

## Retspraksis

### Sagsoplysninger

**Nationalt ID-nr.:** The Sea and Trade Court, Judgement SH2019.BS-10001/2017-SHR

**Medlemsstat:** Danmark

**Almindeligt anvendt navn:** N/A

**Afgørelsestype:** Afgørelse fra en domstol i første instans

**Afgørelsesdato:** 10/10/2019

**Retsinstans:** Sø- og Handelsretten

**Emne:**

**Sagsøger:**

**Sagsøgt:**

**Nøgleord:** Misleading advertising, product characteristics, comparative advertising, competition

### Direktivets artikler

Misleading and Comparative Advertising Directive, [Article 3](#) Misleading and Comparative Advertising Directive, [Article 3](#) Unfair Commercial Practices Directive, [Chapter 2](#), [Article 5](#)

### Indledende note

If a store uses well-known (high profile) brands as a lever to promote its own labels, it is considered contrary to good practice pursuant to the Danish Commercial Practice Act article 3 and 4 (former article 1 and 3) and misleading pursuant to the Danish Commercial Practice Act article 20 (former article 5).

Relevance: Helps fill out the broad standards of unfair commercial practice and misleading commercial practice.

### Fakta

The seller ran a campaign called 'the choice is yours' and showed known brands and their own cheaper version of a similar product next to it. The campaign ran in the seller's weekly catalogue.

### Juridisk spørgsmål

The question was whether the use of the known brands was regarded as taking advantage of the goodwill of these brands and whether the seller disparaged the known brands. This would be an unfair commercial practice and misleading commercial practice.

### Afgørelse

The advertising was regarded as contrary to good practice and misleading because it used the high-profile brands as a lever to promote their own products.

Hele teksten: [Hele teksten](#)

### Relaterede sager

Ingen resultater

### Retslitteratur

Ingen resultater

### Resultat

This First Instance Court judgement is from the specialised Sea and Trade Court. Through this judgement, the Court helps interpret the legal frame for the broad standard in regards to article 5, 2005/29 relating to the unfairness test. It also helps interpret the legal frame of article 3, Directive 2006/114 relating to misleading advertising.