

Case law

Case Details

National ID: A-502-485/2014

Member State: Lithuania

Common Name: link

Decision type: Administrative decision in appeal

Decision date: 13/02/2014

Court: Supreme Administrative Court of Lithuania

Subject:

Plaintiff: UAB "LUKOIL BALTIJA"

Defendant: Competition Council of the Republic of Lithuania

Keywords: economic behaviour, misleading advertising, special offer, time-limited promotions

Directive Articles

Misleading and Comparative Advertising Directive, [Article 2, \(b\)](#)

Headnote

An advertising campaign, stating that the consumer will be provided with a discount for specified goods upon collection of stickers distributed by the trader, can be considered as misleading if one of the specified goods is no longer available during the first half of the period of such campaign.

Facts

The plaintiff ran an advertising campaign, during which it distributed customised stickers to the customers. After collection of 15 stickers, the customers were able to purchase some specified goods (backpacks, t-shirts, etc.) from the trader at a price lower than the usual price.

The advertising campaign lasted for 3 months. However, after less than 1,5 months from the beginning of the campaign, some of the specified goods (backpacks) were sold out and no longer offered to the customers. The plaintiff took adequate measures to inform the consumers about the inability to offer backpacks for sale any longer.

The defendant adopted a decision, in which it found that the plaintiff's advertising campaign 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 stated that according to the reasonable expectations of the consumers, they could not have anticipated the unavailability to purchase the specified backpacks after less than a half of the period of advertising campaign. Since the collection of stickers was a continuous process, the consumers had a justified expectation that the plaintiff had estimated the size of its stock before disseminating the advertisement. In turn, the plaintiff had an obligation to foresee and ensure an adequate quantity of specified goods for sale.

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).

Decision

Can an advertising campaign, stating that the consumer will be provided with a discount for specified goods upon collection of stickers distributed by the trader, be considered as misleading if one of the specified goods is no longer available during the first half of the period of such campaign?

URL: <http://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=0ac399b8-efae-4273-9b25-a8f82adc4ad4>

Full text: [Full text](#)

Related Cases

No results available

Legal Literature

No results available

Result

The court rejected the plaintiffs' claim.