

# Procedure file

Basic information	
INI - Own-initiative procedure	2008/2114(INI)
Procedure completed	
<p>Transposition, implementation and enforcement of the Misleading and Comparative Advertising Directive 84/450/EC, as revised by Directive 97/55/EC and of the Unfair Commercial Practices (UCP) Directive 2005/29/EC</p> <p>See also Directive 97/55/EC <a href="#">1991/0343(COD)</a> See also Directive 2005/29/EC <a href="#">2003/0134(COD)</a></p> <p>Subject 4.60.02 Consumer information, advertising, labelling 4.60.06 Consumers' economic and legal interests</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>IMCO</b> Internal Market and Consumer Protection	PSE <a href="#">WEILER Barbara</a>	06/05/2008
European Commission	Committee for opinion	Rapporteur for opinion	Appointed
	<b>PETI</b> Petitions	The committee decided not to give an opinion.	
	Commission DG	Commissioner	
	<a href="#">Trade</a>	ASHTON Catherine	

Key events			
22/05/2008	Committee referral announced in Parliament		
15/12/2008	Vote in committee		Summary
18/12/2008	Committee report tabled for plenary	<a href="#">A6-0514/2008</a>	
12/01/2009	Debate in Parliament		
13/01/2009	Results of vote in Parliament		
13/01/2009	Decision by Parliament	<a href="#">T6-0008/2009</a>	Summary
13/01/2009	End of procedure in Parliament		

Technical information	
Procedure reference	2008/2114(INI)
Procedure type	INI - Own-initiative procedure

Procedure subtype	Implementation
	See also Directive 97/55/EC <a href="#">1991/0343(COD)</a> See also Directive 2005/29/EC <a href="#">2003/0134(COD)</a>
Legal basis	Rules of Procedure EP 54-p4; Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/6/62835

### Documentation gateway

Committee draft report	<a href="#">PE415.297</a>	12/11/2008	EP	
Amendments tabled in committee	<a href="#">PE416.529</a>	05/12/2008	EP	
Committee report tabled for plenary, single reading	<a href="#">A6-0514/2008</a>	18/12/2008	EP	
Text adopted by Parliament, single reading	<a href="#">T6-0008/2009</a>	13/01/2009	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2009)1067</a>	30/04/2009	EC	

## Transposition, implementation and enforcement of the Misleading and Comparative Advertising Directive 84/450/EC, as revised by Directive 97/55/EC and of the Unfair Commercial Practices (UCP) Directive 2005/29/EC

The Committee on the Internal Market and Consumer Protection adopted an own initiative report by Barbara WEILER (PES, DE) on the transposition, implementation and enforcement of Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market (UCP) and Directive 2006/114/EC concerning misleading and comparative advertising (MCA).

MEPs stress the importance of the UCP and MCA Directives in making consumers and traders more confident in engaging in cross-border transactions and strongly believe that proper transposition, implementation and enforcement is crucial in order to achieve the aims of those Directives. They call on the Commission to investigate the need to protect small and medium-sized undertakings against aggressive business practices and, if appropriate, to initiate the requisite follow-up measures.

Codification and transposition: while MEPs welcome the Commission's efforts to assist Member States in transposing the UCP and MCA Directives, they note that Article 3a(2) of Directive 84/450/EEC, as amended by Directive 97/55/EC, referring to a "comparison referring to a special offer", was deleted and appears neither in the UCP Directive nor in the MCA Directive. They regret that there is confusion surrounding the consequences of this deletion for business-to-consumer transactions and call on the Member States, with the assistance of the Commission, to investigate this and to take possible follow-up action.

MEPs call on the Commission to submit a proposal for an amendment to the MCA Directive to include a "black list" of practices that are under all circumstances to be considered misleading, or extend the scope of the UCP Directive to cover business-to-business (B2B) contracts. They call on the Commission to report by December 2009 on the measures taken.

Moreover, the report observes that several Member States have disaggregated the "black list" contained in Annex I to the UCP Directive in transposing and implementing it in their legal systems, which creates confusion for undertakings and might lead to distortions in the application of the UCP Directive. MEPs ask the Commission to work with Member States in adapting their national legislation so that "black lists" are visible and useful for consumers to the greatest extent possible.

Member States are called upon to screen their legal systems in order to avoid possible overlaps between rules adopted in transposition of the UCP and the MCA Directives and already-existing national provisions, to focus their efforts on the proper transposition, implementation and enforcement of the UCP and MCA Directives and to ensure that all relevant national court judgments and ECJ rulings are respected.

Implementation and enforcement: the report notes that some Member States have provided that only certain regulatory bodies may enforce national rules adopted in implementation of the UCP Directive and have not made provision for a direct right of redress for consumers, who thus are not entitled to bring claims for damages resulting from unfair commercial practices. It calls on Member States which have not already done so to consider the necessity of giving consumers a direct right of redress in order to ensure that they are sufficiently protected against unfair commercial practices.

Furthermore, MEPs encourage the Commission to develop more efficient implementation monitoring tools, such as sweeps, in such a way that the enforcement of consumer protection law can be improved, and ask the Commission to consider the feasibility of integrating sweeps into the Consumer Scoreboard monitoring mechanisms. Member States are called upon to cooperate fully with the Commission in conducting and following up on Commission sweeps.

Highlighting the importance of cross-border enforcement for the functioning of the internal market, MEPs call on the Commission to further develop the use of the Consumer Protection Cooperation Network in such a way that cross-border law enforcement can be improved. Member States and national judicial authorities are called upon to reinforce cross-border cooperation regarding misleading database services.

The report welcomes the Commission's initiative to establish a publicly accessible database of national measures adopted in transposition of the UCP, jurisprudence thereon and other relevant material. It calls on the Commission to: (i) include in this database expert monitoring reports

which formulate specific recommendations for action to improve enforcement of the law; (ii) furthermore use this database to set up a "single point of access" website where both undertakings and consumers can retrieve information on the legislation in force in the Member States.

MEPs call on the Commission and the Member States to organise information campaigns to heighten consumers' awareness of their rights. Member States should also provide sufficient guidance for companies at national level. In this respect, MEPs highlight as a best practice "Consumer Protection from Unfair Trading Regulations: a basic guide for business" published by the UK Department for Business, Enterprise & Regulatory Reform.

Lastly, MEPs insist that the Commission submit on schedule, by 12 June 2011, a comprehensive implementation report pursuant to Article 18 of the UCP Directive which incorporates experience gained from the MCA Directive.

## Transposition, implementation and enforcement of the Misleading and Comparative Advertising Directive 84/450/EC, as revised by Directive 97/55/EC and of the Unfair Commercial Practices (UCP) Directive 2005/29/EC

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The European Parliament adopted by 566 votes to 18, with 15 abstentions, a resolution on the transposition, implementation and enforcement of Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market (UCP) and Directive 2006/114/EC concerning misleading and comparative advertising (MCA).

The own initiative report had been tabled for consideration in plenary by Barbara WEILER (PES, DE), on behalf of the Committee on Internal Market and Consumer Protection.

MEPs stress the importance of the UCP and MCA Directives in making consumers and traders more confident in engaging in cross-border transactions and strongly believe that proper transposition, implementation and enforcement is crucial in order to achieve the aims of those Directives. In this context, they call on the Commission to investigate the need to protect small and medium-sized undertakings against aggressive business practices and, if appropriate, to initiate the requisite follow-up measures.

Codification and transposition: while MEPs welcome the Commission's efforts to assist Member States in transposing the UCP and MCA Directives, they note that Article 3a(2) of Directive 84/450/EEC, as amended by Directive 97/55/EC, referring to a "comparison referring to a special offer", was deleted and appears neither in the UCP Directive nor in the MCA Directive. They regret that there is confusion surrounding the consequences of this deletion for business-to-consumer transactions and call on the Member States, with the assistance of the Commission, to investigate this and to take possible follow-up action.

Member States are called upon to: (i) screen their legal systems in order to avoid possible overlaps between rules adopted in transposition of the UCP and the MCA Directives and already-existing national provisions; (ii) focus their efforts on the proper transposition, implementation and enforcement of the UCP and MCA Directives; (iii) ensure that all relevant national court judgments and Court of Justice of the European Communities (ECJ) rulings are respected.

Misleading black lists: MEPs call on the Commission to submit a proposal for an amendment to the MCA Directive to include a "black list" of practices that are under all circumstances to be considered misleading, or extend the scope of the UCP Directive to cover business-to-business (B2B) contracts. They call on the Commission to report by December 2009 on the measures taken.

The resolution observes that several Member States have disaggregated the "black list" contained in Annex I to the UCP Directive in transposing and implementing it in their legal systems, which creates confusion for undertakings and might lead to distortions in the application of the UCP Directive. MEPs ask the Commission to work with Member States in adapting their national legislation so that "black lists" are visible and useful for consumers to the greatest extent possible.

Implementation and enforcement: the resolution notes that some Member States have provided that only certain regulatory bodies may enforce national rules adopted in implementation of the UCP Directive and have not made provision for a direct right of redress for consumers, who thus are not entitled to bring claims for damages resulting from unfair commercial practices. It calls on Member States which have not already done so to consider the necessity of giving consumers a direct right of redress in order to ensure that they are sufficiently protected against unfair commercial practices.

Sweeps: the Parliament welcomes the results of the Commission's EU Airlines Sweep and EU Ringtones Sweep as a first step towards better monitoring of the implementation and enforcement of internal market legislation. It emphasises the need to carry out extended checks in this respect at regular intervals.

MEPs encourage the Commission to develop more efficient implementation monitoring tools, such as sweeps, in such a way that the enforcement of consumer protection law can be improved. Member States are called upon to cooperate fully with the Commission in conducting and following up on Commission sweeps.

Cross-border enforcement: MEPs call on the Commission to further develop the use of the Consumer Protection Cooperation Network and underline the need to further raise awareness of the European Consumer Centres Network. Member States and national judicial authorities are called upon to reinforce cross-border cooperation regarding misleading database services.

Database: the resolution welcomes the Commission's initiative to establish a publicly accessible database of national measures adopted in transposition of the UCP, jurisprudence thereon and other relevant material. It calls on the Commission to: (i) include in this database expert monitoring reports which formulate specific recommendations for action to improve enforcement of the law; (ii) furthermore use this database to set up a "single point of access" website where both undertakings and consumers can retrieve information on the legislation in force in the Member States.

Information campaigns: the Parliament calls on the Commission and the Member States to organise information campaigns to heighten consumers' awareness of their rights. Member States should also provide sufficient guidance for companies at national level. In this respect, MEPs highlight as a best practice "Consumer Protection from Unfair Trading Regulations: a basic guide for business" published by the UK Department for Business, Enterprise & Regulatory Reform.

Lastly, the Parliament insists that the Commission submit on schedule, by 12 June 2011, a comprehensive implementation report pursuant to

Article 18 of the UCP Directive which incorporates experience gained from the MCA Directive.