

**Case law****Case Details****National ID:** 2S-5**Member State:** Lithuania**Common Name:** link**Decision type:** Administrative decision, first degree**Decision date:** 11/02/2010**Court:** Competition Council of the Republic of Lithuania (Vilnius)**Subject:****Plaintiff:****Defendant:** UAB "Miečys"**Keywords:** average consumer, black list, health and safety, illness, material distortion, misleading advertising**Directive Articles**

Unfair Commercial Practices Directive, [Chapter 1, Article 2, \(d\)](#) Unfair Commercial Practices Directive, [Annex I, 1](#). Unfair Commercial Practices Directive, [Annex I, 17](#).

**Headnote**

Advertising a product as able to cure illnesses whereas this product is not approved by a competent public authority as a medicine, constitutes an unfair commercial practice.

**Facts**

The defendant used a number of advertisements to promote a cream called "Sudocrem". The advertisements included wording such as: "Sudocrem (...) is recommended by doctors – for rash nappy – relieves, helps, protects!".

The defendant's product was not registered as a medicine with the competent public authority.

**Legal issue**

The Council noted that the wording used in the defendant's advertisement, indirectly suggests that the cream is able to cure illnesses. Such an impression, the Council held, is strengthened by the reference "is recommended by doctors", as an average consumer links a doctor's recommendation with the use of medicines rather than cosmetics.

However, it was found out that the cream was not approved as a medicine by a competent public authority and, thus, there was no official document proving its ability to cure illnesses.

The Competition Council further referred to the Lithuanian Law on Advertising pursuant to which an advertisement is in all circumstances regarded as misleading if it falls within the misleading part of the blacklist.

**Decision**

Does advertising a product as able to cure illnesses whereas this product is not approved by a competent public authority as a medicine, constitute an unfair commercial practice?

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**Result**

A number of the defendant's advertisements were established to be an unfair commercial practice and a misleading advertising. A fine of LTL 3,200 (approx. EUR 914) was imposed on the defendant.