[BG] Prohibition on Misleading, Unfair and Comparative Advertising

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On 10 June 2006 the Protection of Consumers Act came into effect. The purpose of the Act was to protect consumers and persons exercising activities in commerce, production and handcrafts from misleading and unfair advertising.

A new definition of “advertising” was introduced in the Act: “any message related to commerce, craft or profession, aimed at the promotion of goods or services, including real estate, rights and obligations (Art. 33, para 1). The Act also established a prohibition of misleading and unfair advertising, as well as for comparative advertising that was not proper according to the law (Art. 33, para 2).

The advertising agency which has produced the advertisement is responsible for a potential breach of the rules on misleading, unfair or improper comparative advertising. Any person with legal interest may request the Commission on Protection of Consumers in writing to prohibit the broadcast of an advertisement that in its opinion is misleading, unfair or not legitimately comparative. The Commission on Protection of Consumers shall review the request and issue a final ruling (Art. 34).

If the Commission on Protection of Consumers concludes that the advertising is misleading, unfair or unduly comparative, it may:

1. Prohibit the broadcasting of the advertising before it is made publicly available, if the advertising is just about to begin;

2. Stop the broadcasting of the advertisement.

In late 2006 a further amendment to the Act has been adopted. According to this amendment any association for the protection of consumers may lodge a claim for the prohibition of actions or commercial practices, which violate the collective interests of the consumers, if these actions or commercial practices contradict to:

1. the provisions of Chapter Four of the Radio and Television Act “Advertising, radio and television market and sponsorship” (Art. 186, para 2, item 3 Protection of Consumers Act);

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2. the national legislation of the member state of the EU for the implementation of Directive 89/552/EEC of the Council on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ("Audiovisual media services without frontiers", Art. 186, para 2, subpara 9, item "d" of the Protection of Consumers Act).

Закон за защита на потребителите

http://www.kzp.bg/modules.php?name=Content&pa=showpage&pid=250

Protection of Consumers Act, State Gazette, issue No. 99 of 9 December 2005

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Amendment to the Protection of Consumers Act, State Gazette, issue No. 53 of 30 June 2006 and issue No. 105 of 22 December 2006, effective from 1 January 2007

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