

Case law

Case Details

National ID: Benny Borg Bonello fil- kwalita' tieghu ta' President tal- Ghaqda tal- Konsumaturi v. Awtorita ta' Malta ghall- Kompetizzjoni u ghall- Affarijiet tal- Konsumatur u d- Direttur Ġenerali (Affarijiet tal- Konsumatur)

Member State: Malta

Common Name: N/A

Decision type: Administrative decision in appeal

Decision date: 26/02/2014

Court: Competition and Consumer Appeals Tribunal

Subject:

Plaintiff: Benny Borg Bonello fil- kwalita' tieghu ta' President tal- Ghaqda tal- Konsumaturi

Defendant: Awtorita ta' Malta ghall- Kompetizzjoni u ghall- Affarijiet tal- Konsumatur u d- Direttur Ġenerali (Affarijiet tal- Konsumatur)

Keywords: misleading commercial practices, misleading omissions

Directive Articles

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

Headnote

Lack of information regarding the conditions under which a transport services company can fine its passengers amounts to an unfair commercial practice.

Facts

On the 20th of July 2011 Benny Borg Bonello as President of the Consumers Association and on behalf of a number of consumers filed a complaint to the Director General of the Competition and Consumer Affairs Authority in order to improve the bus service operated by Arriva, arguing inter alia that:

- i) The service offered by the bus service company Arriva was far from the standard which was promised.
- iii) Arriva's actions amounted to an unfair commercial practice as dictated by Article 51 C of the Consumer Affairs Act (which implements into Maltese law Article 6 of Directive 2005/19) since it neglected to inform the consumers of certain conditions imposed on travelers.

The Director General refused to consider the complaints of the Association, arguing inter alia that the Transport Authority had competence to take cognizance of the claim rather than the Competition and Consumer Affairs Authority.

The Association appealed to the Competition and Consumer Appeals Tribunal to determine whether there have been unfair commercial practices as explained in Articles 51B, 51C and 51D (which implement into Maltese Law Articles 6 to 9 of Directive 2005/29) as well as to decide whether the Competition and Consumer Affairs Authority had the competence to take cognizance of their claim.

Legal issue

The court noted that in the case that a passenger is found without a ticket, pass or documentation which is expired or modified, or in the case that such passenger is unable to supply such information when asked by an official of Arriva, the latter had the power to impose a fine on the passengers. Consumers were not adequately informed of these conditions. The court thus argued that in light of Article 51C (vii) and 51D (1) (a) of the Act (which implement respectively Article 6.1(f) and Articles 7.1 of Directive 2005/29) it can be said that the consumer did not have all the information required to take into account the risks connected with the use of the service.

Decision

Can a trader, by neglecting to furnish consumers with certain information regarding applicable fees and the conditions under which a consumer can be fined, breach Article 51D (1) (a) of the Consumer Affairs Act, which implements the rules on unfair commercial practices (namely Article 7.1 of Directive 2005/29)?

URL: <http://www.justiceservices.gov.mt/courtservices/Judgements/search.aspx?func=all>

Full text: [Full text](#)

Related Cases

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Result

The Appeals Tribunal accepted the appellant's complaints and ordered the Director General of the Competition and Consumer Affairs Authority to take cognizance of the case brought by the Association, whilst ordering Arriva to clarify the payment schemes and conditions connected with bus tickets.