[IT] Implementation of the Comparative Advertising Directive

IRIS 2000-4:1/33

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Approximately one year after the self-regulatory Code of Advertising and Sales Promotion was adopted by the Italian Committee of Advertising Practice (see IRIS 1999-6: 13), the Decreto legislativo Attuazione della direttiva 97/55/CE che modifica la direttiva 84/450/CEE, in materia di pubblicità ingannevole e comparativa (Statutory Instrument on Comparative and Misleading Advertising) of 25 February 2000 entered into force. With this decree Italy transposes Directive 97/55/EC, amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising.

Comparative advertising is defined as any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor, and is only permitted when inter alia the following conditions are met: it is not misleading and it objectively compares one or more material, relevant and verifiable features of goods or services meeting the same needs or intended for the same purpose. According to the decree, the condition of the verifiability of such features is considered satisfied when the data employed for the purposes of illustration of the characteristics of the goods or services concerned may be demonstrated. Further requirements are that comparative advertising does not create confusion between the advertiser and the competitor, does not discredit or denigrate nor take unfair advantage of the reputation of the marks of a competitor, and does not present goods or services as imitations of goods or services bearing a protected trade mark or trade name.

The Italian Autorità Garante della Concorrenza e del Mercato (the Competition Authority) has been entrusted with the competence to decide on complaints and to order the cessation of impermissible comparative advertising or the prohibition of the publication of such advertising.

Decreto Legislativo 25 febbraio 2000, n. 67, "Attuazione della direttiva 97/55/CE, che modifica la direttiva 84/450/CEE, in materia di pubblicita' ingannevole e comparativa" pubblicato nella Gazzetta Ufficiale n. 72 del 27 marzo 2000 (Rettifica G.U. n. 100 del 2 maggio 2000)

http://www.camera.it/parlam/leggi/deleghe/00067dl.htm

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Statutory Instrument on Comparative and Misleading Advertising, of 25 February 2000, no. 67.

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