[SE] Refund Offer in TV Commercial Was Misleading

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On 6 October 2011 the Stockholm City Court delivered a judgment on unfair marketing practices relating to an offer presented in a TV commercial.

In 2010 Sova AB, a Swedish furniture company, had advertised its beds in TV commercials, which amongst others, included the written promotional message "All your money back if it rains on midsummer's eve". In connection with this message an asterisk was given referring to an additional text stating further conditions about the offer. This additional text appeared only for a few seconds and in very small text at the bottom of the screen.

The Consumer Ombudsman (KO) challenged the TV commercials claiming that Sova had not presented all material information about the offer in a sufficiently clear manner to consumers. Accordingly, the TV commercials were considered to be unfair by the KO.

Sova inter alia argued that all material information was provided in the TV commercials or at least was sufficiently connected to other provided information, such as the company's website.

The Court established that the Swedish Marketing Practices Act (MPA) provides that, as a general rule, each and every advertising unit must include all material information regarding an offer. However, some lenience may apply when there are limitations in time and space in the means of the communications used (such as on television).

However, the Court considered that, given the manner in which they were presented in the TV commercials, it was impossible for a consumer to notice the additional conditions. Accordingly, there was in effect no legally significant indication in the TV commercials that there were additional conditions surrounding the offer.

Consequently, the TV commercials were held to be contrary to the MPA. Sova was ordered to provide consumers with material information about the offer, subject to a conditional fine. However, the KO's request for a market disruption fee, which may be ordered in case of severe violations of the MPA, was denied.

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Judgment of the Stockholm City Court of 6 October 2011 in Case No. T 9184-10

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