

# European City Guide Report: Petition 45/2006

2008/2126(INI) - 16/12/2008 - Text adopted by Parliament, single reading

The European Parliament adopted, by 632 votes to 4 with 12 abstentions, a resolution on the Misleading Directory Companies report (Petitions 0045/2006, 1476/2006, 0079/2003, 0819/2003, 1010/2005, 0052/2007, 0306/2007, 0444/2007, 0562/2007 and others). The own-initiative report had been tabled for consideration in plenary by Simon **BUSUTTIL** (EPP-ED, MT) on behalf of the Committee on Petitions.

Members recall that Parliament has received more than 400 petitions from small businesses (reflecting only a fraction of their number) who claim to have fallen victim to misleading advertising by business-directory companies and to have suffered, in consequence, psychological stress, feelings of guilt, embarrassment, frustration and financial loss. These complaints reflect a widespread and concerted pattern of misleading business practices on the part of certain business-directory companies. Business practices complained of approaches being made, usually by mail, by a business-directory company to businesses inviting them to complete or update their business name and contact details and giving them the false impression that they will be listed in a business directory free of charge. Signatories later discover that they have, in fact, unintentionally signed up to a contract, normally binding them for a minimum of three years, to be listed in a business directory at a yearly charge of some EUR 1 000.

Most petitioners name the business directory known as "European City Guide" (the activities of which have been the subject of legal and administrative action) as well as other similar directories.

Parliament considers that the cross-border nature of this problem imposes a duty on the Community institutions to provide victims with an adequate remedy, such that the validity of contracts concluded on the basis of misleading advertising can be effectively contested, annulled or terminated, and that such victims may obtain reimbursement of the money paid by them.

MEPs urge victims to report cases of business scams to national authorities, and call on Member States to provide small and medium-sized enterprises with the know-how needed in order to enable them to file complaints with governmental and non-governmental authorities, and to set up and maintain a centralised database of these complaints.

MEPs regret that, despite the widespread nature of these practices, EU and national legislation does not appear to be adequate when it comes to providing a significant means of protection and an effective remedy, or is not being adequately enforced at national level. Directive 2006/114/EC concerning misleading and comparative advertising, which applies to business-to-business transactions such as the one at issue in this case, appears to be either insufficient in terms of providing an effective remedy or inadequately enforced by Member States. The Commission is requested to report by December 2009 on the feasibility of amending Directive 2006/114/EC in such a way as to include a "black" or "grey" list of practices that are to be regarded as misleading. The Commission is also asked to step up its monitoring of the implementation of Directive 2006/114/EC, most notably in those Member States where misleading business-directory companies are known to be based, but in particular in Spain, where the business-directory company that is most often named by petitioners is established, and in the Czech Republic and Slovakia where a court judgment has been delivered against victims in a manner which calls into question the implementation of Directive 2006/114/EC in those countries.

MEPs also regret that Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market does not cover business-to-business transactions and that Member States appear reluctant to extend its scope. They request the Commission to report by December 2009 on the feasibility and possible consequences of extending the scope of Directive 2005/29/EC to cover business-to-

business contracts, based on the Austrian model, in a way that specifically prohibits advertising in business directories unless prospective clients are unequivocally and by clear and graphic means informed that such advertisement is solely an offer for a contract against payment.

Parliament welcomes the measures taken by several Member States including Italy, the Netherlands, Belgium and the United Kingdom, but especially Austria, in attempting to prohibit misleading business directories.

It considers, however, that these efforts remain insufficient and that there is still a need for the coordination of control at an international level.

The European Commission is invited to:

- step up efforts, in full cooperation with national and European business representative organisations, to raise awareness of this problem so that more people are informed and empowered to avoid misleading advertising which can lure them into unwanted advertising contracts;
- address the problem of business scams in the context of its "Small Business Act for Europe" initiative, and to engage with the Enterprise Europe Network, the SOLVIT Network and relevant DG portals;
- develop best-practice guidelines for national enforcement agencies which may be followed when cases of misleading advertising are brought to their attention;
- pursue international cooperation with third countries and with the competent international organisations so that misleading business-directory companies based in third countries do not cause harm to businesses based in the EU.

Member States are urged to ensure that victims of misleading advertising have a clearly identifiable national authority to which they can make a complaint and from which they can seek a remedy even in cases where the victims of misleading advertising are businesses.

Lastly, Parliament welcomes the efforts made by business organisations to raise awareness among their members. It expresses concern that some of these organisations have consequently been pursued through the courts by the misleading business-directory companies specified in their awareness-raising activities on the basis of alleged defamation or similar accusations.