

NOTE: On the Unfair Commercial Practices Directive and the Misleading and Comparative Advertising Directive

Directive 2005/29/EC on Unfair Commercial Practices ([UCPD](#))¹ prohibits commercial practices that can deceive consumers, if such practices are likely to cause consumers to take transactional decisions they would not have taken otherwise. This directive complements sector specific Community legislation and works like a 'safety net' by 'filling the gaps' in such legislation; whilst Directive 2006/114/EC concerning Misleading and Comparative Advertising ([MACAD](#))² applies to business-to-business, and protects traders from misleading advertising (by other traders), and lays down conditions for fair comparative advertising.

European Commission Guidance on the implementation/ application of Directive 2005/29/EC on unfair commercial practices:

http://ec.europa.eu/justice/consumer-marketing/files/ucp_guidance_en.pdf

National transposition

In line with the UCPD, Book VI of the Economic Law Code³ 'Market Practices and Consumer Protection'; the Code distinguishes between:

- Misleading actions (Book VI art 97 and 98);
- Misleading omissions (Book VI art 99);
- Aggressive practices (Book VI art 101 and 102)

The Code establishes for certain unfair commercial practices a 'blacklist' of practices that are deemed in all circumstances:

- Misleading (Book VI art 100) or;
- Aggressive (Book VI art 103).

English translation of key provisions here:

http://www.gregsregs.com/downloads/BEEconomicCodeBookVIwithArt17_WRedit.pdf

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:en:PDF>

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0021:0027:EN:PDF>

³ FR: <http://www.ejustice.just.fgov.be/eli/loi/2013/02/28/2013A11134/justel#LNK0092>

NL: <http://www.ejustice.just.fgov.be/eli/wet/2013/02/28/2013A11134/justel>