

**Teismų praktika****Bylos aprašymas**

**Nacionalinis numeris:** 2S-18

**Valstybė narė:** Lietuva

**Bendrinis pavadinimas:** N/A

**Sprendimo rūšis:** Administracinis sprendimas, pirmoji instancija

**Sprendimo data:** 10/09/2009

**Teismas:** Lietuvos Respublikos konkurencijos taryba (Vilnius)

**Tema:**

**Ieškovas:**

**Atsakovas:** UAB "Druskininkų Rasa"

**Raktažodžiai:** average consumer, black list, competition, economic behaviour, false impression, misleading advertising, misleading commercial practices

**Direktyvos straipsniai**

Unfair Commercial Practices Directive, [Chapter 1, Article 2, \(d\)](#) Unfair Commercial Practices Directive, [Annex I, 1.](#) Unfair Commercial Practices Directive, [Annex I, 19.](#)

**Ižanginė pastaba**

A promotional offer to win a prize, where in reality essential elements of the prize are not provided when awarded the prize, constitutes a competition or prize promotion without awarding the prizes described or a reasonable equivalent (item 19 of the UCP black list).

**Faktai**

The defendant launched an advertising campaign stating "Buy any sort of RASA drinks and win a dream motorboat".

The Competition Council received a consumer's complaint claiming that he won the main prize.

According to the complaint, the motorboat won was in fact without engine, while the promotional materials depicted a picture of a motorboat with engine and running on water.

Conversely, the defendant held that a motorboat without an engine was advertised in its promotion.

**Teisės klausimas**

Does a promotional offer to win a prize, where in reality essential elements of the prize are not provided when awarded the prize, constitute a competition or prize promotion without awarding the prizes described or a reasonable equivalent (item 19 of the UCP black list)?

**Sprendimas**

The Council recalled that in order to determine a violation on unfair commercial practices, it is sufficient that the practice falls within the blacklisted practices.

However, in view of the defendant's claim that a motorboat without an engine was promoted, the Competition Council additionally investigated compliance with misleading advertising regulation which had been in place before introduction of the unfair commercial practices regulation.

The Council stated that the picture of a motorboat used in the promotional materials, suggested to an average consumer that the prize would have an engine. It was noted that consumers would not likely participate in the campaign if they were aware of the fact that in order to use the advertised prize they would have to incur significant costs themselves.

The Council thus concluded, that the defendant committed a blacklisted misleading commercial practice.

URL: [http://www.konkuren.lt/index.php?show=nut\\_view&nut\\_id=1064](http://www.konkuren.lt/index.php?show=nut_view&nut_id=1064)

Visas tekstas: [Visas tekstas](#)

**Susijusios bylos**

Rezultatų nėra

**Teisinė literatūra**

Rezultatų nėra

**Rezultatas**

The defendant's advertising campaign was concluded to be an unfair commercial practice and a misleading advertisement. As it did not harm significantly the values protected by the laws, an official warning was imposed on the defendant.