

**Oikeuskäytäntö****Tapaustiedot**

**Kansallinen tunniste:** KUV/3853/41/2012

**Jäsenvaltio:** Suomi

**Lyhytnimi:** Kuluttaja-asiamiehen ratkaisu

**Päätöksen tyyppi:** Muu

**Päätöksen päivämäärä:** 08/03/2013

**Tuomioistuim:** Kuluttaja-asiamies

**Aihe:**

**Kantaja:** Consumer Ombudsman

**Vastaaja:** Samsung Electronics Nordic, Gigantti Oy Ab (Ltd)

**Avainsanat:** guarantee, telephone, terms and conditions, unfair terms

**Direktiivin artiklat**

Consumer Sales and Guarantees Directive, [link](#) Consumer Sales and Guarantees Directive, [Article 6](#) , [2.](#), -

**Ylähuomautus**

A trader cannot limit its liability for defects in the terms of guarantee where the properties of the consumer goods have been marketed as free from such defects.

**Taustatiedot**

Samsung Galaxy Xcover mobile phones were marketed as weatherproof. However, liability for moisture damages was limited in the guarantee coverage.

**Oikeudellinen kysymys**

Is a trader bound by product information provided in marketing when applying the terms of guarantee of the trader?

**Ratkaisu**

According to the chapter 5 section 15 a subsection 3 of the Consumer Protection Act, the guarantee shall not limit the liability provided for in the Act. The Supreme Court has stated in its judgement KKO 2004:123 that conditions which are against the compelling provisions of chapter 5 of the Consumer Protection Act can be found unreasonable for the consumer within the meaning of chapter 3 section 1 of the Consumer Protection Act. Ambiguous guarantee terms are likewise unreasonable.

The Consumer Ombudsman considered the defendants liable for defects in the goods regardless of the limitation in its terms of guarantee. The terms of the guarantee were inconsistent with information provided in the marketing of the goods. Furthermore, the terms of the guarantee did not mention that the guarantee limits the legal rights of the consumer. The Consumer Ombudsman found that the guarantee clause limiting the liability from moisture damage was unreasonable to consumers.

URL: <http://www.kkv.fi/ratkaisut-ja-julkaisut/ratkaisut/arkisto/2013/Kuluttaja-asiamiehen-ratkaisut/matkapuhelimen-kohtuuton-takuuehto/>

Koko teksti: [Koko teksti](#)

**Asiaan liittyvät tapaukset**

Ei tuloksia saatavilla

**Oikeuskirjallisuus**

Ei tuloksia saatavilla

**Hakutulos**

The Consumer Ombudsman found that the warranty clause limiting the moisture defects is unreasonable to the consumer. Although the defendants had reported that they did not invoke the warranty clause in practice and had complied with a milder practice towards consumers, the unreasonableness of the warranty clause was not removed by this fact because the defendants had not informed consumers about the practice. The defendants changed the terms of guarantee on their own initiative.