

Teismų praktika**Bylos aprašymas**

Nacionalinis numeris: Supreme Administrative Court, Judgement eA-3490-502/2019

Valstybė narė: Lietuva

Bendrinis pavadinimas: N/A

Sprendimo rūšis: Administracinis sprendimas apeliacinėje byloje

Sprendimo data: 03/04/2019

Teismas: Supreme Administrative Court of Lithuania

Tema:

Ieškovas:

Atsakovas:

Raktažodžiai: misleading advertising, promotional sales

Direktyvos straipsniai

Misleading and Comparative Advertising Directive, [Article 2, \(b\)](#) Misleading and Comparative Advertising Directive, [Article 3](#) Misleading and Comparative Advertising Directive, [Article 3](#)

Ižanginė pastaba

An advertisement, the wording of which clearly announces a one-day big sale of up to 80% for perfume and household appliances, which redirects the consumer to the seller's online store without first providing any additional information about the announced promotion, when in fact only one type of perfume from 171 different brands is on sale with that kind of discount and the maximum discount does not apply to any of the household appliances at all, does not meet the criteria of fair advertising laid down in Article 5 (2) (1) of the Lithuanian Law on Advertising and the criteria for the submission of advertising laid down in Article 5 (2) (3) of the Lithuanian Law on Advertising.

Faktai

An online store named "Pigu" (plaintiff) disseminated an advertisement promoting a one-day big sale of up to 80% for perfume and household appliances, which redirects the consumer to the seller's online store without first providing any additional information about the announced promotion, when in fact only one type of perfume from 171 different brands was on sale with that kind of discount and the maximum discount did not apply to any of the household appliances at all. Competition Council of the Republic of Lithuania (defendant) found this advertisement to be misleading and as a result fined the plaintiff. The plaintiff requested the Court annul the defendant's administrative act.

The First Instance Court dismissed the action.

Teisės klausimas

Does an advertisement with wording which clearly announced a one-day big sale of up to 80% for perfume and household appliances, which redirects the consumer to the seller's online store without first providing any additional information about the announced promotion, when in fact only one type of perfume from 171 different brands was on sale with that kind of discount and the maximum discount did not apply to any of the household appliances at all, meets the criteria of fair advertising laid down in Article 5 (2) (1) of the Law on Advertising and the criteria for the submission of advertising laid down in Article 5 (2) (3) of the Law on Advertising?

Sprendimas

No. The Court said that the advertising disseminated by the seller, the wording of which clearly advertised a one-day big sale of up to 80% for perfumes and household appliances, which immediately redirected the consumer to the seller's online store without first being provided any additional information about the announced promotion, could have had a direct effect on the consumer's economic behaviour. The panel of judges agreed with The Court of First Instance's finding that the advertising was presented in such a way that the average consumer, reasonably well informed and reasonably observant and circumspect, could understand, considering social, cultural and linguistic factors, that the discount would apply to both perfume and household appliances.

As mentioned above, the applicant applied the discount mentioned in the advertisement in question to only 1 product - one perfume from 171 different perfumes (which accounted for only 0.58% of the range of perfumes included in the promotion) and did not apply the maximum discount to household appliances at all. The Court of First Instance correctly found that the advertising relating to the promotion disseminated by the seller on billboards and newsletters did not meet the criteria of fair advertising required by Article 5 (2) (1) of the Law on Advertising and the criteria for the submission of advertising set forth in Article 5 (2) (3) of the Law on Advertising.

The panel of judges found that The Court of First Instance, having properly assessed the relevant facts of the dispute, correctly interpreted and applied substantive law, complied with procedural requirements, reasonably acknowledged the violation of Article 5 of the Law on Advertising, and therefore ruled reasoned and lawful and rejected the seller's complaint.

Visas tekstas: [Visas tekstas](#)

Susijusios bylos

Rezultatų nėra

Teisinė literatūra

Rezultatų nėra

Rezultatas

The Court left the decision of The Court of First Instance unchanged.