

Italian Competition Authority fines Samsung 3.1 million euros for misleading and aggressive commercial practices in promoting products

On 25 January 2017 the **Italian Competition Authority (AGCM)** imposed a fine on **Samsung Electronics Italia S.p.A.**, subsidiary of the Samsung Group, for infringing the law with two misleading and aggressive commercial practices, related to the marketing of its products.

According to complaints sent by consumers and consumer organizations, confirmed by evidence collected also through an on-site inspection, Samsung promoted the sale of electronic products (audio-video, telephone sets, home appliances, IT products) by promising prizes (e.g. a tablet PC) and bonuses (e.g. discounts, bonus on the electricity bill, free subscription to a TV content provider) to consumers. However, contrary to what the advertising promised, consumers could not get the prize or the bonus when buying the product but only at a later stage, after registering to a website or going to an authorized retailer or only if the product was sold online directly by Amazon (and not just sold through Amazon's marketplace) – all conditions that were not specified in the advertisements but could be read only after registering on the website and having read the Terms and Conditions in full. Moreover, getting the prizes was very difficult, as consumers were repeatedly requested to provide documents over and over again. Consumers could fulfill those requests only online; thus, it was impossible for buyers not having an internet connection to take all the steps required for getting the promised prize. The Authority assessed this commercial practice as infringing articles 20, 21, 24, and 25 of the Italian Consumer Code, corresponding to articles 5, 6, 8 and 9 of the EU Directive on Unfair Commercial Practices (UCPD).

At the same time, after having bought the item linked to the promotional offer, consumers were forced to register to the Samsung People online platform and provide their personal data which were used by Samsung for marketing purposes. Thus consumers, after having bought the product, could not get the promised prize or bonus without giving their consent to the commercial use of their personal data, which were used by Samsung for purposes not linked at all with the promotional offer of the product itself. The Authority assessed this commercial practice as aggressive, infringing articles 24 and 25 of the Italian Consumer Code (articles 8 and 9 of the UCPD).

Samsung amended its practices during the proceedings. Specifically, Samsung removed the mandatory registration to its platform starting from 15 August 2016 and thus the second unfair practice was ceased.

Considering all the facts, AGCM imposed to Samsung Electronics Italia a fine of 2,125,000 euros for the first unfair commercial practice and a fine of 975,000 euros for the second unfair commercial practice – a total fine of 3.1 million euros.

The press release in Italian, with the link to the decision, can be found on AGCM's website, at: <http://www.agcm.it/stampa/comunicati/8580-ps10207-promozioni-scorrette,-sanzioni-a-samsung-electronics-italia-per-oltre-tre-milioni-di-euro.html>