

Your ref
Our ref CRE/0629
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Dear

BUSINESS ADVICE FOR THE MICRO – RENEWABLE ENERGY INDUSTRY

The UK market for renewable energy is forecast to grow as consumers become increasingly aware of the potential benefits of solar power and other sustainable solutions to their domestic energy needs. This exciting new market offers many opportunities for business growth. However, recent investigations by the Office of Fair Trading (OFT) indicate that many new and start-up businesses are not aware of their legal requirements in relation to consumer protection.

We¹ are therefore writing to you, as one of many operators in the market for domestic solar heating and solar voltaic systems, in order to make you aware of new legislation which is coming into force this year and how this may impact on your business.

The Consumer Protection from Unfair Trading Regulations 2008

The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) will come into force on 26 May 2008. They implement the Unfair Commercial Practices Directive (UCPD) into UK law. The CPRs make significant changes to UK consumer

¹ The OFT is responsible for making markets work well for consumers. We achieve this by promoting and protecting consumer interests throughout the UK, while ensuring that businesses are fair and competitive. The OFT's activities in pursuit of this goal include the enforcement of consumer protection rules and the provision of advice and guidance to business. We also aim to raise standards by encouraging effective self-regulation through the Consumer Codes Approval Scheme.



protection law and aim to ensure a consistent, high level of consumer protection across the EU.

The CPRs apply to 'business to consumer' commercial practices before, during and after a contract is made. They contain a general prohibition of unfair commercial practices and, in particular, contain prohibitions of misleading actions and omissions and aggressive commercial practices. Examples that directly relate to the solar energy industry include:

- Providing false or misleading information as to the likely energy savings to be made on an installation or likely savings to be made over a specified period of time.
- Providing a misleading impression about the benefits of a product. We have examples where a trader claimed that a product provided heating (including background heating) when it did not - the product in effect was a water heater.
- Accepting deposits from consumers whilst omitting to mention the need for planning permission, salesmen claiming to have such permission when they do not, or misrepresenting the likelihood of obtaining such permission.
- Harassment of consumers. We have accounts from consumers who have been visited by salesmen in their homes where they have felt coerced into making a purchase and only entered into the purchase as a means by which to be rid of the salesman.

The OFT and local authority trading standards can enforce the new law by both civil and criminal proceedings and impose financial penalties for non-compliance.

The OFT and the Department of Business, Enterprise and Regulatory Reform (BERR) have produced guidance to help traders to comply with the CPRs. It seeks to illustrate how the CPRs may apply in practice. For a copy of the guidance please follow this web link –

http://www.offt.gov.uk/advice_and_resources/publications/guidance/cprregs/

You may alternatively wish to refer to the attached article at Annex A to this letter, which offers a succinct account of the CPRs and how they are likely to be used by the various enforcement authorities.

Proposed Cancellation of Contracts Made in a Consumer's Home or Place of Work Regulations 2008

These regulations will be made under the Consumers Estate Agents and Redress Act 2007 and will replace the 'Consumer Protection: (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987'.

In essence they will:

- Extend the cooling off period and the cancellation rights which currently apply to contracts made during unsolicited visits by traders to contracts made during **solicited** visits by traders; and
- Require that a notice of the right to cancel the contract be prominently and clearly displayed in the same document where the contract is completed wholly or partly in writing.

They effectively provide for a seven day cooling off period for any sales made in the home, solicited as well as unsolicited.

The proposed Regulations will apply more widely than the current Regulations. All traders who respond to a solicited approach by a consumer, and who enter into a contract with the consumer (whether oral or written) in the consumer's home or place of work (or at the home of another individual) or on an excursion organised by the trader and away from the trader's business premises are likely to be affected.

The proposed commencement date for the Regulations is October 2008.

As well as the web link above, you can also get advice from your local trading standards service about the operation of these new regulations. We would like to emphasise that any trader who treats consumers fairly is unlikely to fall foul of the new regulations. Due to problems consumers have encountered with some businesses in the emergent domestic renewable energy sector we will be monitoring traders' activities to ensure that consumers have confidence to purchase in what is a complex market.

We are of course happy to provide advice to fair dealing businesses so that they can ensure that their trading practices do not fall foul of the law but we will not hesitate to take action against rogue traders to protect both consumers and honest business. If you need to discuss any of the issues in this letter please contact my colleague Michael Stephenson, whose details can be found at the top of the letter.

Furthermore, If you are concerned about the activities of a competitor please do not hesitate to contact the OFT.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Haley', with a long horizontal flourish extending to the right.

Mike Haley
Director, Consumer Protection Group
The Office of Fair Trading