

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3318 of 19 December, 2002

LEGAL NOTICE NO. 97 OF 2002

**MISLEADING AND COMPARATIVE ADVERTISING
ORDINANCE 2001**

[No. 1 of 2002]

NOTICE OF CORRIGENDUM

Delete heading and the whole of section 5 and insert:

**“Complaints – consideration by Consumer Officer and Designated
Persons.**

5.(1) The Minister may appoint by notice in the Gazette a Consumer Officer to administer the provisions of this Ordinance.

(2) It shall be the duty of the Consumer Officer to consider any complaint made to him that an advertisement is contrary to the provisions of this Ordinance, unless–

- (a) the complaint appears to the Consumer Officer to be frivolous or vexatious; or
- (b) a person appointed under subsection (3) has notified the Consumer Officer that he agrees to consider the complaint.

(3) Without prejudice to subsection (1), the Minister shall designate by notice in the Gazette, such persons or groups of persons who apply to him for designation and who, in his opinion, have as their sole or principal aim the promotion of interests of consumers.

(4) If a person designated under subsection (3) notifies the Consumer Officer that he agrees to consider a complaint that an advertisement is contrary to the provisions of this Ordinance, he shall be under a duty to consider that complaint.

(5) The Consumer Officer or, subject to subsection (6), a person designated under subsection (3) may apply for an injunction (including an interim injunction) against any person appearing to the Consumer Officer or that

person to be using, or recommending use of, an advertisement contrary to the provisions of this Ordinance.

(6) A person designated under subsection (3) may apply for an injunction only where—

- (a) he has notified the Consumer Officer of his intention to apply at least fourteen days before the date on which the application is made, beginning with the date on which the notification was given; or
- (b) the Consumer Officer consents to the application being made within a shorter period.

(7) The Court, on an application by the Consumer Officer or, subject to subsection (6), a person designated under subsection (3), may grant an injunction or such other order on such terms as it thinks fit: without prejudice to the generally of the foregoing, the court may direct the person responsible for any advertising found to be contrary to the provisions of this Ordinance—

- (a) to publish all or any part of the decision of the court,
- (b) to publish a statement correcting the said advertisement,

in such form and manner, and to such persons, as the Court, in its discretion, may see fit.

(8) The Consumer Officer or, subject to subsection (6), a person designated under subsection (3) –

- (a) may, if he considers it appropriate to do so, have regard to any undertakings given to him or to the Minister by or on behalf of any person as to the continued use of such advertising;
- (b) shall give reasons for his decision to bring or not to bring proceedings as the case may be for an injunction in relation to any complaint which this Ordinance requires him to consider.

(9) Notwithstanding a decision not to bring proceedings for an injunction under subsection (8)(b) any person may bring such proceedings in his own name.

(10) An injunction or other order may relate not only to use of a particular advertisement but to any similar advertisement, or advertisement having like effect, used, recommended or intended to be used by any party to the proceedings.

(11) The Minister may arrange for the dissemination in such form and manner as he considers appropriate of such information and advice concerning the operation of this Ordinance as may appear to him to be expedient to give to the public and to all persons likely to be affected by this Ordinance.”.

GIBRALTAR GAZETTE, No 3318, Thursday 19 December, 2002

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