
DRAFT STATUTORY INSTRUMENTS

2008 No.

**The Business Protection from
Misleading Marketing Regulations 2008**

PART 1

DEFINITIONS AND PROHIBITIONS

Comparative advertising

4. Comparative advertising shall, as far as the comparison is concerned, be permitted only when the following conditions are met—

- (a) it is not misleading under regulation 3;
- (b) it is not a misleading action under regulation 5 of the Consumer Protection from Unfair Trading Regulations 2008(1) or a misleading omission under regulation 6 of those Regulations;
- (c) it compares products meeting the same needs or intended for the same purpose;
- (d) it objectively compares one or more material, relevant, verifiable and representative features of those products, which may include price;
- (e) it does not create confusion among traders—
 - (i) between the advertiser and a competitor, or
 - (ii) between the trade marks, trade names, other distinguishing marks or products of the advertiser and those of a competitor;
- (f) it does not discredit or denigrate the trade marks, trade names, other distinguishing marks, products, activities, or circumstances of a competitor;
- (g) for products with designation of origin, it relates in each case to products with the same designation;
- (h) it does not take unfair advantage of the reputation of a trade mark, trade name or other distinguishing marks of a competitor or of the designation of origin of competing products;
- (i) it does not present products as imitations or replicas of products bearing a protected trade mark or trade name.