

Case law**Case Details**

National ID: 29 U 2357/11

Member State: Germany

Common Name: link

Decision type: Court decision in appeal

Decision date: 20/10/2011

Court: Higher Regional Court Munich (Munich)

Subject:

Plaintiff:

Defendant:

Keywords: information requirements, material information, misleading omissions, trader

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 1.](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 4., \(b\)](#)

Headnote

A trader has an obligation to mention its legal form in advertising materials.

Facts

The plaintiff placed commercial advertisements referring to its products without providing information on its own legal form.

In the first instance the court held this behaviour to be unlawful with respect to the law against unfair competition on the basis of a misleading omission of the identity of the trader, this being material information. The plaintiff appealed against this decision.

Legal issue

The court held that the plaintiff must provide the information on its legal form according to § 5 a III UWG which implements Art 7 section 4 of the UCP Directive into national law. The plaintiff advertised its products and this - according to the definition in Art 2 lit i) of the UCP Directive - constitutes an invitation to purchase as it is more than mere advertising for general attention.

Therefore, the court held, the legal form of the advertiser must be indicated. This information requirement is also material according to § 5 a III UWG (Art 7 section (5) of the UCP Directive).

Decision

Does a trader have an obligation to mention its legal form in advertising materials?

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Result

The court dismissed the appeal. The defendant's request was granted.