price in a way appropriate to the means of that commercial communication and thereby enables the consumer to make a purchase;

[^{F10}“local weights and measures authority” means a local weights and measures authority in Great Britain (within the meaning of section 69 of the Weights and Measures Act 1985);]

“materially distort the economic behaviour” means in relation to an average consumer, appreciably to impair the average consumer’s ability to make an informed decision thereby causing him to take a transactional decision that he would not have taken otherwise;

^{F11}

“premises” includes any place and any stall, vehicle, ship or aircraft;

[^{F12}“product” means—

- (a) goods,
- (b) a service,
- (c) digital content,
- (d) immoveable property,
- (e) rights or obligations, or
- (f) a product of the kind mentioned in paragraphs (1A) and (1B),

but the application of this definition to Part 4A is subject to regulations 27C and 27D;]

“professional diligence” means the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers which is commensurate with either—

- (a) honest market practice in the trader’s field of activity, or
- (b) the general principle of good faith in the trader’s field of activity;

“ship” includes any boat and any other description of vessel used in navigation;

[^{F13}“trader”—

- (a) means a person acting for purposes relating to that person’s business, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf, and
- (b) except in Part 4A, includes a person acting in the name of or on behalf of a trader;]

“transactional decision” means any decision taken by a consumer, whether it is to act or to refrain from acting, concerning—

- (a) whether, how and on what terms to purchase, make payment in whole or in part for, retain or dispose of a product; or
- (b) whether, how and on what terms to exercise a contractual right in relation to a product.

[^{F14}(but the application of this definition to regulations 5 and 7 as they apply for the purposes of Part 4A is subject to regulation 27B(2))]

[^{F15}(1A) A trader (“T”) who demands payment from a consumer (“C”) in full or partial settlement of C’s liabilities or purported liabilities to T is to be treated for the purposes of these Regulations as offering to supply a product to C.

(1B) In such a case the product that T offers to supply comprises the full or partial settlement of those liabilities or purported liabilities.]

(2) In determining the effect of a commercial practice on the average consumer where the practice reaches or is addressed to a consumer or consumers account shall be taken of the material characteristics of such an average consumer including his being reasonably well informed, reasonably observant and circumspect.

(3) Paragraphs (4) and (5) set out the circumstances in which a reference to the average consumer shall be read as in addition referring to the average member of a particular group of consumers.

(4) In determining the effect of a commercial practice on the average consumer where the practice is directed to a particular group of consumers, a reference to the average consumer shall be read as referring to the average member of that group.

(5) In determining the effect of a commercial practice on the average consumer—

(a) where a clearly identifiable group of consumers is particularly vulnerable to the practice or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee, and

(b) where the practice is likely to materially distort the economic behaviour only of that group, a reference to the average consumer shall be read as referring to the average member of that group.

(6) Paragraph (5) is without prejudice to the common and legitimate advertising practice of making exaggerated statements which are not meant to be taken literally.

Textual Amendments

- F1** Punctuation in reg. 2(1) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\)](#), regs. 1(3), **2(2)(a)**
- F2** Words in reg. 2(1) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\)](#), regs. 1(3), **2(2)(b)**
- F3** Words in reg. 2(1) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/549\)](#), art. 1(1), **Sch. 1 para. 35(2)(c)** (with art. 3)
- F4** Words in reg. 2(1) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\)](#), regs. 1(3), **2(3)**
- F5** Words in reg. 2 inserted (28.3.2013) by [The Public Bodies \(The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions\) Order 2013 \(S.I. 2013/783\)](#), arts. 1(2), **13(2)(a)**
- F6** Words in reg. 2(1) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\)](#), regs. 1(3), **2(4)**
- F7** Words in reg. 2 substituted (28.3.2013) by [The Public Bodies \(The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions\) Order 2013 \(S.I. 2013/783\)](#), arts. 1(2), **13(2)(b)**
- F8** Word in reg. 2(1) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/549\)](#), art. 1(1), **Sch. 1 para. 35(2)(a)** (with art. 3)
- F9** Words in reg. 2(1) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\)](#), regs. 1(3), **2(5)**
- F10** Words in reg. 2 inserted (28.3.2013) by [The Public Bodies \(The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions\) Order 2013 \(S.I. 2013/783\)](#), arts. 1(2), **13(2)(c)**
- F11** Words in reg. 2(1) omitted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/549\)](#), art. 1(1), **Sch. 1 para. 35(2)(b)** (with art. 3)
- F12** Words in reg. 2(1) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\)](#), regs. 1(3), **2(6)**

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- F13** Words in reg. 2(1) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\), regs. 1\(3\), 2\(7\)](#)
- F14** Words in reg. 2(1) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\), regs. 1\(3\), 2\(8\)](#)
- F15** Reg. 2(1A)(1B) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Consumer Protection \(Amendment\) Regulations 2014 \(S.I. 2014/870\), regs. 1\(3\), 2\(9\)](#)

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