

Case law

Case Details

National ID: H.D. 288/2009 and 289/2009 (or U 2012.1089H)

Member State: Denmark

Common Name: H.D. 288/2009 and 289/2009 (or U 2012.1089H)

Decision type: Supreme court decision

Decision date: 06/01/2012

Court: The Danish Supreme Court

Subject:

Plaintiff: Danske Spil A/S (gaming operator)

Defendant: Ladbrokes Betting and Gaming Ltd.(gaming operator)

Keywords: advertisement, comparative advertising, confusion, false impression, unfair competition

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Section 1](#)

Headnote

Discrediting a competitor can constitute a misleading commercial practice.

Facts

Both defendant and plaintiff are large gaming operators.

From May to September 2008, the defendant carried on a publicity campaign using the word "Danske Spil" in a comparable commercial. More specifically, the defendant used the slogan "Danske spil, engelske odds" (Danske Spil (the plaintiff's name), English odds).

Later, the plaintiff carried out a television marketing campaign using pictures which brought along negative associations with foreign games. For example, the campaign contained speak and not very flattering pictures of a Philippine bookmaker and a cigar-smoking general manger of a casino with associations to the Italian mafia.

The defendant stated that the plaintiff tried to give the impression that foreign gaming operators deceive their players and use mafia methods.

Legal issue

The Supreme Court decided that both the defendant's and the plaintiff's publicity campaigns had violated Sections 1, 3 and 5 of the Danish Marketing Practices Act.

The Court, however, ruled that neither the defendant nor the plaintiff were to pay compensation. This was mainly because the parties had violated the Danish Marketing Practices Act at the same gross level and since none of them had proven to have suffered a greater loss than the opponent.

Decision

Does discrediting a competitor, constitute a misleading commercial practice?

Full text: [Full text](#)

Related Cases

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Legal Literature

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Result

The plaintiff's and the defendant's claims were partly denied, partly granted.