

Full title of law or regulation	Law 3/1991 of 10th January on Unfair Competition. Entry into force 31/01/1991. BOE no.10, 11/01/1991. (<i>Ley de Competencia Desleal</i>) https://www.boe.es/eli/es/l/1991/01/10/3/con
Title of relevant section	Chapter III Commercial Practices with Consumers and Users: Articles 19-31; implements the Annex from UCPD: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:en:PDF
	Articles 20-27 concern misleading practices; Articles 28-31 aggressive practices; we include only those clauses that relate to marketing communications
Misleading Practices	
Article 21	Misleading practices concerning codes of conduct or other quality marks 1. Commercial practices falsely claiming the following shall be deemed misleading and hence unfair: a) That the entrepreneur or professional is a signatory of a code of conduct. b) That a code of conduct has the endorsement of a public organisation or any other type of accreditation. c) That an entrepreneur or professional, the latter's commercial practices or a good or service has been approved, endorsed or authorised by a public or private body or making such a claim but failing to comply with the terms of the approval, endorsement or authorisation. 2. The display of a trust mark, quality mark or equivalent without having obtained the necessary authorisation is also misleading and hence unfair in all cases.
Article 22	Decoy and misleading promotional practices 1. Making an invitation to purchase goods or services at a specified price without disclosing any reasonable grounds the entrepreneur or professional may have for believing that he will not be able to offer the said good or service or equivalent ones at that offered price for long enough and in quantities that are reasonable given the type of good or service, the scale of advertising and the price offered. 2. Making a commercial offer of goods or services at a certain price then subsequently, in order to promote a different good or service, refusing to display the good or service offered, refusing to take orders or requests for its supply or to deliver it within a reasonable period of time, displaying a defective sample of the good or service promoted or discrediting it. 4. Commercial practices whereby a prize is offered, automatically or through a competition or draw but the prizes described or others of equivalent quality and value are not awarded. 5. Description of a good or service as "free", "a gift", "at no charge" or using any similar formula if the consumer or user has to make a payment for anything other than the inevitable cost of the response to the commercial practice and the collection of the product or payment for its delivery. 6. Creating the false impression, including by means of aggressive practices, that the consumer or user has won, will win or will be awarded a prize or any other similar advantage if he carries out some specific act when the truth is that: a) There is no prize or similar advantage. b) Or the action that the consumer or user is invited to take in order to obtain the prize or similar advantage is subject to an obligation to make some payment or incur some expense.
Article 23	Misleading practices relating to the nature and properties of goods or services, their availability and after-sales services. The following shall be deemed misleading and hence unfair:

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1. Falsely claiming or using some other means to create the impression that a good or service can be legally placed on the market.
 2. Claiming that the goods or services can help in winning prizes in games of chance.
 3. Falsely claiming that a good or service can cure diseases, dysfunctions or malformations.
 4. Falsely claiming that the good or service will only be available during a very limited period of time or that it will only be available under certain conditions during a very limited period of time for the purpose of inducing the consumer or user to make a hasty decision and hence prevent him from having the chance or adequate time to make an informed choice.
 5. Undertaking to provide a post-sales service to consumers or users without clearly warning them beforehand that this service is provided in a language other than the one used in the commercial operation.
 6. Creating the false impression that the post-sales service for the good or service under promotion is available in a Member State other than the one where its supply was engaged
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Article 26

Covert commercial practices

As amended 2022

Practices that:

1. Include as information in the media or in information society services or social networks, communications to promote a good or service, paying the entrepreneur or professional for said promotion, without clearly specifying in the content, or by means of images and sounds clearly indicating to the consumer or user that it is advertising content.
 2. *Provide search results in response to online queries made by a consumer or user without clearly revealing any paid advertising or payment specifically aimed at the goods or services obtaining a higher ranking in the search results, ranking being understood as the relative prominence attributed to the goods or services, in their presentation, organisation or communication by the trader, irrespective of the technological means used for such presentation, organisation or communication.*
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Article 27

Also considered misleading and hence unfair are practices that:

1. Present as a distinctive feature of the entrepreneur or professional's offer rights to which consumers or users are entitled by law.
 2. Make materially inaccurate or false claims concerning the nature and extent of the risk to the personal security of the consumer and user or his family if the consumer does not purchase the product.
 3. Pass on inaccurate or false information on market conditions or on the possibility of finding the good or service with the intention of inducing the consumer or user to acquire it in conditions less favourable than normal market conditions.
 4. Include in marketing material an invoice or similar payment document which gives the consumer or user the impression that he has agreed to acquire the marketed good or service without having asked for it.
 5. Falsely claim or create the impression that the entrepreneur or professional is not acting for purposes relating to his business or professional activity or falsely present him as a consumer or user.
 6. *Reselling events tickets to consumers or users if the trader acquired them by using automated means to circumvent any limit imposed on the number of tickets that a person can buy or any other rules applicable to the purchase of tickets.*
 7. *Claim that reviews of a good or service are added by consumers and users who have actually used or purchased the good or service, without taking reasonable and proportionate steps to verify that such reviews originate from such consumers and users.*
 8. *Submitting or commissioning another natural or legal person to submit false consumer reviews or endorsements, or misrepresenting consumer or user reviews or social endorsements in order to*
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promote goods or services

Aggressive Practices

Article 29

Making unsolicited and repeated proposals by telephone, fax, e-mail or by other means of distance communications, except in circumstances and to the extent legally justified to comply with a contractual obligation, shall likewise be deemed unfair.

In these communications, the entrepreneur or professional must use systems that enable the consumer to register his/ her opposition to receiving repeated commercial proposals from said entrepreneur or professional.

So that the consumer or user can exercise their right to express their objection to receiving unsolicited commercial proposals, when these are made over the telephone the calls must be made from an identifiable telephone number.

Article 30

Aggressive practices and minors

Including in advertising materials direct exhortations to children to acquire goods or use services or to convince their parents or other adults to buy goods or contract for services is deemed aggressive and hence unfair
