

[CZ] Court upholds the Broadcasting Council's decision on unfair commercial practices

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Jan Fučík
Česká televize

The Broadcasting Council of the Czech Republic imposed a fine of CZK 200 000 (EUR 8 000) on Telemedia InteracTV Production Home Limited, as the advertiser, for violating Article 2 paragraph b) of the Act on the Regulation of Advertising, which was committed by entering a teleshopping block entitled "*Line of Love*", broadcast on 21 August 2017 from 10:10 a.m. to 11:11 a.m. on the *JOJ Family program*. This is an unfair business practice according to Article 4 paragraph 1 of Act No. 634/1992 Coll., on consumer protection (hereinafter the "Consumer Protection Act"), in that within the teleshopping block competitors were not explicitly notified in writing on the screen that they would have to wait on the telephone line even though the presenter will not talk to any competitor. Based on these findings, the Council concluded that the absence of this information on the television screen during the broadcast of the teleshopping block was likely to significantly distort the economic behavior of the consumer. If the viewer did not have this essential information available, in breach of competition rules, he could decide to call the game phone number and take part in the game, as he was not informed that, even though he called the phone number, that he could wait a long time to be switched to the studio on the game phone line, even though the host may not talk to them. If, on the other hand, the viewer were explicitly informed of this fact on the television screen, then he would certainly reconsider his decision to participate in the game. According to the Council, such conduct constituted an unfair commercial practice.

Telemedia brought an action against this decision of the Council before the Municipal Court in Prague, stating that it clearly considered that the operating conditions had not been violated in any way. At the time of the broadcast of the teleshopping block, the conditions of operation were duly published and made available to all competitors on the website, to which a link was provided directly on the television screen. The applicant considered that the publication of the operating conditions on the screen could be made by the inclusion of a link with which the operating conditions are accessible to all on the internet. According to the Municipal Court, the Council stated that the business practice of offering the viewer to participate in the game, presented via a teleshopping block, without being shown on the screen the information specified in Article IV (8) of the Operating Conditions, was capable of substantially changing the economic behavior of the consumer, on the grounds of the contested decision cited above. The consumer would have reconsidered their original intention to accept the offer

of potentially participating in the game for a financial amount (and thus the acquisition of the service offered) if the essential information that the time spent waiting on the gaming phone line at the connection to the studio does not depend on whether the presenter in the studio is talking to someone, but this information has not been adequately provided to the consumer. The Court upheld the contested Council decision.

Rozsudek Městského soudu v Praze č.j. 10A 58/2018 ze dne 13.7.2021

<https://www.rrtv.cz/cz/files/judikaty/6125a5e2-c5dc-464a-ac4a-3b903bc37dce.pdf>

Judgment of the Municipal Court in Prague no. 10A 58/2018 of 13.7.2021

