

Full title	<ul style="list-style-type: none"> - Date: 24/07/2017 - File Number: 2017/00281 - Decision: Chairman's allowance (<i>voorzitterstoewijzing</i>) - Product / service: Transport - Motivation: Invitation to purchase, Misleading indication of price - Medium: Unaddressed printed material
The contested advert	It concerns an advertising brochure in which the advertiser offers various scooters with accompanying prices under the entry "Excl. delivery, license plate and registration costs".
The complaint	The complainant deems it misleading that the advertiser does not state a total price, that is to say, a price including the delivery costs and the costs of the license plate and the registration as this is now mandatory for cars. There can be no exceptions on these costs, and these are known so they should have been included in the selling price.
The defence	The price of the scooter shown clearly states that it is a price excluding costs. The fact that it is not specifically stated how high the costs are does not detract from the fact that the advertisement contains all essential information for the consumer to make an informed decision about the purchase of a scooter. There is therefore no question of deception.
Further information provided by the advertiser	The additional costs are the same for all scooters. The delivery costs are €89 per scooter. The costs of the license plate are included. At the moment the customer buys the scooter, it must still be registered. The registration costs €10.
The Chairman's Opinion	<ol style="list-style-type: none"> 1) Scooters with corresponding prices are mentioned in the advertisement. The advertisement is therefore an invitation to purchase. In accordance with article 8.4(c)¹ of the Dutch Advertising Code (NRC), in short, and to the extent relevant here, in the case of an invitation to purchase, the price of the product must be mentioned, including all additional costs that can be calculated in advance. This obligation must be interpreted in conjunction with the Price Act² (<i>Prijzenwet</i>) (see Citroën/ZLW case: ECJ 7 July 2016, case C-476/14, ECLI:EU:C:2016:527). 2) The complainant has stated without being contradicted the provision of the additional costs referred to in the advertisement (delivery costs, license plate and ascription) cannot possibly be waived. These costs are known in advance and are apparently € 99, - per scooter. The advertiser should have already included these costs in the price. In a case such as the present (an invitation to purchase with previously known additional costs) the final price must, according to the foregoing, be shown, that is to say the price actually paid by the consumer at the time of purchase including all previously known additional costs. Now that these costs are not included in the advertised total price, the advert is in contradiction with the provisions of Article 8.4(c) NRC in conjunction with Article 2b of the Prices Act and Article 3(1) of the Product Pricing Decree³. For this reason, the chairman decides as follows.
The Chairman's Decision	Because the final price is not stated/ mentioned, the Chairman considers the advertisement in violation of Art. 8.4c DAC/ NRC in conjunction with Article 2b of the Prices Act and Article 3 paragraph 1 of the Product Pricing Decree. The Chairman recommends the advertiser not to advertise in such a way. Rule: Art. 8.4(c) NRC.

Source: <https://www.reclamecode.nl/webuitspraak.asp?ID=189059&acCode>

¹ Art. 8.4 (Invitation to purchase) In the case of an invitation to purchase in advertising, which does not relate to a distance contract or off-premises contract, the following essential (i.e. material) information must be provided: c) the price including taxes, or where the nature of the product means that the price cannot reasonably be calculated in advance, the manner in which the price is calculated, as well as, where appropriate, all additional freight, delivery or postal charges or, where these charges/costs cannot reasonably be calculated in advance, the fact that such additional charges/costs may be payable.

² Price Act – Dutch version: <http://wetten.overheid.nl/BWBR0002353> (Particularly Art. 2b – upon which The Product Pricing Decree is enacted)

³ English translation of Product Pricing Decree - http://www.gregsregs.com/downloads/NL_ProductPricingDecree_EN.pdf