

Oikeuskäytäntö**Tapauksetiedot****Kansallinen tunniste:** 207/13/M2**Jäsenvaltio:** Suomi**Lyhytnimi:** MAO:55/14**Päätöksen tyyppi:** Tuomioistuimen päätös, 1. oikeusaste**Päätöksen päivämäärä:** 31/01/2014**Tuomioistuin:** Markkinaoikeus**Aihe:****Kantaja:** Kuluttaja-asiamies (Consumer Ombudsman)**Vastaaja:** SCA Tissue Finland Oy**Avainsanat:** consumer, prize promotion, product marketing**Direktiivin artiklat**

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2.](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 4.](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 5.](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7](#) Unfair Commercial Practices Directive, [Chapter 2, Section 2, Article 8](#) Unfair Commercial Practices Directive, [Chapter 2, Section 2, Article 9](#) Unfair Commercial Practices Directive, [Annex I](#)

Ylähuomautus

Marketing through prize competitions which require the purchase of a product in order to join the competition are not considered as aggressive practices prohibited by consumer protection legislation.

Taustatiedot

The defendant had marketed its products by advertising that a consumer can win the jackpot of 100,000 Euros in a prize competition. Consumers had the chance to participate in the prize competition by buying the defendant's products and presenting the receipt. The plaintiff claimed that by using this method of marketing the defendant gave a wrongful impression that a consumer can win the jackpot when in reality winning was extremely unlikely. The plaintiff demanded that the defendant is prohibited from using such marketing and that the prohibition be reinforced by imposing a penalty payment of 100,000 Euro in case of non-compliance. Secondly, the plaintiff demanded that the defendant is prohibited on pain of a 100 000 Euro penalty payment from using prize competitions, prizes related to them and requests to participate in a prize competition in its marketing when presenting prizes dominates advertisement instead of the product. The defendant demanded the Market Court to dismiss the action based on the plaintiff not having a need for protection of law and secondly to disallow the plaintiff's demands in their entirety.

Oikeudellinen kysymys

Is marketing through a prize competition which requires the purchase of a product considered as an aggressive practice?

Ratkaisu

The plaintiff and the defendant had agreed that the defendant no longer uses the said practice in its marketing. The plaintiff, however, wanted to bring the matter to the Market Court's attention because traders often follow the practices used by other traders and because there were no precedents from cases such as this. The Market Court held that the plaintiff had no need for the protection of law but that the matter can be tried in court because public interest is often involved in these kinds of matters.

The plaintiff considered that the defendant's practice can be compared to the aggressive practices defined in section 2 of the Government's Decree on Unfair Practice in Marketing and Customer Relations. Giving a wrongful impression that the consumer has won, will win or will win something by acting in a certain way even though the prize does not exist or acquiring it requires a money payment from the customer, is considered as aggressive. The prize competition in this case had been linked to purchasing toilet or kitchen paper. Because the products linked to the prize competition are often bought also without the incentive which the prize competition provides, acquiring the prize from the competition in this case does not require a separate money payment. The Market Court considered that the defendant's practice was not against the Government's Decree. The practice had not been used to impose aggressive or hostile influence on consumers. Presenting the prize competition did not dominate the advertisement. In the product packaging where the campaign was presented, the jackpot had been displayed in large lettering but had not dominated the packaging.

URL: <http://www.markkinaoikeus.fi/fi/index/paatokset/markkinaoikeudellisetasiat/markkinaoikeudellisetasiat/1391767188347.html>

Koko teksti: [Koko teksti](#)

Asiaan liittyvät tapaukset

Ei tuloksia saatavilla

Oikeuskirjallisuus

Ei tuloksia saatavilla

Hakutulos

The Market Court held that the defendant's campaign had not been unfair trading prohibited by the Consumer Protection Act. Therefore, there were no conditions to order the prohibition which the plaintiff has demanded. The Market Court dismissed the application.