

**Case law****Case Details**

**National ID:** Qorti Ta' L-Appell Seduta 24 ta' April 2009. Appell Civili Numru 15/2008

**Member State:** Malta

**Common Name:** N/A

**Decision type:** Court decision in appeal

**Decision date:** 24/04/2009

**Court:** Court of Appeal (Valletta)

**Subject:**

**Plaintiff:** Maria Geraldine Attard

**Defendant:** Go Mobisle Communications Limited

**Keywords:** deceiving commercial practice, misleading advertising

**Directive Articles**

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 4.](#)

**Headnote**

(1) The term "unlimited" in contracts/agreements for internet services is a misleading commercial practice capable of deceiving the average consumer.

(2) The term "unlimited" in the tariff plan is not to be regarded as an exaggerated statement which is not meant to be taken literally.

**Facts**

Defendant overcharged plaintiff when she had signed a contract stipulating "unlimited" access in the tariff plan.

The court acknowledged the fact that the word "unlimited" was found in writing (inserted by hand into the contract under the title "Tariff Plan").

The plaintiff made express reference to Articles 51A to 51J to Part VII of the Consumer Affairs Act, which renders a commercial practice misleading if it in any way, including its overall presentation, deceives or is likely to deceive the average consumer or is likely to cause him to take a transactional decision that he would not have taken otherwise.

**Legal issue**

The Court of Appeal reasoned that plaintiff had been offered a service of "five gigabytes download" on an "unlimited" basis and that the Consumer Tribunal was correct in determining that the plaintiff had to be protected, as this was a clear misrepresentation of facts aimed at deceiving the consumer.

**Decision**

Is the insertion of the word "unlimited" a misleading description for an internet access subscription?

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**Result**

The appeal was dismissed.