

Case law

Case Details

National ID: MD 2010:31

Member State: Sweden

Common Name: link

Decision type: Court decision in appeal

Decision date: 22/12/2010

Court: The Swedish Market Court (Stockholm)

Subject:

Plaintiff: The Consumer Ombudsman

Defendant: Tanglin Asset Management AB

Keywords: communication medium, financial services, investments, risk

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 1](#). Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 3](#).

Headnote

(1) The use of a banner which redirects the consumer to the website of a trader, constitutes a commercial practice.

(2) The omission to display mandatory information required by law in a banner, constitutes an unfair commercial practice.

Facts

The defendant, an asset management company, rented a banner on a third party webpage which was linked to the defendants' webpage. The banner displayed limited information concerning the defendants investment services. In the event the consumers clicked on the banner, they were redirected to the defendant's webpage, on which all information required by law was available.

The plaintiff, however, stated that the limited information displayed on the banner was misleading. It requested that the defendant would also display all mandatory information in the banner as required by law, e.g. information regarding risk.

Legal issue

(1) The court first assessed whether the use of a banner could be considered as a marketing practice.

The court first that the banner's primary function was to provide a link to the defendant's webpage. However, the court considered, the banner equally contained commercial information recommending the defendant's investment services. As a result, the use of the banner should be considered a commercial practice as a form of marketing.

(2) According to the court, each single marketing unit must contain the necessary information as required by law. As a result, the banner in question should have contained information regarding the risks related to with the defendant's investment services.

Decision

(1) Does the use of a banner which redirects the consumer to the website of a trader, constitute a commercial practice?

(2) If so, does the omission to display mandatory information required by law in a banner, constitute an unfair commercial practice?

URL: <http://www.marknadsdomstolen.se/avgoranden/avgoranden2010/Dom2010-31.pdf>

Full text: [Full text](#)

Related Cases

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Legal Literature

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Result

The commercial practice was found to constitute an unfair commercial practice and the plaintiff was granted its request.