

Case law

Case Details

National ID: MD 2010:30

Member State: Sweden

Common Name: link

Decision type: Court decision in appeal

Decision date: 21/12/2010

Court: The Swedish Market Court (Stockholm)

Subject:

Plaintiff: The Consumer Ombudsman

Defendant: Northmill AB

Keywords: financial services, vulnerable consumer

Directive Articles

Unfair Commercial Practices Directive, [Chapter 1, Article 2, \(a\)](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 1.](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2., \(b\)](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 3.](#)

Headnote

(1) The use of search engine optimization constitutes a form of marketing.

(2) The use by a trader in the financial business of the notion "easy credit" as a meta tag of its website, hence improving search results for its website when using this notion on a search engine, constitutes an unfair commercial practice.

Facts

The defendant, a financial player providing amongst others the supply of credit, made use of a search engine optimization, which is the process of improving the visibility of a website or a web page in search engines such as Google.

More specifically, the defendant put the notion "easy credit" in the meta tags of its web page. As a result, the consumer who typed in "easy credit" in Google's search engine, found the website of the defendant as one the first search results.

According to the plaintiff, the use of the notion "easy credit" was misleading, as the use of this notion created the misleading impression that consumers could obtain fast and easy access to credit. The plaintiff requested a cease-and-desist order against the defendant.

Legal issue

(1) The court first stated that search engine optimization (SEO), indicating websites of which the content is controlled by the owner of the website and which may contain any kind of sales message prior to other websites, must be considered a form of marketing.

(2) Next, in order to define the notion "average consumer", the court concluded that it is unlikely that persons with a solid financial background would have an interest in the type of credit that was offered by the defendant. Hence, the court held, the average consumer must be defined as a person lacking a stable and solid financial background. As a result, the court considered that this form of marketing (SEO) was primarily directed towards this category of consumers.

Accordingly, the court stated that it could be assumed that this commercial practice had an adverse effect on the average consumer's ability of making a well-informed transactional decision. The court clarified that for this category of consumers, the prospect of obtaining fast and easy access to credit is particularly appealing, hence impacting their transactional decision.

Decision

(1) Does the use of search engine optimization constitute a form of marketing?

(2) If so, does the use by a trader in the financial business of the notion "easy credit" as a meta tag of its website, hence improving search results for its website when using this notion on a search engine, constitute an unfair commercial practice?

URL: <http://www.marknadsdomstolen.se/avgoranden/avgoranden2010/Dom2010-30.pdf>

Full text: [Full text](#)

Related Cases

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Legal Literature

No results available

Result

The commercial practice was found to be an unfair market practice and the plaintiff was granted its request.