

Case law

Case Details

National ID: Decision no. RBG-18/2010

Member State: Poland

Common Name: link

Decision type: Administrative decision, first degree

Decision date: 15/11/2010

Court: The President of Office of Competition and Consumer Protection, Delegation in Bydgoszcz

Subject:

Plaintiff: Marek Pawlowski conducting business activity under name "Fordoński Zakład Usług Pogrzebowych" with its registered office in Bydgoszcz

Defendant: The President of Office of Competition and Consumer Protection

Keywords: false information, price comparison, price information

Directive Articles

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

Headnote

Constitutes an unfair commercial practice, advertising funeral services as being the cheapest, while in fact a comparison with the prices of similar services offered by competitors of that trader who are active in the trader's neighboring, indicates that the prices of the trader are not the cheapest.

Facts

The defendant provides services connected with organizing funerals. It advertised its services as being the cheapest.

The President initiated proceedings which were aimed at establishing whether such advertisements may be recognized as misleading and therefore constitute an unfair commercial practice.

Legal issue

The President compared the prices offered by the defendant with the prices of similar services provided by other traders acting in the neighboring area. The President concluded that by advertising his services as being the cheapest, the defendant misled the consumers.

The President emphasized that the average consumer usually is not interested in prices of funeral services, and in the event he may actually need those service, he usually does not compare prices. Moreover, consumers do not often make use of funeral services and, given the fact that they might have just lost a close person, consumer are generally susceptible to advertising such as that carried out by the defendant. In the light of the above, the President comes to the conclusion that the commercial practice of the defendant has distorted the consumers' behavior, i.e. the decision whether to obtain services from the defendant.

The President ruled that the defendant breached the prohibition on unfair commercial practices consisting in using misleading advertisements and that the defendant violated articles 5 section 1 and 2 point 1 and section 3 point 5 in connection with article 4 section 1 and 2 of the Unfair Commercial Practices Act, as well as article 24 section 1 and section 2 point 3 of the Competition and Consumer Protection Act.

Decision

Does advertising offered services as being the cheapest constitute an unfair commercial practice ?

URL: [http://decyzje.uokik.gov.pl/dec_prez.nsf/0/E4B55BCEA2EC844DC1257825003D09E6/\\$file/RBG-61-05_10_MB-S%20-Decyzja%20_Fordo_361ski%20Zak_263ad%20Pogrzebowy_.pdf](http://decyzje.uokik.gov.pl/dec_prez.nsf/0/E4B55BCEA2EC844DC1257825003D09E6/$file/RBG-61-05_10_MB-S%20-Decyzja%20_Fordo_361ski%20Zak_263ad%20Pogrzebowy_.pdf)

Full text: [Full text](#)

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Result

The commercial practice was found to be unfair.

The President ordered the defendant to publish the decision in a local newspaper.

No financial penalty was imposed.