

|                                 |  |
|---------------------------------|--|
| Full title of law or regulation | <p>The Consumer Code; having regard to Title III of Legislative Decree 6 September 2005, n. 206, as amended by the Legislative Decree 2 August 2007, n. 146.</p> <p>The Italian Competition Authority AGCM: <a href="http://www.agcm.it/en/">http://www.agcm.it/en/</a></p>  |
| Title of relevant section       | <p>PS306 - LIFE-ANTIRUGHE FREEZE 24/7. Prowedimento n. 19390. See p. 83 of Bulletin: <a href="http://www.agcm.it/component/joomdoc/bollettini/4-09.pdf/download.html">http://www.agcm.it/component/joomdoc/bollettini/4-09.pdf/download.html</a></p>   |
| Clauses                         | <p>Similarities to the L'Oreal v Bellure decision in CJEU C-487-07: <a href="http://curia.europa.eu/juris/document/document.jsf?text=&amp;docid=75459&amp;pageIndex=0&amp;doclang=en&amp;mode=lst&amp;dir=&amp;occ=first&amp;part=1&amp;cid=843284">http://curia.europa.eu/juris/document/document.jsf?text=&amp;docid=75459&amp;pageIndex=0&amp;doclang=en&amp;mode=lst&amp;dir=&amp;occ=first&amp;part=1&amp;cid=843284</a></p> <p>Background: the company Life had produced and began marketing its new anti-wrinkle cream, Freeze 24/7, claiming that consumers might be able to obtain the same results as those of Botox-based treatments. Botox is a medicine (and a registered Community trade mark), which is injected into muscles and used, <i>inter alia</i>, to improve the look of moderate to severe frown lines between the eyebrows for a short period of time.</p> <p>Competition Authority ruling: The comparison between Freeze 24/7 and Botox was unlawful, because it related to products which are used in different ways and meet different needs, infringing article 4b LD 145/2007. Even if it was also apparent that Freeze 24/7, by setting a comparison with Botox, had tried to ride on the coat-tails of the Botox trademark, in order to benefit from its 'power of attraction, reputation and prestige' (as per <i>L'Oréal</i>), the Italian Competition Authority did not need to rely upon trademark-related arguments to reach its decision.</p> |