

**Case law****Case Details****National ID:** 11-27729**Member State:** France**Common Name:** 11-27729**Decision type:** Supreme court decision**Decision date:** 04/12/2012**Court:** Supreme Court**Subject:****Plaintiff:** Société Pewterpassion.com and Société Saumon's**Defendant:** Société Leguide.com**Keywords:** advertisement, internet, misleading omissions, price comparison, price information**Directive Articles**Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 1.](#)**Headnote**

Omitting to mention the fact that a trader has paid to give priority to its commercial offers, constitutes an unfair and misleading commercial practice.

**Facts**

Defendant provides premium display of traders' commercial offers in its price comparison website against remuneration. This means that traders, who pay for the advertisement, are given an advantage to those who have not paid. This may lead the consumer into believing that the trader who has paid for the advertisement, is also effectively the best from the viewpoint of the price comparison.

The court of appeal ruled that this practice constitutes an unfair and misleading commercial practice.

**Legal issue**

According to the court, the lack of information relating to the privileged display (i.e. the fact that the trader has actually paid to obtain such a privileged display) is likely to materially distort the economic behaviour of the average consumer who is oriented first towards the paid offers and deprived of objective choice criteria.

The court therefore considered that this practice constitutes a misleading omission as the consumer has not been provided with all material information to take an informed transactional decision.

**Decision**

Does the omission to mention the fact that a trader has paid to give priority to its commercial offers, constitute an unfair and misleading commercial practice?

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**Result**

The plaintiff's claim was granted.