



29.9.2014

## NOTICE TO MEMBERS

**Subject: Petition 1176/2013 by Annick Pelletier (French) on misleading offers from Deutsche Adressdienst GmbH (DAD)**

**Petition 1180/2013 by Consuelo Cortellessa (Italian), on misleading advertising of trade registers**

**Petition 1556/2013 by P.V. (Italian), on misleading advertising regarding trade registers**

### 1. Summary of petition

#### **Petition 1176/2013**

The petitioner complains about a request from Deutsche Adressdienst GmbH (DAD) of Hamburg to verify the data by which her computer club is listed on a French internet register. After she had returned the form with the data, she received an invoice for over EUR 1100 and it turned out that the club had taken out a subscription with DAD. The petitioner states that it was not clear from the letter she received from DAD that her club would have to pay this amount and that it had taken out a subscription. She also points out that she had clearly stated that she did not wish to pay anything as her club had only three members and did not have any money of its own. She nevertheless received the invoice. As the club has no money to pursue a lawsuit, she calls on the European Parliament for help.

#### **Petition 1180/2013**

The petitioner, who owns a company in Italy, is complaining about the fraudulent practices of the Dutch company World Register, which offers advertising in trade registers.

This apparently free-of-charge service then demands from the individual companies in question an annual subscription of EUR 995; should the company refuse, the World Register implements a particularly aggressive debt recovery policy.

### **Petition 1556/2013**

The petitioner, who owns a company in Italy, condemns the fraudulent practices of the Dutch company EU Business Register, based in Utrecht, which offers advertising in trade registers to various businesses and companies.

This service, which is apparently free, is actually subject to an annual subscription of EUR 995, which is automatically renewed every two years; if a business refuses to pay, the company in question apparently implements a particularly aggressive debt collection policy.

## **2. Admissibility**

Petitions 1176/2013 and 1180/2013, declared admissible on 18 March 2014 and petition 1556/2013, declared admissible on 19 May 2014.

Information requested from Commission under Rule 216(6).

## **3. Commission reply, received on 29 September 2014**

### **Petitions 1176/2013, 1180/2013 and 1556/2013**

The petitioners are two owners of companies in Italy and a member of an IT club in France. All of them received forms inviting them to update company or club information in different business directories. The information presented in the form made the company owners believe that this is a free offer. The petitioners signed the form and sent it back. The member of the IT club from France explicitly wrote "no" on the form and returned it.

Much to their surprise they received invoices from the directory companies. Subsequent attempts to withdraw from the contract were refused and the petitioners were pursued for the amount purportedly owed and late-payment interest was added to the amount.

EU law provides protection against business-to-business misleading advertising. Directive 2006/114/EC concerning misleading and comparative advertising prohibits misleading advertising practices affecting businesses, such as the one invoked by the petitioners.

In particular, Article 2 of the Directive defines misleading advertising as "*any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor*". In line with Article 5 of the Directive, Member States must establish effective and adequate means to combat misleading advertising.

Whilst any concrete misleading advertising practice should be assessed on a case-by-case basis by the national authorities, the European Commission shares the petitioners' concerns and is well aware that these dishonest practices continue to cause important problems to several European businesses. The same position was recently expressed in petitions

1935/2012 and 292/2013.

In this respect, the Commission believes that the current EU legislative framework should be strengthened. The rules prohibiting certain practices should be revised and the enforcement of the rules against misleading marketing practices in cross-border cases strengthened. Furthermore, the Commission is engaged in a structured dialogue with some Member States in order to ensure that existing rules are transposed and implemented correctly.

On 27 November 2012, the Commission published a Communication<sup>1</sup> "Protecting businesses against misleading marketing practices and ensuring effective enforcement". This Communication outlines plans for the future revision of Directive 2006/114/EC. On 22 October 2013, the European Parliament adopted a resolution<sup>2</sup> welcoming this Communication.

### Conclusion

In this connection, the Commission is considering presenting a legislative proposal reviewing Directive 2006/114/EC, with a view to further improve the clarity of the current provisions and their effective enforcement, especially at cross border level.

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<sup>1</sup> COM(2012)702

<sup>2</sup> A7-311/2013 P7\_TA-PROV(2013)0436