

CASE NOTE

Case note re UWG Section 6, sub-para (2) clause 2

The clause: Unfairness shall have occurred where a person conducting comparative advertising uses a comparison which: Does not objectively relate to one or more material, relevant, verifiable and representative features of the goods concerned, or to the price of those goods or services;

Comparisons must relate to definite features of the goods/services and these features must be "material", "relevant", "verifiable" and "representative." "Verifiable" means that there must be evidence available to back up the factual claims made in the comparison. (See: Federal Law Gazette I, 1374; the Government's memorandum of legislative intent concerning the draft law – p.11, at: *Bundestags-Drucksache* 14/2959 dated 20.3.2000 (*Bundesrat's* comments and Government's response at *Bundestags-Drucksache* 14/3433). The comparison may relate not only to product features, but also to the price.

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