businesscompanion
trading standards law explained

Introduction

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

Using this guidance

This guidance is intended to help you, as a second-hand car dealer, to comply with important pieces of consumer protection law that affect how you deal with consumers, including the:

- Digital Markets, Competition and Consumers Act 2024 (DMCCA), which ensures that you deal with consumers fairly and honestly
- Consumer Rights Act 2015 (CRA), which sets out your legal obligations to consumers with regard to the quality of the vehicle and the description you provide for it. It also sets out your duties when something goes wrong with the vehicle
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs), which set out the information that a trader must give to a consumer before and after making a sale, how that information could be given, and the right for consumers to change their minds when buying at a distance (online, by telephone, etc) or off-premises

The guidance is in four parts. Part 1 contains guidance on how to comply with the DMCCA, including a flowchart to help you assess whether any of your business practices are likely to be unfair. Part 2 contains guidance on your legal obligations to consumers under the CRA, including a flowchart summarising the legal remedies that consumers are entitled to where the vehicles you sell are not of 'satisfactory quality'. For those car dealers that also service cars, there is a short explanation of the requirements of the CRA in relation to service contracts. Part 3 contains guidance on your legal obligations to consumers under the CCRs, summarising in particular pre-contract information requirements. Part 4 sets out details on pricing and payment provisions.

The guidance applies not only to the selling of second-hand cars, but also to other vehicles (such as

second-hand motorcycles and light commercial vehicles) when you make a sale to a consumer. When it comes to consumer law, electric / hybrid vehicles are no different to those that run on traditional fuels, so the guidance applies equally to them. By 'second-hand', the guidance is referring to any vehicle with a previous user.

Not all points listed will apply to every dealer, nor is the guidance intended to be exhaustive. It deals with problems in the second-hand car market, based upon the experience of enforcers, industry, consumer groups and other stakeholders.

The guidance is intended to help you to comply with the law and protect your business's reputation. It is also intended to be of use to enforcers and consumer advisors in understanding what trading practices are likely to be prohibited.

There is other important legislation which may apply to you, which is not covered in this guidance. For example, this guidance does not deal with business-to-business trade sales, which are covered by other legislation, such as the Business Protection from Misleading Marketing Regulations 2008 (BPRs); the BPRS are essentially a business-to-business counterpart to the unfair trading provisions in the DMCCA. Also, if you sell vehicles on finance, consumer credit legislation applies, for which the primary regulator is the Financial Conduct Authority (FCA); see 'Credit and other financial matters'.

What do I need to do?

It is important that you read and understand the guidance to ensure that you are treating your customers properly.

What happens if I don't comply with the law?

If you do not comply with the law, you may face enforcement action by Trading Standards or other bodies*. This could ultimately result in court action, and it would be for the courts to decide whether legislation has been breached. You could also lose your customers, some of whom may have the right to take legal action against you.

[*Car dealers will usually deal with their local Trading Standards service, but other agencies also have a role - for example, the Competition and Markets Authority (CMA) and the FCA. See also the CMA's *Consumer Protection: Enforcement Guidance* (CMA58).]

Where can I get more information?

If in doubt as to your obligations, you are strongly recommended to obtain advice from your local authority Trading Standards service and/or seek independent legal advice.

The Advertising Standards Authority (ASA) publishes guidance on the application of its Advertising Codes.

> Part 1. Digital Markets, Competition and Consumers Act

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