

Case Details

Case Details

National ID	Decision no. 1207/2016
Statul membru	România
Common Name	link
Decision type	Court decision in appeal
Decision date	29/02/2016
Instanța	Tribunalul București
Obiect	
Reclamantul	Unknown
Pârâtul	National Agency for Fiscal Administration
Cuvinte-cheie	advertisement, comparative advertising

Directive Articles

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

Headnote

An advertising containing a direct reference to another advertising already used by a competitor constitutes comparative advertising.

Facts

The plaintiff conducted a promotion using the following advertising "Some boast the price revolution, we boast the fair price resolution". At the same time, a well-known competitor already promoted its products by using the advertising phrase "Price revolution", which was also registered as a trademark.

The competent body (the defendant) stated that the deed represents an infringement of letters a, d and f of article 6 of Law no. 158/2008 and, therefore, sanctioned the plaintiff for the commitment of three misdemeanours.

The plaintiff submitted a court action against the defendant requesting the annulment of the minutes ascertaining the misdemeanours.

Legal issue

Does an advertisement containing a direct reference to another advertising already used by a competitor constitute comparative advertising?

Hotărârea

The court stated that the advertising is comparative in accordance with the relevant legal provision. However, a deed infringing several letters provided by art. 6 of Law no. 158/2008 triggers the application of only one sanction.

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Legal Literature

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Result

The court admitted the action in part.
