

Case law

Case Details

National ID: Vj/130-035/2009

Member State: Hungary

Common Name: link

Decision type: Administrative decision in appeal

Decision date: 14/12/2010

Court: Competition Authority (Budapest)

Subject:

Plaintiff: Procedure initiated by the Competition Authority

Defendant: Telenor Magyarország Zrt.

Keywords: advertisement, material information, terms & conditions

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 1](#). Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 1](#). Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 3](#).

Headnote

The mentioning of terms and conditions of an offer by using a smaller font than the rest of the offer, is not necessarily impeding the right of the consumer to become acquainted with the information necessary to be able to take an informed transactional decision. This is the case if the consumer has the possibility to read through the information again any time, e.g. advertisements in magazines or on leaflets. This would for example not be the case for posters in show-windows because the joint perception of the slogan and of the information written in a smaller font is typically not possible.

Facts

The defendant, a telecom operator, launched a promotional campaign between 16 June 2009 and 31 July 2009 using several promotional means (including amongst others advertisings in magazines, posters in show-windows, leaflets), etc. The promotion for a telephone subscription included the slogan "0 forint after 5 minutes, for 3 months".

Certain additional terms and conditions were indicated in smaller letters beneath the eye-catching slogan, stating that the same service would be granted for a monthly fee after the expiry of the 3 months term, and that the free minutes would only be granted for inland calls within the network of the defendant.

Legal issue

The Competition Authority established that in case additional material information is placed under a slogan using a smaller font, a substantial risk is created that the consumer will neglect this information when the consumer has no possibility to hold in his/her hands the advertising material or when this material can only be examined for a shorter period. According to the Authority, in such a case, the consumer perceives the detailed information less clearly than the slogan.

The Competition Authority decided that in the case of advertisements in magazines and leaflets the consumer is able to connect the slogan and the information indicated with smaller letters due to the fact that the small letters do not hinder the perception and the consumer has the possibility to read through the information again any time. In the case of posters in show-windows the joint perception of the slogan and of the information written with smaller letters is in most of the cases not possible (especially due to the fact that pedestrians usually just walk by and do not stop).

Accordingly, in the given case, indication of material information with smaller letters only qualified as a misleading commercial practice in the case of posters in show-windows.

Decision

Does the mentioning of terms and conditions applicable to an offer by using a smaller font than the rest of the offer, ensure the right for the consumer to become acquainted with the information necessary to be able to take an informed transactional decision?

URL: <http://www.gvh.hu/domain2/files/modules/module25/1525635CA0CE93414.pdf>

Full text: [Full text](#)

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Result

The Competition Authority did not impose a fine upon the defendant.