

2013 No. 2701

TRADE DESCRIPTIONS

**The Business Protection from Misleading Marketing
(Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>19th October 2013</i>
<i>Laid before Parliament</i>		<i>23rd October 2013</i>
<i>Coming into force</i>	- -	<i>14th November 2013</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the control of advertising, makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act.

Citation and commencement

1. These Regulations may be cited as the Business Protection from Misleading Marketing (Amendment) Regulations 2013 and come into force on 14th November 2013.

Amendments to the Business Protection from Misleading Marketing Regulations 2008

2. The Business Protection from Misleading Marketing Regulations 2008(c) are amended as follows.

3. In regulation 2 (interpretation)—

(a) for the definition of “enforcement authority” substitute—

““enforcement authority” means the OFT, every local weights and measures authority, DETINI and GEMA;”;

(b) after the definition of “enforcement authority” insert—

““GEMA” means the Gas and Electricity Markets Authority;(d)”.

4. In regulation 13 (duty and power to enforce)—

(a) for paragraph (1A) substitute—

“(1A) Each of the following may also enforce these Regulations—

(a) the OFT;

(b) GEMA.”.

(b) after paragraph (4) insert—

(a) S.I. 1985/749.

(b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) S.I. 2008/1276, amended by S.I. 2013/783.

(d) The Gas and Electricity Markets Authority was established under section 1(1) of the Utilities Act 2000 (c.27).

“(4A) Nothing in this regulation shall authorise GEMA to bring proceedings for an offence.”.

5. In regulation 15(3) (injunctions to secure compliance with the Regulations) after “Great Britain” insert “or GEMA”.

6. For regulation 17(1) (co-ordination) substitute—

“17.—(1) If more than one enforcement authority in Great Britain is contemplating bringing proceedings under regulation 15 in any particular case, the OFT may direct which enforcement authority is to bring the proceedings or decide that only it may do so.”.

7. In regulation 22 (power to make test purchases) after “enforcement authority” insert “, other than GEMA,”.

8. In regulation 23(1) (power of entry and investigation, etc) after “enforcement authority” insert “, other than GEMA,”.

9. In regulation 24(1) (power to enter premises with a warrant) after “enforcement authority” insert “, other than GEMA,”.

Jo Swinson

Parliamentary Under-Secretary of State for Employment Relations and Consumer Affairs
19th October 2013

Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Business Protection from Misleading Marketing Regulations 2008 (“the 2008 Regulations”).

Regulations 3 and 4 give the Gas and Electricity Markets Authority (“GEMA”) certain powers as an enforcement authority in respect of the 2008 Regulations. These include the power to bring proceedings for an injunction where GEMA considers that there has been or is likely to be a breach of regulation 3, 4 or 5 of those Regulations, the power to accept an undertaking where GEMA considers that there has been or is likely to be a breach of regulation 3, 4 or 5 of those Regulations and the power to obtain information for determining whether to bring injunction proceedings under regulation 21 of those Regulations.

Regulation 5 requires GEMA to notify the OFT of its intention to apply for an injunction and certain related provisions.

Regulation 6 enables the OFT to direct which enforcement authority is to bring proceedings, or decide that only it may do so, in cases where more than one enforcement authority in Great Britain are contemplating bringing proceedings for an injunction under the 2008 Regulations.

Regulations 7 to 9 provide that certain investigatory powers under the 2008 Regulations will not apply to GEMA. These are the power to make test purchases under regulation 22, the power of entry and investigation under regulation 23 and the power to enter premises with a warrant under regulation 24.

An impact assessment of the effect of this instrument on the costs of business, the voluntary sector and the public sector is available from the BIS website at www.bis.gov.uk and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. A copy has also been placed in the Libraries of both Houses of Parliament.

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