

Case law**Case Details****National ID:** A-858-806/2010**Member State:** Lithuania**Common Name:** link**Decision type:** Administrative decision in appeal**Decision date:** 27/05/2010**Court:** Supreme Administrative Court of Lithuania**Subject:****Plaintiff:** Bigbank AS (branch)**Defendant:** Competition Council of the Republic of Lithuania**Keywords:** financial services, inaccurate information, misleading advertising, trade mark**Directive Articles**Misleading and Comparative Advertising Directive, [Article 3](#)**Headnote**

An advertising campaign, containing a fast-credit company's statement "the fastest way to money", can be considered as misleading, if the company is not the fastest credit-granting operator in the market.

Facts

The plaintiff was a fast-credit company. The plaintiff ran an advertising campaign on television containing the following statement (in Lithuanian): "BIGBANK the fastest way to money". The statement was used in a registered figurative plaintiff's trademark.

The defendant adopted a decision, in which it found that the plaintiff's advertising was considered to be misleading and imposed a fine on the plaintiff. The plaintiff applied to the court and requested annulment of the defendant's decision.

Legal issue

The court first stated that the above-mentioned statement (as part of plaintiff's trademark) must be regarded as advertising when used in the process of promoting plaintiff's activities and, respectively, must be examined in accordance with the criteria of accuracy of advertising as referred to in Article 3 of Directive 2006/114/EC (implemented into Lithuanian law by Article 5(2) of the Law on Advertising).

Due to the use of the superlative form of the adjective ("fastest") in plaintiff's advertising, which implies that the plaintiff is the fastest credit-granting operator in the market, the court compared the plaintiff with other companies operating in the same market and came to the conclusion that the plaintiff was not the fastest credit-granting company. Therefore, plaintiff's advertising was considered to be misleading by reason of its deceptive nature and likeliness to affect the economic behaviour of an average consumer as referred to in Article 2(b) of Directive 2006/114/EC (implemented into Lithuanian law by Article 2(3) of the Law on Advertising).

Moreover, the court has considered plaintiff's advertising to be misleading by reason of injuring or being likely to injure plaintiff's competitors, as the advertising encouraged (or could have encouraged) consumers to turn to the plaintiff, which was supposed to grant credits faster than its competitors.

Decision

Can an advertising campaign, containing a fast-credit company's statement "the fastest way to money" be considered as misleading, if the company is not the fastest credit-granting operator in the market?

URL: <http://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=f17ea023-f40d-40af-987c-2a7d5005c1d9>

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Result

The court upheld the plaintiffs' claim in part.