

Case law

Case Details

National ID: A-556-551/2013

Member State: Lithuania

Common Name: link

Decision type: Administrative decision in appeal

Decision date: 08/04/2013

Court: Supreme Administrative Court of Lithuania

Subject:

Plaintiff: UAB "Vilniaus energija"

Defendant: State Consumer Rights Protection Authority

Keywords: plain, intelligible language, professional diligence, service contract, unfair commercial practices

Directive Articles

Unfair Commercial Practices Directive, [Whereas, \(7\)](#) Unfair Commercial Practices Directive, [Whereas, \(8\)](#) Unfair Commercial Practices Directive, [Chapter 1, Article 2, \(a\)](#) Unfair Commercial Practices Directive, [Chapter 1, Article 2, \(d\)](#) Unfair Commercial Practices Directive, [Chapter 1, Article 2, \(h\)](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2.](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2., \(a\)](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2., \(b\)](#)

Headnote

The inclusion into monthly heat energy invoice of not only fees for the last month, but also fees for several days of the month before the last, can be considered as contrary to the requirements of professional diligence (unfair commercial practice), if the heat energy provider did not clearly and intelligibly explain to the consumer about such inclusion.

Facts

The plaintiff, a provider of heat energy, sent invoices to consumers for the heat energy provided during the month of November. However, the plaintiff did not indicate in the invoices that the invoices also included the price of the last 2 – 4 days of October.

The defendant adopted a decision, in which it found that the plaintiff's actions are contrary to the requirements of professional diligence (unfair commercial practice) and imposed a fine on the plaintiff. The plaintiff applied to the court and request annulment of the defendant's decision.

Legal issue

The court explained that a commercial practice is considered to be unfair if it is contrary to the requirements of a professional diligence and it materially distorts or is likely to materially distort the economic behaviour of an average consumer with regard to the offered product.

The court found that the plaintiff (heat energy provider) did not explain to the consumers in a clear and intelligible manner that the invoice for the month of November also covers several days of October.

The court elaborated that the plaintiff should have taken better care of the consumers and explained to them that the invoice is for the month of November, as well as for a few days of October in such a manner that the consumers could have reasonably understood and processed the information they received. Lack of care on the plaintiff's side in such a sensitive field of social life as supply of heat energy weakened the consumers' ability to take a transactional decision that they would not have taken otherwise. The court confirmed that the plaintiff's actions were contrary to the requirements of professional diligence and therefore should be considered to be unfair commercial practices.

Decision

Can the inclusion into monthly heat energy invoice of not only fees for the last month, but also fees for several days of the month before the last, be considered as contrary to the requirements of professional diligence (unfair commercial practice)?

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Result

The court rejected the plaintiff's claim.