

Case law**Case Details**

National ID: PS105

Member State: Italy

Common Name: PUBBLICITÀ GIOCO DEL LOTTO SU CANALI SKY

Decision type: Administrative decision, first degree

Decision date: 23/12/2008

Court: Italian Competition Authority

Subject:

Plaintiff:

Defendant:

Keywords: misleading advertising

Directive Articles

Unfair Commercial Practices Directive, [Annex I, 16](#).

Headnote

Any declaration aimed at convincing the consumer that by means of specific methods and/or instruments the degree of risk concerning lottery or any other games based on the combination of numbers may be reduced, constitutes a misleading activity.

Facts

The case was initiated by two consumer complaints reported at the call center of the Authority on 22 November 2007 and on 8 January 2008, concerning the possible unfairness of the commercial practice allegedly consisting in the transmission of advertising messages by Telefortunesat on the satellite channel "917" (Sky).

These advertising messages were aimed at promoting a payment telephone service for the forecast of the numbers to be played at the Italian lotteries. Moreover, the winning number were provided by some sort of specialists by phoning a payment telephone number.

On 26 June 2008, the Authority started its investigation proceeding against Telefortunesat. On 31 July 2008, it ordered to suspend the suspected unfair practice.

Since the practice was carried out by using TV and telephone, the opinion of the Italian Communication Authority was requested on 14 November 2008.

Legal issue

The Italian Competition Authority decided that the practice carried out by Telefortunesat constitutes an unfair commercial practice and, in particular, a per se misleading advertising, since it is able to misguide consumers.

Decision

Whether a declaration aimed at convincing consumers that by means of specific methods and/or instruments the degree of risk concerning lottery or any other games based on the combination of numbers may be reduced, constitutes a misleading activity.

URL: <http://www.agcm.it/index.htm>

Full text: [Full text](#)

Related Cases

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Legal Literature

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Result

The Italian Competition Authority decided to fine Telefortunesat on the basis of the gravity and duration of the practice for an amount equal to Euro 140,000 and to impose to cease the unfair behaviour.