

Part A: Complying with the Consumer Protection from Unfair Trading Regulations 2008 (CPRs)

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2. Introduction

2.1

The CPRs came into force in May 2008. They replaced and expanded upon many of the provisions of the Trade Descriptions Act 1968 and other legislation. Many of the detailed rules around trade descriptions were replaced with a general ban on unfair trading. The changes apply to second-hand car dealers, as well as other traders whose business practices may affect consumers.

2.2

The CPRs prohibit traders from engaging in unfair commercial practices in connection with the promotion, sale and supply of products to or from consumers. If you mislead, behave aggressively, or otherwise act unfairly towards consumers, then you may be in breach of the CPRs and may face criminal or civil enforcement action. The Consumer Protection (Amendment) Regulations 2014, which came into force on 1 October 2014, also created a private right of redress for consumers who have been the victim of misleading actions or aggressive practices (see paragraph 7.5).

2.3

This guidance sets out some examples of the kinds of trading practice or conduct specific to second-hand vehicle sales which are likely to be considered unfair under the CPRs. It also sets out some of the practical steps you should take to help you comply with the law. The examples given do not cover every situation or practice in which a breach of the CPRs may occur.

2.4

The guidance should be read in conjunction with UK Government issued general guidance document on the CPRs:

'Guidance on the Consumer Protection from Unfair Trading Regulations 2008' [OFT1008]

The original legislation (which has been amended) can be found at: www.legislation.gov.uk/ukxi/2008/1277

3. Overview of the CPRs

3.1

The CPRs prohibit you, as a second-hand car dealer, from engaging in unfair business practices in connection with the promotion, sale and supply of vehicles or other services to consumers.

3.2

The CPRs set out broad rules outlining when business practices are unfair. These fall into five main categories:

Misleading actions: Giving false information to, or deceiving, consumers for example through false or deceptive advertisements or statements.

Misleading omissions: Giving insufficient information to consumers, for example leaving out or hiding important information.

Aggressive behaviour: Acting aggressively, for example through sales techniques that use harassment, coercion or undue influence.

Failing to act in accordance with reasonable expectations of acceptable trading practice (i.e. that falls below the level of care and skill which may be expected, taking account of honest market practice and general principles of good faith. This is intended to act as safety net protection for all consumers).

In addition, the CPRs ban 31 specific practices outright.

3.3

For a practice to be unfair under the first four rules above, it must cause, or be likely to cause, the average consumer to take a different decision; for example, where they cause the consumer to:

- view the vehicle when they would not otherwise have done so, and/or
- buy the vehicle when they would not otherwise have done so, and/or
- buy the vehicle at a higher price or on more disadvantageous terms than they would have otherwise done, and/or
- not pursue a legitimate complaint when they would otherwise have done so.

3.4

Unfair business practices can occur:

- Before, during or after a transaction between a trader and consumer; for example, in relation to misleading advertisements or failure to honour after-sales service.

- Further up the supply chain between traders, where the practice has the potential to affect both consumers and traders; for example, where a second-hand car dealer misdescribes a vehicle at auction and it is likely that the trade buyer will sell the vehicle on to a consumer and/or a consumer may buy it directly at the auction⁶.
- Where a trader purchases a product from a consumer; for example, where a second-hand car dealer misleads the consumer about some characteristic of a part-exchanged vehicle.

4. Breaches of the CPRs

4.1

If you fail to comply with the CPRs you may be in breach of the law. Enforcers (such as the CMA and local Trading Standards) may take civil enforcement action in respect of any breach of the CPRs under Part 8 of the Enterprise Act 2002. There are also a number of criminal offences under the CPRs.

Giving false information to, or deceiving, consumers (misleading actions - regulation 5)

4.2

It is a breach of the CPRs to give false information to consumers, or to deceive consumers, where this is likely to cause the average consumer to take a different decision (misleading actions). The CPRs specify three types of misleading actions:

- misleading information generally
- creating confusion with competitors' products
- failing to honour firm and verifiable commitments made in a code of conduct.

The false information, or deception, relates to one or more pieces of information in a (wide-ranging) list and includes the main factors consumers are likely to take into account in making decisions relating to products, for example the main characteristics of the product and the price or the way it is calculated. The full list is set out in ANNEX A.

4.3

An unfair business practice may mislead consumers through the false information it contains, or through the practice itself, or because its overall presentation is deceptive or is likely to be deceptive.

4.4

Misleading information may be given verbally, in writing or visually. This could include, for example:

- Providing information verbally over the telephone, or in the course of discussions prior to the sale of the vehicle.
- In writing in advertising on the vehicle itself, in the showroom, in a newspaper, website, email, text, or other types of documentation provided to the prospective buyer.
- Visually, for example, through the use of pictures of vehicles.
- In television or radio advertising.

Examples of misleading actions:

- Misrepresenting the specification or history of the vehicle, for example by making misleading statements about the service history, any previous accident damage, number of previous owners, the technical specification (engine size, MPG), insurance grouping or environmental performance.
- Supplying, offering to supply or advertising for sale a clocked vehicle.
- Altering, or arranging for the alteration of, the odometer reading.
- Advertising a vehicle for sale at one price – for example, on a website or in a newspaper – when

the actual sale price of the vehicle is higher.

- Falsely claiming that a vehicle history check has been carried out with a vehicle checking service.
- Misleading consumers about their statutory or other rights; for example, by using words or statements such as 'Sold as Seen' or 'Trade Sale Only' or 'No Refund' or 'Spare or Repair' even if the statement 'this does not affect your statutory rights' is included.
- Creating a misleading impression about the previous usage of a vehicle; for example, giving the impression that a vehicle has one previous user – through the use of statements such as 'one previous owner' – when in fact it has had multiple previous users.
- Misleading consumers about the value of a vehicle you intend to purchase from them in part exchange; for example, making false statements about the condition of the vehicle.

Giving insufficient information to consumers (misleading omissions - regulation 6)

4.5

It is a breach of the CPRs to mislead consumers by failing to give them the information they need in order to make informed decisions (misleading omissions). This includes the final decision to buy but also includes a wide range of decisions that have been or may be taken by consumers in relation to products. This is wide in chronological scope, covering decisions taken before, during and after a contract is formed.

4.6

This might, for example, be by omitting or hiding important information you are aware of (or you should reasonably have been aware of as a professional in the motor trade) or providing important information in an unclear, unintelligible, ambiguous, or untimely manner, where this is likely to cause the average consumer to take a different decision.

Examples of misleading omissions:

- Failing to disclose the existence and results of checks carried out on the vehicle (for example, mechanical, history and mileage checks) and any adverse information you have found out or are otherwise aware of, such as for example:
 - The vehicle's previous accident and/or insurance write off history.
 - Discrepancies in the mileage or service history of the vehicle.
 - Faults with the vehicle that have not been rectified.
- Failing to disclose details of any additional charges payable, for example 'administration fees', until the point of sale.
- Failing to disclose that a vehicle for sale is an ex-business use vehicle which may have had multiple users, for example a vehicle that has previously been used for rental, as a taxi or by a driving school – in such circumstances it is not sufficient to only inform the consumer of the mileage and the number of previous owners.
- Failing to draw the consumer's attention to the key elements of any warranty/guarantee including, for example, details of what is and is not covered, claim limits, the conditions that need to be followed for the warranty/guarantee to remain valid, and the geographical scope of the warranty/guarantee.

Acting aggressively (aggressive business practices - regulation 7)

4.7

It is a breach of the CPRs to engage in practices that intimidate or exploit consumers, restricting their conduct or ability to make free or informed choices and which cause, or are likely to cause, the average

consumer to take a different decision (aggressive practices).

4.8

A commercial practice is aggressive if it:

- significantly impairs (or is likely to significantly impair) the average consumer's freedom of choice or conduct in relation to goods or services through the use of harassment, coercion or undue influence and the average consumer takes, or is likely to take, a different decision as a result.

Examples of aggressive practices:

- Engaging in high-pressure selling techniques to sell a vehicle or to sell additional services such as finance, insurance or warranties.
 - For example, by keeping consumers at your premises for a long time with a view to getting them to agree to buy a vehicle in order to get away.
- Exploiting a consumer's misfortune or circumstances and/or a position of power over a consumer.
 - For example, refusing to return a deposit made on a vehicle that a consumer is legally entitled to.
- Intimidating, pressurising or coercing consumers into dropping complaints against your business.
 - For example, by the use of threatening or abusive language or behaviour.
- Insisting that a consumer's claims for rectifying a fault with the vehicle are made under a purchased warranty, thus restricting their right for the vehicle to be repaired under the contract they have with you.

Banned practices (Schedule 1)

There are a number of other business practices which are considered unfair in all circumstances and which are prohibited (banned practices) (Full list in ANNEX B).

Examples of banned practices:

- You must not claim to be a signatory to a code of practice when you are not (banned practice 1). For example, by falsely claiming to have signed up to a motor trade association code of practice.
- You must not claim to have been approved, endorsed or authorised by a public or private body when you have not, or make such a claim without complying with the terms of the approval, endorsement or authorisation (banned practice 4). For example, by falsely claiming or creating the impression that:
 - You are a member of a motor trade association
 - Vehicles have been checked by motoring organisations or that checks are used which meet such motoring organisation standards when they do not.
- You must not use 'bait and switch' tactics (banned practice 6). For example, by:
 - Advertising a base model at a low price, despite knowing you only have vehicles with higher specifications in stock or available.
 - Advertising a desirable vehicle at a 'bargain' price even though you know it has already been sold, with the aim of promoting a less desirable or more expensive model.
- You must not falsely state that a vehicle will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision from the consumer (banned practice 7).
 - For example, a dealer falsely tells a consumer that the 'special offer price' will be increased the next day in order to pressurise him into making an immediate decision to buy the vehicle.

- You must not present rights given to consumers in law as a distinctive feature of your service (banned practice 10).
 - For example, by misleading consumers about the extent to which an offered warranty or guarantee enhances the rights which the consumer would in any event enjoy in law.
- You must not pass on materially inaccurate information on market conditions or on the possibility of finding the product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions (banned practice 18).
 - For example, falsely claiming a vehicle is in short supply and sells at £20,000 when it is not particularly rare and is available widely at £15,000.
- You must not falsely claim, or create the impression, that you are acting for purposes unrelated to your business or falsely represent yourself as a private seller (banned practice 22).
 - For example, a second-hand car dealer puts a used car on or near a road and displays a handwritten advertisement reading *'One careful owner. Good family run-around. £2,000 or nearest offer. Call Jack on 07734 765890.'* The advertisement gives the impression that the seller is not selling as a trader, and would breach the CPRs.

Failing to act in accordance with reasonable expectations of acceptable trading practice (general prohibition of unfair business practices - regulation 3)

4.10

It is a breach of the CPRs to fail to act in accordance with honest market practice or in good faith in your dealings with consumers (known as 'professional diligence'), where such dealings are likely to change the decision that an average consumer would make.

4.11

You are required to deal with consumers professionally and fairly (according to reasonable expectations). If you fail to do so you could be in breach of the law (even if the poor practice is widespread in the industry) and if you are shown to have knowingly or recklessly failed to do so, and this changes or is likely to change the decisions the average consumer makes, you may be committing a criminal offence.

4.12

The unfair practices highlighted at paragraphs 4.2 – 4.9 above may also contravene the requirements of 'professional diligence'.

Assessing whether your business practices are unfair

4.13

The flowchart 'Is your business practice unfair?' will help you to assess whether any of your business practices are likely to be unfair under the CPRs.

Download the flowchart 'Is your business practice unfair?'

5. Steps to help you comply with the CPRs

5.1

We set out below some of the practical steps you should take to help your business comply with the CPRs.

Pre-sale checks

5.2

Before you expose any vehicle for sale you should take all reasonable precautions and exercise all due diligence to ensure that:

- Any information you give to consumers, in whatever form, is accurate – it is your responsibility to check that everything you say or specify about a vehicle is true and accurate; and
- You find out the important information that consumers need in order to make an informed purchasing decision.

5.3

As part of your due diligence system you should keep a full record of all checks carried out on every vehicle. Trading Standards staff (as well as your customers) may wish to see such records if they deem it necessary.

5.4

Examples of the types of checks you may need to carry out are given below. The specific checks you need to undertake will depend on the circumstances of each vehicle you intend to sell to consumers. If you decide not to undertake certain checks, you will need to be able to show that you were justified in making that decision, and that it was reasonable in those particular circumstances for you not to do those checks.

Vehicle history

5.5

Before exposing any vehicle for sale you should take all reasonable steps to check the vehicle's history, for example whether it:

- Is recorded as stolen.
- Is subject to outstanding finance or charge.
- Has been written off as an insurance loss or accident damaged.
- Is an ex-business use vehicle which may have had multiple users.
- You should also check that you have good title to sell the car – for instance, if the car is still subject to a hire purchase agreement, you do not own it.

5.6

In most circumstances you would be expected in the first instance to at least conduct a vehicle history check with an independent and reliable company. You should ensure that your chosen vehicle history check provider can supply the level of information necessary for you to meet your responsibilities.

Alternatively, you may make and record your own effective enquiries. Other checks may include:

- Asking the seller about the history of the vehicle – is it correct, incorrect or unknown?
- Write the information on your purchase invoice and ask the seller to sign it – do not rely on verbal statements only.
- Asking the seller for documents relating to the vehicle, for example the service book and bills for servicing.

Government Vehicle Databases

- Checking the vehicle's registration details on the DVLA database:
www.gov.uk/get-vehicle-information-from-dvla
- Checking with the Driver and Vehicle Standards Agency (DVSA). If you have the vehicle registration mark and maker details you can check the MOT test results and history (if the vehicle is more than three years old) at: www.gov.uk/check-mot-history

5.7

Generally, before exposing any vehicle for sale you should take all reasonable steps to establish the accuracy of the stated mileage.

5.8

In most circumstances you would be expected in the first instance to at least conduct a mileage check on the vehicle with an independent and reliable company. Other checks may include:

- Checking the MOT history on the DVSA database as outlined above.
- Ensuring that the internal and external condition of the vehicle is comparable with the described age and mileage of the vehicle – the condition/appearance of the vehicle may give cause to suspect the accuracy of the mileage reading (for example, worn out seats/pedals but low mileage on the odometer).

5.9

If a discrepancy is discovered in the mileage record through the basic checks you have carried out, or as a result of any other information suggesting that the mileage may be incorrect, you should carry out further investigations. Various companies including CDL Vehicle Information Services, Experian and HPI can provide a full Mileage Investigation Service. With effect from spring 2018, Vehicle Registration Certificates (V5C) no longer contain details of the previous keeper of the vehicle. Should you need to get in touch with previous keepers, and you can demonstrate that you have reasonable cause for requesting this information, you can request their contact details from the DVLA. Information on how to request that information is available via the following links: www.gov.uk/request-information-from-dvla and www.gov.uk/government/publications/giving-people-information-from-our-vehicle-record

5.10

Unless you are satisfied that the mileage of a vehicle shown by its odometer is accurate, such mileage should not be quoted in advertisements, discussions or negotiations or in any documents related to the supply of the vehicle which is ultimately destined for supply to consumers.

Informing consumers about mileage discrepancies

5.11

As well as taking all reasonable steps to establish the vehicle's mileage, you should inform the consumer prior to sale of:

- The steps you have taken, and
- What you have found out or not been able to find out, or know, about the mileage or likely mileage. For example, if you know from checking the last MOT test record that the vehicle's current odometer reading is wrong and that the last recorded mileage was 'x miles' or that the vehicle has travelled 'in excess of x miles' you should provide consumers with this information.

Mileage disclaimers

5.12

You should not rely on a mileage disclaimer as a substitute for carrying out reasonable checks on a vehicle – to do so is likely to substantially increase the risk of you breaching the CPRs. Mileage disclaimers should only be used as a last resort where after completing all reasonable checks:

- You identify that the mileage is incorrect, or
- It has been impossible to verify the correct mileage.

5.13

You should not rely on generic mileage disclaimers as a substitute for giving consumers specific

information about what you have found out or not been able to find out, or know, about the vehicle's mileage or likely mileage – see further paragraphs 5.14 and 5.15 below. This is likely to be material information that the consumer needs in order to make an informed choice.

5.14

For example, if the vehicle's odometer displays 52,000 miles but a check of MOT test records shows that the vehicle had a previously recorded mileage of 136,000 in May 2015, you should not rely solely on a generic disclaimer such as, for instance, 'the mileage is incorrect and should be disregarded' or 'the mileage may not be true and should not be relied on as an indication of the distance the vehicle has travelled'. You should also inform the consumer that you have checked the last MOT test record which showed that the vehicle had a recorded mileage of 136,000 in May 2015, so the currently displayed mileage of 52,000 is incorrect

5.15

In such circumstances, Trading Standards recommends the use of a prominent written notice such as: 'MOT test records show this vehicle had a recorded mileage of 136,000 in May 2015, so the currently displayed mileage of 52,000 is incorrect' which provides the consumer with the important information they need to make an informed decision.

Minor mileage discrepancies resulting from test drives

5.16

Where there is a minor difference in the stated mileage of a vehicle (recorded when the vehicle was taken into stock) as a result of the vehicle having been test driven by a small number of prospective buyers, it is unlikely that there will be a breach of the CPRs. You should inform consumers of the reason for this minor mileage discrepancy. If the mileage increases materially as a result of having been test driven you should adjust the stated mileage accordingly.

Checking the mechanical condition of the vehicle

Roadworthiness

5.17

You should ensure that you have procedures in place to check that vehicles you supply, offer to supply or expose for sale are safe and roadworthy. It is not sufficient to rely on MOT or service histories. This will usually mean arranging for a suitably qualified or competent person to carry out pre-sale mechanical inspections of vehicles and any problems that make them unroadworthy must be rectified.

5.18

It is a breach of the CPRs to state or create the impression that a product can legally be sold when it cannot (banned practice 9). To the extent that the unroadworthiness of any vehicle under the Road Traffic Act 1988, or the General Product Safety Regulations 2005, makes it an offence to supply such a vehicle, offer to supply it or expose it for sale on your forecourt, in your showroom or other part of your premises including on the highway, doing so may also breach the CPRs.

Satisfactory quality

5.19

You should also take reasonable steps – through the pre-inspection procedures you have in place – to ensure that the vehicles you sell are of satisfactory quality and fit for their purpose under the Consumer Rights Act 2015 taking into account the age, mileage, condition, description and value of each vehicle. If

you systematically fail to carry out such pre-sale mechanical checks, you may breach the CPRs. Prospective buyers should be made aware, prior to sale, of any faults identified.

5.20

You should keep a record of inspections carried out on every vehicle.

Vehicles under preparation

Pre-sale mechanical checks

5.21

Any vehicle that is likely to appear to the consumer to be on offer for sale (for example where it has a price on it or appears alongside other vehicles on offer for sale even with no price on it) must be in a safe and roadworthy condition. A vehicle which has not yet been checked to confirm that it is safe and roadworthy should be marked in such a way to make this obvious and removed from the sales areas of your premises. It should not have a price or other indication that it is available for sale displayed on or near it.

5.22

You must not give consumers test drives in vehicles which have not been checked for safety. For further product safety information see: www.businesscompanion.info/product-safety

Pre-sale history and mileage checks

5.23

You will substantially increase the risk of breaching the CPRs if you display for sale or sell a vehicle to a consumer before you have had the opportunity to complete all of your pre-sale history and mileage checks. Simply telling the consumer that the results will be provided to him after the sale will not remove the risk of a breach of the CPRs being committed. Using a disclaimer that explains the true circumstances – for example that mileage investigation checks are ongoing and the mileage should be disregarded – cannot substitute for completing proper checks on a vehicle.

5.24

There may be limited circumstances in which you do find a buyer before completing all of your pre-sale history and mileage checks – however, you should not conclude the sale before all of the checks have been completed. In such circumstances consumers should be able to decline to buy the vehicle at no cost to them if they are not happy with the findings of the completed checks. Any pre-contract agreement should therefore include a clause that allows consumers to withdraw at no cost to them if they are not satisfied as a result of the findings of the completed checks.

Any deposits that have been paid should be refunded in full if the conditions of the pre-contract agreement have not been met.

Providing consumers with important information prior to the sale

5.25

You must give consumers the information they need to make an informed choice before a sale is made. You must not omit or hide such information, or provide it in an unclear, unintelligible, ambiguous or untimely manner.

5.26

Non-exhaustive examples of the types of information you should inform the consumer about prior to the sale include:

- The main characteristics of the vehicle – for example:
 - price (see also Part E)
 - make, model, engine capacity and other physical characteristics
 - history
- Any problems or issues you are, or ought to be, aware of, after taking all reasonable steps, such as for example:
 - if the vehicle has been written off as an insurance loss or has suffered accident damage
 - if the vehicle was imported into the UK from outside of the European Union (grey import)
 - if there are any MOT Advisory items
 - discrepancies in the mileage or service history of the vehicle
 - faults with the vehicle that have not been rectified
- If the vehicle is an ex-business use vehicle which may have had multiple users, for example a vehicle that has previously been used for rental, as a taxi or by a driving school.
- Details of the key elements of any warranty or guarantee offered (5.30).
- Details of your after-sales service and procedures.

5.27

The CPRs do not specify the format in which important information should be provided to consumers before the sale is made. However, only providing such information verbally – rather than in writing as well – may increase the risk of you breaching the CPRs. Providing important information in writing will help you to comply with the requirements of professional diligence and will also protect both you and consumers should disputes arise after the sale about what was said. If any important information is provided by alternative means then you will need to be able to demonstrate how you have complied with the information requirements.

5.28

Where you provide important information in writing, it should be clear and prominent in the documentation given to the consumer and drawn to their attention before the sale is made. It is not sufficient to include such material information in small print or in a bundle of documents handed to the consumer at the time of sale. Consumers should be given time to read any written information.

5.29

As a matter of good business practice, Trading Standards would strongly recommend that such information is provided in the form of a short summary document, such as a checklist, which could be displayed on the vehicle.

Warranties/Guarantees

5.30

The key elements of a warranty or guarantee should be clearly drawn to the attention of consumers prior to sale. This includes, for example:

- details of what is covered and what is not covered
- claim limits
- conditions that need to be followed for the warranty/guarantee to remain valid
- the geographical scope of the warranty/guarantee

- the claims procedure

5.31

Any relevant document published by the warranty/guarantee provider should also be handed over to the consumer. The consumer should be advised of what type of warranty/guarantee is being provided, for example:

- manufacturer's
- free extended manufacturer's/dealer's
- insurance backed
- dealer's own warranty/guarantee

The consumer should be informed of the identity of the warranty/guarantee provider and the address to which claims may be directed. The different types of warranty/guarantee and any significant differences between them should be explained to consumers as appropriate. Consumers are entitled to a copy of the guarantee in writing when requested.

5.32

You should also give advice to consumers about who they should address a claim to if they have a problem regarding defective parts and accessories not covered by the warranty or guarantee.

After-sales service

Complaints and enquiries

5.33

You should have an accessible, appropriate and user-friendly after-sales procedure to ensure that all consumer enquiries are dealt with in an honest, fair, professional and reasonable manner.

5.34

You should have an effective customer complaints procedure, understood and followed by all staff who may come into contact with the public. Trading Standards recommend that you have a written complaints procedure.

5.35

You should deal with complaints promptly, effectively and in a professional manner.

5.36

You should make your best efforts to find a satisfactory solution to complaints. You need to ensure that the steps you take to satisfy the consumer are in accordance with reasonable expectations.

5.37

You should record all complaints and note the final outcome. You should keep complaint records.

5.38

You should cooperate with any appropriate representative or intermediary, for example a Trading Standards Service or Citizens Advice Bureau, consulted by a consumer in respect of a complaint. You should be aware of the role of Alternative Dispute Resolution (ADR) providers. See Part D

Warranties

5.39

You should ensure that warranty work is carried out promptly and that your estimated timescale for completion is made clear to the consumer before any work has commenced. You should keep the consumer informed if it is subsequently discovered that the work has to take longer, for example, because further problems have been discovered.

Contractual obligations

5.40

You should follow practices and procedures that ensure that you fulfil your contractual commitments to consumers, for example:

- By providing appropriate redress to consumers who are seeking to enforce their contractual rights against you under the CRA where vehicles are of unsatisfactory quality, unfit for their purpose or not as you described them.
- Carrying out repairs to consumers' faulty vehicles with reasonable care and skill and within a reasonable time (or within the specific time agreed) in accordance with your legal obligations under the Consumer Rights Act 2015. (see Chapter 14)

Aggressive practices

5.41

You must not intimidate, pressurise or coerce consumers, for example through the use of threatening or abusive language, or threatening to take action which cannot legally be taken, into dropping complaints against your business. Any aggressive practice that is likely to cause an average consumer to take a different decision is prohibited under the CPRs (see paragraph 4.7).

6. Auction sales

6.1

The CPRs apply to the sale of second-hand vehicles through public auctions which are either open to consumers, or where it is likely that trade buyers will sell the vehicle on to consumers. Consumers may have lower expectations when buying from an auction than through other sales channels, consequently they may have fewer reasonable expectations on the type of checks that sellers will have carried out prior to auctioning their vehicles.

6.2

However, as a seller you must not engage in unfair practices such as, for instance:

- Applying misleading descriptions to vehicles you auction – for example, in relation to the vehicle's specification, history, mileage (for instance, arranging for a vehicle to be clocked and selling it through an auction, or warranting an odometer reading as accurate when you know it is incorrect or have been unable to verify its accuracy), or mechanical condition (for instance, describing a vehicle as having 'no major mechanical faults' when you know this is not the case or are not able to determine whether or not this is in fact the case).
- Failing to disclose important information on the auction sale entry form about the vehicle – for example, in relation to its:
 - History – for instance, auctioneers may require sellers to disclose whether the vehicle has previously been an insurance total loss, sustained serious accident damage, been owned or used by the police or been owned or used as a taxi, been re-registered or imported or had a change of registration number, or is subject to outstanding finance.
 - Mechanical condition – for instance, describing a vehicle as 'specified faults' and failing to disclose all the faults you are aware of.

6.3

When selling vehicles to other traders, either at auction or elsewhere, the Business Protection from Misleading Marketing Regulations 2008 (BPRs) will also apply. The BPRs prohibit businesses from advertising products in a way that misleads traders. Further information on the BPRs can be found at: www.businesscompanion.info/b2b-marketing

7. What happens if you don't comply with the CPRs?

7.1

If you do not comply with the CPRs you may face enforcement action. Local authority Trading Standards services have a duty to enforce the CPRs. Enforcers can use a range of tools to ensure that traders are complying with the CPRs, including criminal and/or civil enforcement.

7.2

If you are convicted of committing an offence under the CPRs the penalties are:

- On summary conviction in the Magistrates Court (in England and Wales), an unlimited fine. On summary conviction in the Sheriff or District Court in Scotland, a fine not exceeding the statutory maximum – currently £10,000
- On conviction on indictment in the Crown Court (Sheriff or High Court of Justiciary in Scotland), an unlimited fine or imprisonment for up to two years, or both.

7.3

Trading Standards may also take civil enforcement action under Part 8 of the Enterprise Act 2002 for a breach of the CPRs (as well as in respect of breaches of other consumer related legislation). This can include seeking an undertaking from you or applying for a court order to prevent or stop actual or likely breaches of the CPRs. Breach of any order could lead to up to two years imprisonment and/or an unlimited fine.

Enhanced Consumer Measures (ECMs)

7.4

The Court may include ECMs in an enforcement order. Trading Standards (or another enforcer) may also seek to include ECMs in an undertaking. ECMs are measures which aim to achieve one or more of:

- redress for consumers who have suffered loss from breaches of consumer law;
- remedies from traders who have breached consumer law to improve their compliance and reduce the likelihood of future breaches;
- remedies to give consumers more information so they can exercise greater choice and help improve the functioning of the market for consumers and other businesses

Civil Claims

7.5

In certain circumstances consumers may make a claim against a trader for breaches of some of the CPRs principles, in particular where misleading statements have been made about products and that information was relied upon.

Further guidance can be found at:

www.gov.uk/government/publications/misleading-and-aggressive-selling-new-rights-for-consumers

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