

Literatura prawnicza

Informacje o literaturze prawniczej

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Artykuły dyrektywy

Misleading and Comparative Advertising Directive, [Recitals, \(8\)](#) Misleading and Comparative Advertising Directive, [Article 2, \(c\)](#)

Uwaga główna

At the beginning of the article, the author points out that EU lawmakers decided to regulate comparative advertisement because it is beneficial to the market as well as to consumers. EU directives set forth some conditions that comparative advertisement must meet in order to be permissible.

The author points out that the definition of comparative advertising is not clear and is difficult to apply. Therefore, the case law of the European Court of Justice (ECJ) is very helpful in providing a proper interpretation.

In the next part of the article, the author analyses key cases assessed by the ECJ (i.e. Toshiba Europe, Pippig Augenoptik, Siemens, Lidl Belgium, and De Landtsheer) and explains the most important conclusions resulting from this jurisprudence.

The author points out that ECJ case law proves that the interpretation of the permissibility of comparative advertising is very difficult in practice. The author reminds the reader that a comparison has to refer to a competitor or its products, which is the essence of comparative advertising. She emphasizes that national courts often have problems interpreting what can be compared, because the number of identical products is very small and comparing them would not have any economic sense.

The article points out that comparative advertising is admissible if it helps in providing information to the consumer, and at the same time does not infringe a competitor's interests more than it is required. Moreover, according to the ECJ, the conditions of the comparative advertising should be interpreted in favor for this kind of advertising and the ECJ consequently applied this rule.

Uwaga ogólna

Powiązane sprawy

Brak wyników