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Legal Literature

Legal Literature Details

Member State: Portugal

Title: Unfair business-to-consumer commercial practices

Subtitle:

Type:

URL:

Author: J. MORAIS CARVALHO

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Keywords: aggressive commercial practices, average consumer, consumer, distortion, general discussion on the national implementation, misleading omissions, professional diligence, vulnerable consumer

Directive Articles

Unfair Commercial Practices Directive, Whereas, (5) Unfair Commercial Practices Directive, Chapter 2, Article 5, 2., (b) Unfair Commercial Practices Directive, Chapter 2, Article 5, 3. Unfair Commercial Practices Directive, Annex I, 5. Unfair Commercial Practices Directive, Annex I, 6. Unfair Commercial Practices Directive, Annex I, 11. Unfair Commercial Practices Directive, Annex I, 25. Unfair Commercial Practices Directive, Annex I, 31.

Headnote

The author of this article states that the Unfair Commercial Practices Directive, by seeking maximum harmonization, did not leave much room for member states to tailor the concept of ‘unfair commercial practice’ and make it more flexible and consumer-friendly. The author further considers that it is probably for this reason that the criteria for determining whether a commercial practice is unfair are very demanding and complex, therefore hindering the application of the general clause provided for in the Portuguese legal provisions implementing the Directive.

In the author’s opinion, compliance with consumer protection laws depends on the adoption of clear, objective and easily verifiable concepts. Further he raises similar concerns as to the notion of "misleading commercial practice" and "aggressive commercial practice". Therefore, the lists determining which practices are prohibited under any circumstances play a key role in the enforcement of the Portuguese statutes previously referred to.

General Note

Related Cases

No results available