

Ítélezési gyakorlat**Az ügy részletei**

Nemzeti azonosító: 2. Kf. 27. 045/2011/4.

Tagállam: Magyarország

Közhasználatú név: N/A

Határozat típusa: Megtámadott bírósági határozat

A határozat napja: 11/05/2011

Bíróság: Fővárosi Ítéltábla (Budapest)

Tárgy:

Felperes: Vodafone Magyarország Zrt.

Alperes: Hungarian Competition Authority

Kulcsszavak: average consumer, communication medium, information requirements, telephone

Az irányelv cikkei

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 1.](#) Unfair Commercial Practices Directive, [Chapter 2, Article 5, 4.](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 1.](#)

Megjegyzés

(1) Providing differing advertising information on an identical product, the information depending on which communication channel is used, constitutes an unfair commercial practice.

(2) The fact that, in an ideal scenario, a consumer has the possibility to obtain all relevant information, does not influence the assessment as to whether there is an unfair commercial practice.

Tények

Plaintiff, a telecommunications provider with significant market power, conducted a promotional campaign that included advertising through various communications channels (e.g. SMS, brochures, posters, IVR, etc.).

The defendant, an administrative authority, commenced a procedure to determine whether plaintiff's campaign had been misleading towards consumers. It established that the content of the advertising messages differed greatly depending on the communication channel used. In addition, it was held by the defendant that the plaintiff also sent messages on other services whereby it committed aggressive commercial practices. As a result, the defendant imposed a fine of HUF 40 million on plaintiff.

Plaintiff contested the decision before the court on the basis that the defendant had not revealed all necessary facts, especially on whether the consumers had been actually misled or whether the misleading character of the practices was only "a possibility". In addition, plaintiff made reference to the general terms and conditions it provided on its website.

The court of first instance dismissed plaintiff's appeal, agreeing with the defendant's decision. Plaintiff further appealed on the same grounds.

Jogi kérdés

(1) Does providing differing advertising information on an identical product, the information depending on which communication channel is used, constitute an unfair commercial practice?

(2) Does the fact that, in an ideal scenario, a consumer has the possibility to obtain all relevant information, influence the assessment as to whether there is an unfair commercial practice?

Határozat

(1) The court first highlights that it is a company's duty to completely and accurately inform its customers. The court held that a discrepancy in information provided to customers, depending on which communication channel is used, infringes such information obligation.

(2) The court further found that it is not relevant that in an ideal scenario customers conduct a thorough search for information. This does not mean that a customer will effectively look for information when a trader offers a service.

Finally, the court stated that a mere reference to general terms and conditions to be found on a website, is not sufficient when advertisements are sent to consumers through various communication channels.

URL: <http://www.gvh.hu/domain2/files/modules/module25/17356C484309C1DA1.pdf>

Teljes szöveg: [Teljes szöveg](#)

Kapcsolódó ügyek

Nincs találat

Jogi szakirodalom

Nincs találat

Eredmény

The court dismissed the appeal.