

**Case law****Case Details****National ID:** MD 2008:1**Member State:** Sweden**Common Name:**link**Decision type:** Court decision in appeal**Decision date:** 17/01/2008**Court:** The Swedish Market Court**Subject:****Plaintiff:** Synsam Service Aktiebolag**Defendant:** Specsavers Sweden AB**Keywords:** commercial guarantee, commercial offer, guarantee, product marketing**Directive Articles**Consumer Sales and Guarantees Directive, [Article 5, 1](#).**Headnote**

A commercial guarantee is considered misleading if provides an exaggerated representation of the scope and content of the guarantee.

**Facts**

The defendant has carried out a marketing campaign in various medias. The campaign contained of a "2 for 1" offer, or similar offers and promise of a "100 % satisfied customer guarantee".

The 100 % satisfied customer guarantee implies that the customer may exchange his or her glasses within thirty days from the purchase, irrespective of the reason for the exchange. However, provided that the glasses are returned undamaged and in saleable condition.

The applicant has brought an action against the defendant on the basis that the defendant's marketing is misleading and unfair.

**Legal issue**

The court prohibits the defendant, under the penalty of a fine, to use the term "100 % satisfied customer guarantee" for the defendant's undertakings when marketing glasses, when said guarantee only includes an exchange right or is limited in substantially the same manner.

The court found that the guarantee provided by the defendant is a commercial guarantee that exceeds the customer's benefits under law.

However, the prefix 100 % gives an impression that the undertaking is particularly far-reaching and comprehensive. The average consumer may believe that he or she is entitled to cancel the purchase and receive the money back, without any limitations and for any reason. It is however not evident from the marketing that this should be the case, and neither has this been claimed by the defendant. Therefore, the 100 % satisfied customer guarantee constitutes an exaggerated representation of the content and scope of the guarantee. The marketing is hence considered misleading and also unfair.

**Decision**

Is a commercial guarantee considered misleading if provides an exaggerated representation of the scope and content of the guarantee?

URL: <http://www.marknadsdomstolen.se/Filer/Avgöranden/Dom2008-01.pdf>

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**Result**

The Court approves the plaintiff's claims.