

**Rechtspraak****Bijzonderheden van de zaak**

**Nationaal ID:** Media Markt-Saturn Belgium NV (et al.) / Ebay Europe SARL (et al.)

**Lidstaat:** België

**Gangbare benaming:** N/A

**Soort beslissing:** Rechterlijke beslissing in beroep

**Datum beslissing:** 14/01/2014

**Gerecht:** Hof van Beroep Brussel

**Onderwerp:**

**Eiser:**

**Verweerder:**

**Trefwoorden:** comparative advertising, misleading advertising, misleading price, price comparison

**Richtlijnartikelen**

Misleading and Comparative Advertising Directive, [Article 4](#) Misleading and Comparative Advertising Directive, [Article 4, \(a\)](#) Misleading and Comparative Advertising Directive, [Article 4, \(c\)](#)

**Koptekst**

An advertisement of a trader, stating that its products are generally a certain percentage cheaper than those of other traders and in which the criteria used for this comparison are not named, constitutes a misleading and therefore unlawful comparative advertisement.

**Feiten**

The plaintiffs are companies active in the distribution of electric or electronic consumer goods.

Defendants operate an online market place where registered users can buy and sell a wide range of products. Some of the products that can be bought with the plaintiff can also be bought on the platform operated by the defendant.

The defendant launched an advertising campaign in which it generally stated that consumers could save up to a certain percentage when ordering on defendant's platform. Other advertisements of the defendant stated average saving rates that could be established when buying on the platform.

Both parties agreed that the advertisements were comparative advertising, but the plaintiff was of the opinion that the advertisements were contrary to the general requirements for comparative advertising to be lawful.

**Juridische kwestie**

Does an advertisement of a trader, stating that its products are generally a certain percentage cheaper than those of other traders and in which the criteria used for this comparison are not named, constitute a misleading and therefore unlawful comparative advertisement?

**Uitspraak**

The court considers that the general statement made by the defendant can lead the consumer to the incorrect believe that the general price level of the defendant is, on average, a certain percentage lower than the price level of other traders, whereas this did not appear to be proven in practice. The court therefore concludes that this may mislead the average consumer and could induce the consumer to take a transactional decision which he would not have taken otherwise.

Further, the court also considers that the advertisement does not meet the criterion of verifiability. To meet this criterion, the consumer should be informed where and how to verify the elements on the basis of which the claim is made. This was not so in the case at hand.

Integrale tekst: [Integrale tekst](#)

**Verwante zaken**

Geen resultaten

**Rechtsleer**

gerangschikt op [Lidstaat](#)[Titel](#)[Auteur](#) ▼

**Lidstaat:** België

**Titel:** Het vergelijken van onderling concurrerende producten – steeds vergelijkende reclame?

**Auteur:** TERRY, E.

**Resultaat**

The court ruled that the advertisement was misleading and that it did not comply with the requirement of verifiability.