

**AD ALERT**

# NovaChannel AG

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The EASA Euro Ad Alerts are aimed at practitioners, relevant government and consumer organisations concerning cross-border advertisements demonstrating sharp and extremely misleading practices. They provide updates on companies endorsing such practices and provide advice to consumers and companies who have been misled.

**11/2009**

## NovaChannel AG

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### Advertiser Details



**NovaChannel AG**  
P.O. Box 3870  
Landenbergstrasse 36  
6005 Lucerne, Switzerland

**Telephone** +41 41 367 07 07  
**Fax:** +41 41 367 07 67

**Following the rulings  
against NovaChannel AG,  
the company went into  
liquidation.**

### SRO Details



**Schweizerische  
Lauterkeitskommission  
(SLK)/Commission Suisse pour la  
Loyauté (CSL)**

Kappelergasse 14  
Postfach 2744  
8022 Zürich  
Switzerland

**Telephone:** +41 1 211 79 22  
**Fax:** +41 1 211 80 18  
**E-mail:** [info@lauterkeit.ch](mailto:info@lauterkeit.ch)  
**Website:** [www.faire-werbung.ch](http://www.faire-werbung.ch)

### Case details:

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Over the last couple of years the company NovaChannel AG, based in Switzerland, has been sending mailings to companies inviting them to publish their details in a business directory called Tourist Directory, Physicians and Therapist Guide or Med1Web, to name just a few of its guides. The mailing contained a form already holding information about the companies, which the recipients were invited to verify, sign and return. Companies which signed and returned the form received a few weeks later invoices and realised that by signing the form they had in fact placed an order in the business directory.

Since 2002 the European Advertising Standards Alliance (EASA) and self-regulatory organisations (SROs) across Europe have received a great number of complaints from companies who believed to have been misled by NovaChannel AG, as the mailings failed to make it clear that by signing the form companies were in fact committing themselves to an order.

As the advertiser was based in Switzerland, the complaints were transferred to the Swiss SRO, Commission Suisse pour la Loyauté (CSL), under the cross-border procedure.

In August 2004, the California State University of Los Angeles filed a criminal complaint with the Cantonal Police of Lucerne, which initiated proceedings. The District Court of Lucerne-City ruled on 14 April 2008 that the mailings of NovaChannel AG were misleading. The Supreme Court of Lucerne confirmed this ruling on 16 January 2009.

Furthermore, the Italian Authority for Competition and Market (Autorità Garante della Concorrenza e del Mercato), which is enforcing the EU directive on misleading and comparative advertising, has adjudicated several cases against NovaChannel AG regarding their advertising for their 'Tourist Directory'. The last case was adjudicated in November 2008.

Copies of the decisions can be found on the website of the authority [www.agcm.it](http://www.agcm.it), searching for NovaChannel.

### Recent developments:

**The Swiss Federal Supreme Court, as the court of last instance, has upheld on 1 October 2009 a civil suit filed by the State Secretariat for Economic Affairs (SECO) against the directory company NovaChannel AG related to unfair competition practices and upheld, therefore, the previous rulings by the District Court of Lucerne-City and by the Supreme Court of Lucerne. The ruling prohibits the company from sending misleading forms and from claiming money from companies that have been tricked into signing these forms in the past.** In addition, the ruling authorises the SECO to publish the operative part of the ruling in daily newspapers across Europe and abroad. The costs for these publications have to be carried by NovaChannel AG. The precise grounds for the ruling have not yet been published.

### Advice to complainants:

Following the rulings against NovaChannel AG, the company went into liquidation. Companies shouldn't receive mailings of NovaChannel AG anymore. In the event of further mailings by NovaChannel AG, please send a complaint with all necessary documentation to the Swiss Authorities. They can also be contacted for further information on this case.

#### State Secretariat for Economic Affairs SECO

Legal Affairs  
Effingerstrasse 31  
CH-3003 Bern

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**Fax:** +41 (0)31 322 27 49

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Schweizerische Eidgenossenschaft  
Confédération suisse  
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Confederaziun svizra

Staatssekretariat für Wirtschaft SECO