[FR] Unlawful advertising of products evoking tobacco

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The Court of Cassation recently set aside two decisions by the Courts of Appeal in Paris and Rennes on advertising from products which, although not themselves tobacco, evoked tobacco. The products in question carried the brand-names Camel Boots and Camel Trophy. In the first case the decision was set aside on the grounds of violation of rights of the defence. In the second case the High Court addressed the difficult matter of advertising for products commercialised by companies independent of any company manufacturing tobacco products but linked to the latter by brand-name licence agreements. Thus Article L.355-26 of the Public Health Code waives the ban on advertising for tobacco products in the case of certain products put on the market before 1 January 1990 by companies legally and financially separate from any company manufacturing, importing or commercialising tobacco or tobacco products. Here the Court of Cassation interpreted this text restrictively, considering that the link arising from a brand-name licence contract, even prior to 1990, between the American cigarette manufacturer Camel and an Italian company which commercialised Camel Trophy watches was such as to disqualify the waiver contained in Article L.355-26.

Cour de cassation, Chambre criminelle, 22 janvier 1997 - CNCT.

Court of Cassation, Criminal Chamber, 22 January 1997 - CNCT.

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