Case law

Case Details

National ID: 18J/2010

Member State: Portugal

Common Name:link

Decision type: Other

Decision date: 08/09/2010

Court: Second Section of the ICAP ("Civil Institute for Self-Regulation in Commercial Communication") Jury for Advertising Ethics (Lisbon)

Subject:

Plaintiff: ANIRSF ("National Association of Manufacturers of Fruit Juices and Soft Drinks")

Defendant: FENELAC ("National Federation of Milk Producers' Cooperatives")

Keywords: misleading advertising, product characteristics, self regulatory body

Directive Articles

Unfair Commercial Practices Directive, Chapter 2, Section 1, Article 6, 1.

Headnote

It does not constitute a misleading advertising to claim that soft drinks generally contain "0% milk". Consumers are not misled in relation to any of the characteristics of either milk products or soft drink products by such claim.

Facts

The defendant launched an advertising campaign consisting of a television commercial that informed consumers on the amount of milk present in a number of food and drink products. Among the food products compared was an image of a generic soft drink can while a voice-over announced that it contained "0% milk".

The plaintiff complained (inter alia) that the defendant was attempting to mislead consumers into thinking that soft drinks have negative characteristics as compared to milk products.

Legal issue

Advertising statements to the effect that "soft drinks" contain "0% milk" are not capable of misleading the average consumer as to the characteristics of either soft drinks or milk

Decision

Is a statement that a particular group of food and drink products does not contain another product, capable of misleading the average consumer as to the characteristics of either group of products?

URL: http://www.icap.pt/icapv2/icap_site/deliberacao_detalhe.php?AG4JPQ51=ADotela9Xr1&AHAJJg5i=&AGoJNwtela9Xr1tela9Xr1=ADAJag4x

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Result

The plaintiff's request denied.