Misleading advertising and comparative advertising (amend. Directive 84/450/EEC)

1991/0343(COD) - 21/04/1994 - Modified legislative proposal

The Commission's amended proposal incorporated certain elements of the initial proposal: - preservation of the title of the proposal and of the definition of comparative advertising; - preservation of the initial text that extended the scope of the provisions applied to misleading advertising to included comparative advertising; - validity of the voluntary control of misleading advertising by self-regulatory bodies; - preservation of the principle of reversing the burden of proof. However, the Commission included the following amendments: - removal of the provisions concerning comparative tests; - stricter limits on comparative advertising: . extending the criteria in order to ensure that comparative advertising was fair; . a comparative reference to a service should only relate to the characteristics of the service itself and not to the intellectual qualities of the service provider, which should not themselves be subject to any comparison; . the "objective truth", a guiding principle of the design and use of comparative advertising, should also incorporate the full "relevance" of the assertion at the time when it is disseminated, particularly when products and services are on special offer or are a limited offer; .finally, in areas where advertising is subject to partial bans or to restrictions (medical products, tobacco, foodstuffs), comparative advertising must also be taken into consideration.