Basic information

1991/0343(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Misleading advertising and comparative advertising (amend. Directive 84/450/EEC) Repealed by 2006/0070(COD) See also 2008/2114(INI) **Subject** 4.60.02 Consumer information, advertising, labelling	

Key players

European Parliament	**Former committee responsible**	**Former rapporteur**	**Appointed**
	ENVI Environment, Public Health and Consumer Protection	OOMEN-RUIJTEN Ria (PPE)	27/07/1994

Council of the European Union	**Council configuration**	**Meetings**	**Date**
	General Affairs	2027	1997-09-15
	Economic and Financial Affairs ECOFIN	1986	1997-01-27
	Agriculture and Fisheries	1908	1996-03-19
	Consumers	1881	1995-11-09

Key events

Date	Event	Reference	Summary
28/05/1991	Legislative proposal published	COM(1991)0147	Summary
08/10/1991	Committee referral announced in Parliament, 1st reading		
25/09/1992	Vote in committee, 1st reading		
17/11/1992	Debate in Parliament		Summary
24/11/1993	Vote in committee, 1st reading		
21/04/1994	Modified legislative proposal published	COM(1994)0151	Summary
19/03/1996	Council position published	04340/3/1996	Summary
04/07/1996	Committee referral announced in Parliament, 2nd reading		
09/10/1996	Vote in committee, 2nd reading		Summary

09/10/1996	Committee recommendation tabled for plenary, 2nd reading	A4-0314/1996	
22/10/1996	Debate in Parliament		
27/01/1997	Parliament's amendments rejected by Council		
25/06/1997	Formal meeting of Conciliation Committee		Summary
25/06/1997	Final decision by Conciliation Committee		
06/08/1997	Joint text approved by Conciliation Committee co-chairs	3619/1997	
10/09/1997	Report tabled for plenary, 3rd reading	A4-0272/1997	
15/09/1997	Debate in Parliament		Summary
15/09/1997	Decision by Council, 3rd reading		Summary
06/10/1997	Final act signed		
06/10/1997	End of procedure in Parliament		
23/10/1997	Final act published in Official Journal		

Technical information

Procedure reference	1991/0343(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealed by 2006/0070(COD) See also 2008/2114(INI)
Legal basis	EC Treaty (before Amsterdam) E 100A
Stage reached in procedure	Procedure completed
Committee dossier	CODE/4/08610

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A3-0283/1992 OJ C 305 23.11.1992, p. 0007	25/09/1992	
Text adopted by Parliament, 1st reading/single reading		T3-0654/1992 OJ C 337 21.12.1992, p. 0078-0142	18/11/1992	Summary
Committee final report tabled for plenary, 1st reading /single reading		A3-0365/1993 OJ C 342 20.12.1993, p. 0003	24/11/1993	
Text adopted by Parliament confirming position adopted at 1st reading		T3-0683/1993 OJ C 342 20.12.1993, p. 0015-0033	02/12/1993	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0314/1996 OJ C 347 18.11.1996, p. 0006	09/10/1996	
		T4-0519/1996		

Text adopted by Parliament, 2nd reading		OJ C 347 18.11.1996, p. 0051-0069	23/10/1996	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A4-0272/1997 OJ C 304 06.10.1997, p. 0008	10/09/1997	
Text adopted by Parliament, 3rd reading		T4-0422/1997 OJ C 304 06.10.1997, p. 0023-0031	16/09/1997	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	04340/3/1996 OJ C 219 27.07.1996, p. 0014	19/03/1996	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1991)0147 OJ C 180 11.07.1991, p. 0014	28/05/1991	Summary
Reconsultation	COM(1993)0570	10/11/1993	
Modified legislative proposal	COM(1994)0151 OJ C 136 19.05.1994, p. 0004	21/04/1994	Summary
Commission communication on Council's position	SEC(1996)1169	03/07/1996	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1996)0700 OJ C 032 01.02.1997, p. 0007	13/12/1996	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1510/1991 OJ C 049 24.02.1992, p. 0035	18/12/1991	Summary
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3619/1997	06/08/1997	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Corrigendum to final act 31997L0055R(03)
OJ L 317 03.12.2015, p. 0042

Directive 1997/0055
OJ L 290 23.10.1997, p. 0018 Summary

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

1991/0343(COD) - 09/11/1995

The Council reached political agreement, by a qualified majority with the German, Finnish and Swedish delegations against at this stage, on its common position. It specifies that the Directive must be implemented within a period of 30 months from its entry into force. Once it has been formally adopted, the common position will be forwarded to the European Parliament under the codecision procedure.

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

1991/0343(COD) - 19/03/1996

Following the political agreement reached at its meeting on 9 November 1995, the Council adopted by a qualified majority, with the German, Finnish and Swedish delegations voting against, its common position on comparative advertising (amendment of Directive 84/450/EEC on misleading advertising).

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

1991/0343(COD) - 28/05/1991 - Legislative proposal

The purpose of this proposal is to harmonise the laws on comparative advertising in order to ensure that the consumer's right to information is respected and that appropriate safeguards exist to avoid conflicts between advertisers due to incompatible national laws. The proposal will not permit Member States to retain or adopt provisions which would ensure more extensive protection in the area of comparative advertising, unlike misleading advertising for which Member States are permitted to adopt stricter legislation.

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.

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

1991/0343(COD) - 13/12/1996 - Commission opinion on Parliament's position at 2nd reading

The Commission amended its proposal by incorporating 8 of the 16 amendments adopted by the European Parliament at second reading. The amendments introduced by the Commission seek to: - delete a recital requiring conditions for comparative advertising to be cumulative and to be

adhered to in full; - ban comparative advertising: . which discredits or denigrates the distinguishing marks or circumstances of a competitor; . which clashes with the codes of ethics of such professional bodies as the Bar associations. However, the Commission was unable to include amendments relating in particular to: - comparative tests; - voluntary control and the creation of a European self-regulatory body.

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

1991/0343(COD) - 19/03/1996 - Council position

The Council common position incorporates, in full or in part, six of the amendments accepted by the Commission in its amended proposal. The Council has, however, included modifications with a view in particular to completing harmonization for comparative advertising, a more precise reference to the provisions of Directive 84/450 on misleading advertising and to specifying the conditions for allowing (and disallowing) comparative advertising with regard to the comparison. Thus, as far as the comparison is concerned, comparative advertising is permitted when the following conditions are met: - it is not misleading in the sense of Directive 84/450/EEC; - it compares goods or services meeting the same needs or intended for the same purpose; - it objectively compares one or more material, relevant, verifiable and representative features of those goods and services, which may include price; - it does not create confusion in the market place between the advertiser and a competitor or between the advertiser's trademarks, trade names, other distinguishing marks, goods or services and those of a competitor; - it does not discredit or denigrate the trademarks, trade names, other distinguishing marks, goods, services or activities of a competitor; - for products with designation of origin, it relates in each case to products with the same designation; - it does not take unfair advantage of the reputation of a trademark, trade name or other distinguishing marks of a competitor or a designation of origin of competing products. The common position also lays down the conditions which must be respected for any comparison referring to a special offer. In view of the thoroughgoing nature of the planned harmonization, the Member States will not be permitted, with regard to comparative advertising, to retain or adopt provisions ensuring more extensive protection. However, the provisions of the Directive do not prevent Member States from maintaining or introducing, in compliance with the provisions of the Treaty, advertising bans regarding certain goods or services.

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

1991/0343(COD) - 15/09/1997

Following the agreement reached in the Conciliation Committee on 25 June 1997, the Council adopted the Directive amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising. The German and Swedish delegations voted against this Directive. The Finnish delegation gave an explanation of voting.

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

1991/0343(COD) - 03/07/1996 - Commission communication on Council's position

The Commission accepted the amendments introduced by the Council and supported the common position. However, it wished to clarify its interpretation of article 7, point 4 of the common position, i.e. that if national legislation banned advertising of certain products or services (irrespective of which), comparative advertising of those products and services would also be banned.

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

1991/0343(COD) - 06/10/1997 - Final act

OBJECTIVE: the new Directive seeks to authorise, under certain conditions, comparative advertising at Community level and to coordinate its application with a view to establishing the Internal Market, while at the same time helping provide consumers with better information and stimulating competition. COMMUNITY MEASURE: European Parliament and Council Directive 97/55/EC, amending Directive 84/450/EEC on misleading advertising so as to include comparative advertising. CONTENT: under the terms of the Directive, comparative advertising is defined as being any form of advertising which, explicitly or implicitly, identifies a competitor or the goods or services being offered by a competitor. Comparative advertising is lawful when the following conditions are met: - it is not misleading in the sense of Directive 84/450/EEC; - it compares goods or services meeting the same needs or intended for the same purpose; - it objectively compares one or more material, relevant, verifiable and representative features of those goods and services, which may include price; - it does not create confusion in the market place between the advertiser and a competitor or between the advertiser's trademarks, trade names, other distinguishing marks, goods or services and those of a competitor; - it does not discredit or denigrate the trademarks, trade names, other distinguishing marks, goods, services or activities of a competitor; - for products with designation of origin, it relates in each case to products with the same designation; - it does not take unfair advantage of the reputation of a trademark, trade name or other distinguishing marks of a competitor or a designation of origin of competing products; - it does not present goods or services as being an imitation or replica of goods or services with a registered trademark or trade name. In addition, the measures proposed under Directive 84/450/EEC concerning the control of misleading advertising are equally applicable to comparative advertising. This primarily involves allowing persons or organisations having a

legitimate interest in banning misleading advertising or comparative advertising to take legal action against the advertising in question and/or to bring the advertising before a competent administrative body, either to obtain a ruling on the complaint or to commence appropriate legal proceedings. It should also be noted that the Member States are not permitted, with regard to comparative advertising, to retain or adopt provisions ensuring more extensive protection. However, the provisions of the Directive do not prevent Member States, in compliance with the provisions of the Treaty, from retaining or introducing advertising bans regarding certain goods or services. ENTRY INTO FORCE: 23/04/2000

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

1991/0343(COD) - 23/10/1996 - Text adopted by Parliament, 2nd reading

In adopting the report by Mrs Ria OOMEN-RUIJTEN (PPE, NL), Parliament approved, with amendments, the common position of the Council on the amendment of the 1984 Directive concerning misleading advertising so as to include comparative advertising. Parliament called for comparative advertising to be prohibited: - where it presents a good or service as an imitation or replica of a good or service bearing a registered trade mark or trade name; - where it clashes with the codes of ethics of such professional bodies as the Bar associations. The EP also proposed that reference to the results of comparative tests should be permitted in advertising only if the person who has carried out the tests gives his express consent. In such cases the advertiser should accept responsibility for the test as if it had been performed by himself. Finally, the EP wished to encourage the voluntary control of misleading or comparative advertising by self-regulatory bodies and it proposed that pursuant to the principle of subsidiarity, the voluntary control of misleading or comparative advertising, where applicable, should be carried out by national self-regulatory bodies; a European body would coordinate this work and deal with cross-border complaints.

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

1991/0343(COD) - 18/12/1991 - Economic and Social Committee: opinion, report

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

1991/0343(COD) - 18/11/1992 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Mrs Oomen-Ruijten. Note: the amendment tabled by Alain Pompidou adopted by 162 votes to 104 with 7 abstentions calling for the provisions on comparative advertising not to be applied to comparative tests conducted by university researchers or laboratories on different pharmaceutical therapeutic treatments where the scientific relevance had been established beforehand. In adopting this report, the European Parliament gave a 'controlled' go-ahead to this form of advertising. Most of its amendments were intended to channel more effectively the use of this form of advertising and to contain it subject to strict criteria. Comparative advertising would be allowed only if it objectively compared the material, relevant, at all times verifiable, objectively determinable, fairly chosen and representative features of competing goods or services. A trade mark or trade name in an advertisement could be used only where necessary to identify the competitor's goods, services or activities. Any reference to the competitor's person or circumstances was prohibited. Any comparison presenting products or services as imitations or copies of products or services already protected by trade marks, trade names or designations of origin was also prohibited. Lastly, reference to or reproduction of the results of comparative tests were permitted only if the test had been carried out by a recognised independent body, consumer associations or organisations.

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

1991/0343(COD) - 02/12/1993

In its first reading under the codecision procedure, the European Parliament confirmed its vote of 18 November 1992.

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

1991/0343(COD) - 16/09/1997 - Text adopted by Parliament, 3rd reading

In adopting the report by Mrs OOMEN-RUITJEN (PPE, NL), Parliament approved the joint text with the Council on the amendment of the directive on misleading advertising, so as to include comparative advertising. The rapporteur welcomed the outcome of the Conciliation Committee which facilitated the incorporation of almost all of Parliament's proposals. The Council therefore adopted an amendment forbidding the comparative advertising of goods

and services which were imitations or replicas of goods and services bearing a registered trade mark or trade name. It also ensured that comparative advertising would not discredit or denigrate the trade marks, trade names, other distinguishing marks, goods, services, activities or circumstances of a competitor.