



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

11th Annual Conference on the Unfair Commercial Practices Directive

Competition Law Research Centre, Pázmány Péter Catholic University

Developments in an Irish Context

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Member, Competition and Consumer Protection Commission



1. Overview of the CCPC

CCPC: Who we are and what we do

- Independent statutory body with dual mandate to enforce competition and consumer protection law in Ireland
- Broad range of functions including:
 - Enforcing competition and consumer protection law
 - Reviewing notified mergers and acquisitions
 - Enforcing product safety regulations
 - Informing consumers about their rights
 - Providing personal finance information and education
 - Encouraging business compliance
 - Advising Government and influencing policy
 - **NEW FUNCTIONS:** DMA and DSA, Data Governance Act, European Consumer Centre



2. UCPD – Our Experience

Core Legislative Framework Updated

- Consumer Rights Act 2022 ('Omnibus Directive') - it consolidates existing law relating to rights and remedies in contracts between traders and consumers for the sale of goods and the supply of content and services, particularly online, updating on the 2007 transposition of UCPD.

Example: The 2007 Act covered misleading omissions by a trader, but no penalty attached to this section. CRA 2022 now criminalises this, allowing for prosecution and so enabling the CCPC to better protect consumers.

- We are working through the extended suite of consumer benefits
 - A stronger 30-day right to cancel
 - More redress options
 - Redress must be free of charge
 - A business must offer solutions
 - Consumers now have stronger rights when it comes to services.
 - A blacklist of unfair contract terms and conditions

Day to day application of UCPD

- Over the last 6 months we received over 13,000 contacts from consumers, 26% of these contacts concerned issues covered by the UCPD
- Misleading actions such as orders not corresponding to samples
- Misleading omissions such as undisclosed charges
- Aggressive practices such as persistent unsolicited contacts

National Level Current Actions

Fake Certs/Accreditation

- CCPC undertook significant investigations into the offering of training courses especially where supposed accreditation by certain industry bodies applied
- In some cases, consumers paid several thousand Euros to do the course/get accreditation

Bait & Switch (Misleading action)

- We are currently investigating a car dealer advertising cars for sale using photographs of a different (better) car with a valid road worthiness certificate.
- Unsuspecting consumers arrive to see the car, the trader informs that unfortunately the car has been sold but here's a similar one (lower quality, no certificate)

National Level Current Actions

Misleading Omission

- Car dealer was selling cars to consumers, but was withholding the fact that the cars had been crashed unless explicitly asked by consumers
- Even when asked, the trader was misleading consumers in relation to the extent of the damage by suggesting that the car had a “minor tip” when in fact the car had been previously categorised as an insurance write off.

Recent Conviction

- A car dealer significantly reduced the mileage displayed on the odometer
- A previous owner of the car spotted the car for sale with lower mileage than it had when they sold it
- The trader reset the odometer to the correct mileage and was successfully prosecuted for a misleading commercial practice.



Download our handy
checklist



Car buyers checklist



3. Recent Approach - Influencers



Rationale for Our Work

- Wanted to develop a comprehensive understanding of the key issues in this sector in advance of legislative changes/new mandates
- Becoming aware of greater international focus on influencers and unfair commercial practices/misleading content
- Aware that consumers were less likely to complain to us unlike more traditional services – more likely to ‘unfollow’
- Wanted to take a more comprehensive and sectoral approach

Research

- **Quantitative Research – Survey and Observation Analysis**
 - A national representative consumer survey (1,000 respondents) covering areas such as online behaviour, social media use, recognition of influencer marketing, trust
 - An observational analysis on the content produced by a selection of 70 Irish influencers (a representative mix of micro, macro and mega influencers were selected with follower numbers ranging from 16,000 to 44 million)
- **Qualitative Research – Focus Groups and In-depth Interviews**
 - Consumer focus groups were facilitated to analyse perception, bias and the ability to identify commercial content.
 - In-depth interviews with micro and macro influencers to understand their perception/knowledge of their responsibilities under the law and under the self-regulatory Code

Key Findings and Recommendations/Next Steps

- Key Findings
 - 66% of consumer who follow influencers purchased product as a result of influencer promoting it, and 60% passed on a recommendation
 - 24% of consumers subsequently felt misled
 - This equates to 4.6% of the population
- Key Recommendations
 - Guidance on influencer marketing in Ireland should be strengthened
 - Brands, influencers and the agents who represent them have a responsibility to inform themselves of their legal responsibilities
 - Social media platforms should assume greater responsibility for informing and educating users
 - Social media platforms should support users in appropriately labelling content and facilitate the deterrence and reporting of hidden or misleading advertising content
 - Enforcement

Publicity

RTE NEWS SPORT ENTERTAINMENT BUSINESS LIFESTYLE CULTURE PLAYER TV RADIO

NEWS ► BUSINESS ► Agribusiness Focus on Inflation Business of Climate Work Brexit Watch and Listen

Analysis

'Widespread failure' to label ads by social media influencers - CCPC

Updated / Tuesday, 13 Dec 2022 19:41



By **Brian O'Donovan**
Work & Technology Correspondent

The Competition and Consumer Protection Commission (CCPC) is warning of a widespread failure by social media influencers to label commercial content as advertising.



CCPC research on social media influencers highlights the need for improvements in labelling influencer ads

DECEMBER 13, 2022

The Competition and Consumer Protection Commission (CCPC) has today published its *Social Media Influencers report*, which found that failure to label ads is widespread throughout the industry.

“Other people follow influencers, I follow people that are of interest to me”

Just 10% of consumers trust the information provided by influencers. However, while consumers distrust influencers in general, they do appear to trust the influencers that they follow.

Research found that consumers are reluctant to use the word “influencers” in reference to personalities they follow on social media platforms, preferring instead to use terms such as “interactive celebrities”, “people of interest”. That consumers did not readily agree that such terms were interchangeable with the term “influencer” suggests they may be overconfident in their ability to recognise influencer advertising and may be vulnerable to misleading practices.

Almost 50% of influencer ad content not tagged as advertising

HOME | SHOWBIZ | IRISH SHOWBIZ

INSTA-SHAM | Almost half of Irish influencer brand deals not flagged as advertisements online

The Social Media Influencers Report found that influencers used “poor levels of labelling” on online advertising content.



Calling out Areas for Change

However, while most platforms have tools for labelling content, as can be seen in the table below some social media platforms do not have functions in place for reporting and labelling of content.

	Influencer Presence	Branded/ Commercial Content Policy	General Reporting Functionality	Hidden Advertising Reporting Function	Platform provided tag for Commercial Content ^{xlvi}
Instagram	Yes	Yes ¹⁹³	Yes	No	Yes
Facebook	Yes	Yes ¹⁹⁴	Yes	No	Yes
Twitter	Yes	Yes ¹⁹⁵	Yes	No	No
Snapchat	Yes	Yes ¹⁹⁶	Yes	No	No
TikTok	Yes	Yes ¹⁹⁷	Yes	Yes	Yes
BeReal	Limited†	No	Yes	No	No
YouTube	Yes	Yes ¹⁹⁸	Yes	Partial*	Yes ¹⁹⁹
Pinterest	Yes	Yes ²⁰⁰	Yes	Partial*	Yes ²⁰¹
LinkedIn	Yes	Yes ²⁰²	Yes	No	No



4. Price Indicators Directive

Holistic Approach

- *November 2022*
- Brought out business guidelines
- Engaged with industry bodies
- Ran FAQ on our website

- *July 2023*
- Ahead of sales season
- Published online and instore findings
- Examples of bad practices
- “Our analysis has shown a number of concerning pricing practicesa number of traders had not yet changed their practices around price reduction announcements following the introduction of the new rules.....”





Questions?



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