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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Directive [2006/114/EC](#) of the European Parliament and of the Council concerning misleading and comparative advertising (OJ No L376 27.12.2006, p 21) (“the Directive”). The Directive replaces Council Directive [84/450/EEC](#) concerning misleading and comparative advertising (OJ No L250 19.9.84, p 17) and codifies the amendments made to that directive. Council Directive [84/450/EEC](#) was implemented by the Control of Misleading Advertising Regulations 1988 ([S.I. 1988/915](#)). Those Regulations are revoked by the Consumer Protection from Unfair Trading Regulations 2008 ([S.I. 2008/1277](#)).

Part 1 prohibits advertising which misleads traders. This Part also sets out the conditions under which comparative advertising (namely advertising which identifies a competitor or a competitor’s product) is permitted. In addition this Part requires code owners (namely traders and bodies responsible for codes of conduct or monitoring compliance with such codes) not to promote misleading advertising and comparative advertising which is not permitted.

Part 2 provides for criminal offences and defences that apply where a trader engages in misleading advertising

Part 3 places a duty to enforce the Regulations on the OFT, local weights and measures authorities and the Department of Enterprise, Trade and Investment in Northern Ireland (“the enforcement authorities”). The enforcement authorities are given the power to take proceedings for an injunction to secure compliance with the Regulations.

Part 4 gives the enforcement authorities powers to investigate whether there has been a breach of the Regulations including a power to make test purchases and powers to enter premises with or without a warrant.

A transposition note and an impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector are available from the BERR website ([www.berr.gov.uk](http://www.berr.gov.uk)). They are also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)). Copies have also been placed in the Libraries of both Houses of Parliament.