

Case law**Case Details**

National ID: Decision nr DDK 1/2009

Member State: Poland

Common Name: link

Decision type: Administrative decision, first degree

Decision date: 28/04/2009

Court: The Office of the Competition and Consumer Protection in Warsaw

Subject:

Plaintiff: The President of the Office of Competition and Consumer Protection

Defendant: Media Markt Polska sp. z o.o. (Warsaw)

Keywords: after-sales service, average consumer, complaints, misleading actions, professional diligence

Directive Articles

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

Headnote

It is contrary to the requirements of professional diligence and the code of conduct regarding complaint handling to obstruct a consumer in executing his rights, by requiring a consumer who returns a product within six months due to non-conformity, to prove the non-conformity at the moment the product was received.

Facts

The defendant sells a wide variety of products to consumers, such as television and image systems, sound systems, cameras, DVD films, music, CD, computer games, computers and cell phones.

The object of the proceedings initiated by the President of the Office of Competition and Consumer Protection was the trader's complaint handling procedure. The trader obstructed the consumers in executing their rights resulting from the non-conformity of the goods with the agreement, by rejecting complaints lodged by consumers within six months of the reception of the good, when the consumer could not prove the non-conformity of the goods at the moment they were received.

Legal issue

The President of the Office of Competition and Consumer Protection considered the defendant's practice to be contrary to the requirements of professional diligence and code of conduct regarding complaint handling. The President also considered that such commercial practice obstructs the execution of the consumer's rights.

Decision

Is it an unfair commercial practice to obstruct a consumer in executing his rights, by requiring a consumer who returns a product within six months due to non-conformity with the agreement, to prove the non-conformity at the moment the product was received?

URL: [http://decyzje.uokik.gov.pl/dec_prez.nsf/0/EDE390387B75BACAC12575C1004B81DA/\\$file/Media%20Markt%20Colsztyn%20-%20projekt%20decyzji%20-%2028.04.09%20-%20final%20II%20-%20druk_%20usuni_352te%20dane%20finansowe.pdf](http://decyzje.uokik.gov.pl/dec_prez.nsf/0/EDE390387B75BACAC12575C1004B81DA/$file/Media%20Markt%20Colsztyn%20-%20projekt%20decyzji%20-%2028.04.09%20-%20final%20II%20-%20druk_%20usuni_352te%20dane%20finansowe.pdf)

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Related Cases

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Legal Literature

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Result

The practice of the trader was found to be unfair. A financial penalty of PLN 748.982,44 (about 188.000 EUR) was imposed.