

**Rättspraxis****Uppgifter om ärendet****Nationellt id-nummer:** MD 2005:34**Medlemsstat:** Sverige**Vedertaget namn:** N/A**Beslutstyp:** Domstolsbeslut överklagat**Beslutsdatum:** 22/11/2005**Domstol:** Marknadsdomstolen**Ämne:****Kärande:** The Consumer Ombudsman**Svarande:** ViaSat AB**Nyckelord:** B2C, standard contract, unfair terms**Direktivartiklar**Unfair Contract Terms Directive, [Article 3, 1](#). Unfair Contract Terms Directive, [Article 3, 3](#). Unfair Contract Terms Directive, [ANNEX I, 1., \(h\)](#)**Huvudanmärkning**

A standard contractual term between a consumer and a trader requiring the consumer, without any form of reminder from the trader, to give notice 30 days before the end of a subscription period in order to avoid being bound for another year, is considered unfair against consumers.

**Omständigheter**

The defendant provides subscriptions of digital television to consumers. The defendant is a company in the international media group Modern Times Group (MTG).

Agreements with consumers are governed by the "lease and subscription agreement general terms and conditions". In the general terms and conditions, the agreement term and termination are regulated. The binding subscription period when purchasing a digital box is 24 months, and when signing a subscription without purchasing a box, the binding subscription period is 12 months. Termination must be made at least 30 days prior to the expiry of the current subscription period; otherwise the agreement term is automatically prolonged with another year.

A number of consumers have contacted the plaintiff and complained as they have terminated their subscriptions when it has been less than 30 days left of the subscription period, and then against their will been bound by the agreement for another year.

**Juridisk fråga**

Is a standard contractual term between a consumer and a trader, which states that the consumer, without any form of reminder from the trader, needs to give notice 30 days before the end of the subscription period to avoid to be bound for another year, considered unfair against consumers?

**Beslut**

The court prohibits the defendant, under the penalty of a fine, when offering digital-TV subscriptions to consumers, to apply the following contractual term or substantially similar term:

"The agreement is valid during the subscription period specified in the agreement. For contracts signed after August 31, 2002, if a termination notice is not given at least 30 days before the end of the current subscription period, the contract will be automatically extended by one year with the same notice period."

The court firstly states that the contractual term at hand is included in a standard agreement which has not been subject to individual negotiation.

The court states that the contractual term in question is not such a term as specified in section 1 h of the list of unfair contractual terms as referred to in Directive 93/13/EEC. The contractual term in question is a subscription which will be prolonged if not terminated, the court states that these types of terms often are objectively beneficial for the consumer.

However, having regard to that the defendant is not obligated to remind the consumer of the notice period of 30 days and that the effect of missing the notice period is to be bound for another year, to a cost which is not insignificant, the court finds the contractual term to be unfair. The contractual term causes a significant imbalance between the parties' rights and obligations in a sense that a reasonable balance between the parties no longer exist. The court therefore finds that the term is unfair against consumers.

URL: <http://www.marknadsdomstolen.se/Filer/Avgöranden/Dom05-34.pdf>

Hela texten: [Hela texten](#)

**Ärendesamband**

Inga träffar

**Doktrin**

Inga träffar

**Resultat**

The Plaintiff's request was granted.