

NOTE

This note provides the translation of the revised article 194 of Book 6 of the Dutch Civil Code that was brought about by an amendment from the [Act of March 29, 2016](#) (NL) in connection with the prevention of acquisition fraud by making misleading statements towards those who act in the exercise of their profession, business or organization. The amends are shown in italics below

Misleading public announcements

1. A person who makes public or allows to be made public an announcement regarding goods or services which he, or the person on whose behalf he acts, presents in the course of a professional practice or business, acts tortuously (unlawfully) against another person acting in the course of his business, if this announcement is misleading in one or more of the following respects, for example as to:

- a. The nature, composition, quantity, quality, characteristics or possibilities for use;
- b. The origin, the method and the date of manufacturing;
- c. The size or volume of the goods in stock;
- d. The price or its method of calculation;
- e. The grounds for or the purpose of the offer;
- f. The awarded distinctions, certificates (references) or other assessments or declarations of third persons, or the used scientific or technical terms, the technical findings or the statistical data;
- g. The conditions under which goods are supplied, services are rendered or payment is made;
- h. The extent, content or duration of the warranty (guarantee);
- i. The identity, qualifications, capacity or competence and the person who or under whose control or supervision or with whose cooperation the goods are or will be manufactured or are presented or the services are or will be performed.

2. A communication (announcement), public or specifically directed at another, is in any case misleading if there is a misleading omission, where essential information which the recipient needs, acting in the exercise of a profession, business or organization, in order to make an informed transactional decision, is omitted.

3. A misleading omission also exists if the essential information referred to in para. 2 is kept hidden/concealed or supplied or presented in an unclear, incomprehensible, ambiguous way or in an untimely fashion, or fails to identify the commercial intent of the commercial practice if not already apparent from the context, and where, this causes or is likely to cause him, acting in the exercise of a profession, business or organization, to take a transactional decision that he would not have taken otherwise.

4. In assessing whether there is a misleading omission referred to in paragraph 2 and 3, Article 193d, paragraph 4, and Article 193e (a-d), shall apply accordingly.

