

AD ALERT

European City Guide

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

04/2012

European City Guide

Advertiser

European City Guide (ECG)

Martinez Cubells, 6, 4° door 8
E-46002, Valencia
Spain

Telephone: 0034/90236 3470

Fax: 0034/902363471

Self-regulatory Organization

Asociación para la Autorregulación de la Comunicación Comercial (Autocontrol)

C/Conde de Peñalver, 52
28006, Madrid
Spain

Telephone: 0034/913096637

Fax: 0034/914029824

E-mail: autocontrol@autocontrol.es

Website: www.autocontrol.es

Case details:

Starting from 1998 EASA has received many complaints about different forms sent by the company European City Guide, based in Spain. During the period 1998-2004 there have been three adjudications regarding the commercial practices of this company and all of them ended with a sanction against the company.

In 1999, the Catalanian authorities (Generalitat de Catalunya) started a sanctioning process file against European City Guide (ECG), after having received hundreds of complaints (directly or through the Spanish SRO, AUTOCONTROL). The Generalitat issued a penalty decision in 2001, declaring that the ECG form was misleading and imposed a fine, but this decision was appealed by the company. In March 2002, the Court of First Instance in Barcelona rejected the appeal lodged by ECG, confirming the previous administrative decision. The Court in Barcelona considered the controversial ECG form to be advertising, since it promoted a business guide, activities and services as well as ECG activities. The Court's sentence also stated that the ECG form was misleading because companies would infer from it that signing the order would not imply any economical consequences, but in fact it did.

According to the Court's ruling, *"the form contained a section described as a "request order", which informed about the offer and ECG services. But, in the light of the rest of the elements of the form, it is quite obvious and natural that many*

addressees have thought, in good faith, that if they desired their data to be included in the guide, they had to proceed as indicated in the form: that is, by signing what ECG had described as a "request" with no obligation to "place an order".

On these grounds, the Barcelona Court rejected the appeal of ECG and confirmed the fine imposed on the ECG, who appealed this court decision. In February 2003, the Appealing Court in Catalonia ruled a new sentence fully confirming the previous one.

The aforementioned is in reference to the first ECG form which was circulated in 1998 and 1999 and which was slightly different from the one circulated in 2000 and 2001. With regard to the latter, the Catalanian authorities opened a new process, and in 2002 issued a new penalty considering the new ECG form also as misleading, and imposed on ECG a new and higher fine. ECG appealed again. On 1 September 2003, the Court of Appeal confirmed the second penalty decision of the Catalanian statutory authorities. According to this court decision, the second version of the ECG form was misleading advertising, since its presentation was likely to lead addressees to think that by filling in the form they were not placing any orders, when in truth they received bills asking for payment related to their registration in the guide. According to the court, the misleading nature of this form was also highlighted by the fact that almost 800 complaints on this form were sent to the Catalanian authorities. The court also confirmed a fine of nearly EUR 30,000 imposed on ECG by the Generalitat.

Finally, the Catalanian authorities also investigated the third ECG form which was circulated in 2001-2002, and opened a third case against ECG. The Generalitat received more than 1,500 complaints on this new form. On 9 September 2003, the Catalanian authorities imposed two sanctions on ECG: a EUR 300,000 fine and a 1 year close-down of the company.

ECG appealed this administrative decision before the courts to obtain a provisional "suspension" of both sanctions but Section 5 of the Catalanian Administrative Court of Appeal, in its decision of 16 February 2007 again confirmed this last penalty.

Nevertheless, in April 2004 this company moved from Barcelona to Valencia, where it is now established. The relevant statutory authorities in Valencia (indicated above) are now receiving many complaints against this company. Complainants have also informed us that ECG often uses the "services" of specific debt-collecting companies such as Premium Recovery AG or Gravis Inkasso to compel them to pay. These debt-collectors often threaten with taking legal actions in case of non-payment. So far we have no notice of any company having been

sued by ECG or its debt-collectors.

Recent developments:

The abovementioned consumer affairs authority believes that their intervention is not possible since it is about a commercial dispute between companies. As a consequence, it is suggested that complainant also file a complaint with the Spanish Court of Justice on top of sending a complaint to the Generalitat Valenciana.

Advice to complainants:

ECG was established in Barcelona (Balmes 127) until April 2004, after which it moved its premises to Valencia (new address: Martínez Cubells 6). This is an important element since it determines which statutory authority will be the competent to deal with the complaint.

Therefore, the statutory authority in charge of consumers rights is the Generalitat de Valencia. Complaints can be addressed to this address:

Director General de Comercio y Consumo

GENERALITAT DE VALENCIA

C/ Colom, 32

46004 VALENCIA (Spain)

REF: European City Guide (Martínez Cubells 6)



Website: <http://www.gva.es/portal/page/portal/inicio/presentacion>