

Rättspraxis**Uppgifter om ärendet****Nationellt id-nummer:** MD 2010:8**Medlemsstat:** Sverige**Vedertaget namn:** N/A**Beslutstyp:** Domstolsbeslut överklagat**Beslutsdatum:** 12/03/2010**Domstol:** Marknadsdomstolen (Stockholm)**Ämne:****Kärande:** Toyota Sweden AB**Svarande:** Volvo Personbilar Sverige Aktiebolag**Nyckelord:** misleading actions, misleading advertising, misleading statements, transactional decision**Direktivartiklar**

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 1](#). Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2](#). Unfair Commercial Practices Directive, [Chapter 2, Article 5, 4., \(a\)](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 1](#).

Huvudanmärkning

Claiming to produce the "safest car in the world" is misleading and unfair when no proof can be provided of this statement, because such statements may influence the transactional decision of a consumer.

Omständigheter

The defendant had developed a marketing campaign site for its new car, which was used during three weeks in the year 2009 throughout television, ads and a campaign at the company's web. Some of the ads referred to the special safety functions of the car, for example "City Safety" and "Driver alert control" and were ended by the phrase "i.e. the safest car in the world".

The plaintiff requested that the defendant stop using the phrase or similar phrases in its marketing, should the statement be considered untrue.

Juridisk fråga

Is it misleading to use a bold statement such as "the safest car in the world" in advertisements?

Beslut

The court found that the defendant had not provided any proof in terms of the far-reaching statements at hand. I.e., the defendant had not been able to present any evidence that the car in question actually was the safest car in the world. In consideration hereof, the court found the statement unreliable and therefore misleading.

In terms of whether the misleading marketing had affected any consumer in regards to making a well-founded transactional decision, the court reasoned as follows.

The decision to purchase the relevant product (or not to make such purchase) is indeed a transactional decision in the meaning of the law. However, it must be noted that the term "transactional decision" should be considered to cover many other situations as well, covering also other decisions that a consumer may make during the process up to the purchase as such, as well as actions taken after such purchase has been made.

In the opinion of the court, it was consequently found that if a consumer decided to take any further actions, due to the commercial announcement (e.g., visit a store or a web site in order to be provided with additional information on the product), such action is to be considered a transactional decision.

In the present case, the court consequently found it sufficient that the marketing was likely to awake an interest among the average consumer and attract the consumers in terms of gathering further product information in regards to the car.

The court further argued that, with respect to the goodwill of the defendant and the defendant being known for manufacturing cars with high safety standards, a statement as the one at hand was even more likely to be observed and considered important and consequently making it even easier to attract the interest of an average consumer. With reference hereto, the court found that the marketing was both misleading and unfair.

URL: <http://www.marknadsdomstolen.se/avgoranden/avgoranden2010/Dom2010-8.pdf>

Hela texten: [Hela texten](#)

Ärendesamband

Inga träffar

Doktrin

Inga träffar

Resultat

The marketing was found untrue and misleading and the plaintiff was granted its request.