

Case law**Case Details**

National ID: 258/12.02.2010

Member State: Romania

Common Name: link

Decision type: Court decision, first degree

Decision date: 12/02/2010

Court: Courthouse of Medias (Medias)

Subject:

Plaintiff: Sports club "Gaz Metan Medias"

Defendant: Territorial Commissary for Consumers' Protection Sibiu

Keywords: average consumer, consumer rights, economic interests

Directive Articles

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

Headnote

(1) It is a misleading practice to sell products with identical, non-reconcilable characteristics.

(2) The fact that no consumer interest was harmed by a commercial practice, does not influence the qualification of such practice as unfair.

Facts

The plaintiff, a football sports club, sold tickets to various customers. It was established that some tickets were identical, by containing an identical serial number or referring the buyer to the same seat number.

A consumer having bought an already booked seat, was forced to watch the game from another seat than the one indicated on the ticket.

According to the plaintiff, the errors were caused by malfunctions in its printing system.

Legal issue

(1) According to the court, the plaintiff breached the prohibition on unfair commercial practices.

In the court's view, the plaintiff committed a misleading omission, due to the fact that the trader had omitted to provide essential information in a clear manner, thus likely to cause the average consumer to take a transactional decision he would not have taken otherwise.

(2) Further, the court did not agree with the plaintiff's defense.

The fact that the consumer still had the possibility to watch the game, be it from another seat, along with the fact that, according to the plaintiff, the practice was caused by a one-time only technical malfunction, was held by the court not to suffice as to influence the misleading nature of the practice.

On a side note, these facts were able to influence the amount of the sanctions that were applied.

Decision

(1) Is it a misleading practice to sell products with identical, non-reconcilable characteristics?

(2) Does the fact that no consumer interest was harmed by a commercial practice, influence the qualification of such practice as unfair?

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Result

The request of the plaintiffs to change the degree of the sanction applied was granted.