

Case

E. Leclerc – Press (medium). Notice published February 18, 2015 E.LECLERC - 361/15.

Retail price advertising:

<http://www.jdp-pub.org/E-LECLERC-Press.html>

Background

The Jury of Advertising Ethics received Dec. 30, 2014, a complaint from the National Union of Family Associations (UNAF), for a ruling on compliance with ethical rules of advertising specifically in the daily newspaper Le Parisien, the E. Leclerc company.

This advertising is divided into two parts of approximately equal sizes, a visual over text that is in two columns. The visual shows five stacks of euro coins, above which is included the name and logo of large retailers. To the left of the image, the smallest stack consists of one piece of a euro that shows the price of the E. Leclerc company. To its right are positioned two significantly higher stacks of coins, showing the difference in price charged by two competing chains of distribution groups, Carrefour and Casino groups, describing the gap by means of a percentage.

The tagline "What can justify such price differences? Nothing!" In large print is followed by an explanatory text and logo of E. Leclerc. The ad is here:

<http://www.jdp-pub.org/IMG/jpg/e-leclerc.jpg>

Claims

- According to the complainant UNAF, the gap between the actual price differences and the visual is likely to mislead consumers because the Carrefour coin pile is stated as 7.6% more expensive than Leclerc. Visually, Leclerc is represented by a €1 coin, Carrefour with 16 pieces. This gives the impression of a difference in price 16 times higher, a difference of about 1500%. Carrefour Market is represented by 27 pieces - a difference of 2,600%.
 - The Leclerc company and its agency argued that the ad was not just about the price differential but about the whole ad, which included a number of important claims which provided context
 - And that the JDP were not competent to judge the ad which should be only in the light of criteria established by the EU legislature, especially as national provisions that might be stricter on misleadingness could not be applied to comparative advertising, according to a ruling of the ECJ April 2003
 - Additionally, advertising may still have a 'hyperbolic' character, as shown in the piles of coins, while the correct percentage has anyway been communicated
 - It needed to be demonstrated that consumer economic behaviour has been affected, and no evidence has been provided by the complainant of any behavioural change
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Ruling

- The jury pointed out that it was not a court, but acting under the auspices of the ICC Code, as that was what advertisers, agencies and media had committed to
 - It was ruled that the advertising breached articles 5 (truthfulness), 3 (Honesty) and 11 (Comparisons)
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Commentary

Note that a quasi-legal defense, no matter how quasi, is not relevant in this context.
