

**Case law****Case Details**

**National ID:** 4Ob79/12i

**Member State:** Austria

**Common Name:** link

**Decision type:** Supreme court decision

**Decision date:** 02/08/2012

**Court:** Supreme Court (Vienna)

**Subject:**

**Plaintiff:** Unknown

**Defendant:** Unknown

**Keywords:** general scope of the UCP Directive, unfair competition

**Directive Articles**

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 1](#). Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2., \(a\)](#)

**Headnote**

A breach of regulatory provisions constitutes a commercial practice which is subject to the provisions of the UCP Directive?

**Facts**

The decision does not precisely describe the facts, but it is apparent that the matter at stake concerned an advertisement of the defendant, an Austrian dentist.

The Austrian Dentists Act provides for certain limitations on advertisements and the plaintiff claimed a breach of such limitations by the advertisement in question.

**Legal issue**

The Supreme Court once again confirmed its position that a breach of regulatory provisions can cause a competitive advantage and, therefore, that the practice (of breaching said provision) should be considered a commercial practice subject to the provisions as laid down in the UCP Directive.

In the case at hand, the Supreme Court has rejected the revision appeal for formal reasons and has thus confirmed the decision of the court of appeal.

**Decision**

Does a breach of regulatory provisions, constitute a commercial practice which is subject to the provisions of the UCP Directive?

Full text: [Full text](#)

**Related Cases**

No results available

**Legal Literature**

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**Result**

The appeal was rejected for formal reasons.