

**Doctrine****Informations concernant la doctrine****État membre:** France**Titre:** Prohibition per se of commercial practices of television promotion in the distribution sector**Sous-titre:****Type:** Article**URL:****Auteur:** BEHAR-TOUCHAIS,M.**Référence:** Semaine Juridique Entreprise et Affaires. Lexisnexis. P. 112.**Année de publication:** 2020**Mots clés:** unfair commercial practices**Articles de la directive**

Unfair Commercial Practices Directive, [Chapter 1, Article 2](#) Unfair Commercial Practices Directive, [Chapter 1, Article 3](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6](#) Unfair Commercial Practices Directive, [Chapter 2, Section 2, Article 9](#)

**Note introductive****L'interdiction per se des pratiques commerciales de promotion télévisuelle dans le secteur de la distribution.**

Decree n°92-280 of 27 March 1992, in its latest version resulting from Decree n°2003-960 of 7 October 2003, prohibits television advertising of distribution promotions. Directive 2005/29, on the other hand, prohibits Member States from maintaining in their law prohibitions per se of practices which are not included in the list of 31 practices prohibited in all circumstances. The Paris Court of Appeal, in its two judgements of 6 February and 24 April 2019, decided that Directive 2005/29 on unfair commercial practices did not exclude the prohibition per se from the 1992 Decree, as the aim of this text would be the protection of media plurality, and not consumer protection. The CJEU accepts that Directive 2005/29 applies where there is a mere secondary, or even indirect, objective of consumer protection. The text of the 1992 Decree, which was adopted pursuant to Directive 89/552/EC, the express purpose of which is to protect the viewer consumer, also has at least a secondary objective of consumer protection. Moreover, in the view of the CJEU, when faced with a commercial practice, as defined in Article 2 of Directive 2005/29, it cannot be claimed that national legislation could prohibit it per se on the basis of an objective which is not included in the list of derogations authorised by recitals 6 and 9 and Article 3 of Directive 2005/29. However, media pluralism is not one of these objectives. It should therefore not be possible to invoke it as a means of avoiding Directive 2005/29.

**Note générale****Affaires liées**

Aucun résultat disponible