

## Case law

### Case Details

**National ID:** 2S-8

**Member State:** Lithuania

**Common Name:** link

**Decision type:** Administrative decision, first degree

**Decision date:** 17/03/2011

**Court:** Competition Council of the Republic of Lithuania (Vilnius)

**Subject:**

**Plaintiff:**

**Defendant:** UAB "Greitojo pašto paslaugos"

**Keywords:** black list, cure, dysfunctions, economic behaviour, malformations, material distortion, misleading advertising, misleading commercial practices

### Directive Articles

Unfair Commercial Practices Directive, [Chapter 1, Article 2, \(d\)](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 1.](#) Unfair Commercial Practices Directive, [Annex I, 1.](#) Unfair Commercial Practices Directive, [Annex I, 17.](#)

### Headnote

The non-substantiated claim by a trader that a product is able to help losing weight, must be regarded as a false claim that a product is able to cure illnesses, in the sense of item 17 of the UCP black list.

### Facts

The defendant used a number of advertisements for promoting the slimming method called "Slimpatch", a plaster allegedly helping to lose weight.

The advertisements included the following wording: "The effect is guaranteed without specific diets, starvation and wasting exercises. This plaster will help you fighting overweight. <...> In 7 days only you can lose your first kilos without specific diets and difficult and wasting exercises. <...> You can lose up to 5 kilos per week. You can lose up to 5 and 6 kilos within the first week so easily. That is up to 1 kilo per day. This helped a lot of women in the whole world return to requested body shapes without strict diets, wasting exercises and by using natural means only <...> without material difficulties, a specific diet and complex exercises only by way of 7 days Slimpatch course you may lose your first unnecessary kilos <...>".

### Legal issue

The Competition Council concluded that the defendant's statements were misleading advertisements under the misleading advertising regulation which had been in place before introduction of the domestic unfair commercial practices regulation, as the defendant did not present evidence proving the advertised effect of the slimming method "Slimpatch".

The Competition Council further noted that the defendant's activity in question should also be considered a commercial practice. The Council referred to the Lithuanian Law on Advertising pursuant to which an advertisement is in all circumstances regarded as misleading if it falls within the misleading part of the blacklist and particularly the prohibition of falsely claiming that a product is able to cure illnesses, dysfunction or malformations.

The Competition Council followed the European Commission's Guidance on the Implementation/Application of the UCP Directive by stating that the said prohibition is also applicable to products or services, such as cosmetics, aesthetic treatments, wellness products, and similar, which are intended to produce certain improvements of the physical conditions of a human body. As noted in the Guidance, in order not to trigger the prohibition, traders must be able to substantiate any factual claims of this type with scientific evidence.

Following the conclusions of competent authorities, it was noted that overweight is an illness and, therefore, the said statements are considered as relating to effect upon human health. As the defendant did not present evidence objectively proving this effect, the said statements were concluded to be false claims that a product is able to cure illnesses, dysfunction or malformations.

### Decision

Should the non-substantiated claim by a trader that a product is able to help losing weight, be regarded as a false claim that a product is able to cure illnesses, in the sense of item 17 of the UCP black list?

URL: [http://www.konkuren.lt/index.php?show=nut\\_view&nut\\_id=1243](http://www.konkuren.lt/index.php?show=nut_view&nut_id=1243)

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### Related Cases

No results available

### Legal Literature

No results available

### Result

A number of the defendant's statements were concluded to be an unfair commercial practice and a misleading advertising. A fine of LTL 10,000 (approx. EUR 2,857) was imposed on the defendant.