



Judgment of the Court (Fifth Chamber) of 27 February 2025 (request for a preliminary ruling from the Bundesgerichtshof – Germany) – Apothekerkammer Nordrhein v DocMorris NV

(Case C-517/23, (¹) Apothekerkammer Nordrhein)

(Reference for a preliminary ruling – Medicinal products for human use – Directive 2001/83/EC – Article 86(1) – Concept of ‘advertising of medicinal products’ – Article 87(3) – Advertising of prescription-only medicinal products – Advertising of a pharmacy’s entire range of medicinal products – Vouchers corresponding to a certain sum of money or a percentage reduction for the subsequent purchase of other products – Price reductions and payments with immediate effect – Free movement of goods – Article 34 TFEU – Freedom to provide services – Electronic commerce – Directive 2000/31/EC – Article 3(2) and (4)(a) – Restriction – Justification – Consumer protection)

(C/2025/2049)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant: Apothekerkammer Nordrhein

Respondent: DocMorris NV

Operative part of the judgment

1. Article 86(1) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Directive 2011/62/EU of the European Parliament and of the Council of 8 June 2011,

must be interpreted as meaning:

- the concept of ‘advertising of medicinal products’, within the meaning of that provision, does not cover advertising measures that promote the purchase of unspecified prescription-only medicinal products by offering price reductions and payments;
- that concept covers advertising measures that promote the purchase of unspecified prescription-only medicinal products by offering promotional gifts in the form of vouchers for the subsequent purchase of non-prescription medicinal products.

Article 34 TFEU and Article 3(4)(a) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (‘Directive on electronic commerce’)

must be interpreted as not precluding a national rule which, in order to protect consumers, prohibits an advertising measure by which a pharmacy established in another Member State offers its customers, in return for sending in their medical prescription and participating in a medication check, a monetary reward, without it being possible to know the exact amount of that reward.

^(¹) OJ C C/2023/640.

2. Article 87(3) of Directive 2001/83, as amended by Directive 2011/62,

must be interpreted as not precluding national legislation which prohibits advertising measures that promote the purchase of unspecified prescription-only medicinal products by offering promotional gifts in the form of vouchers corresponding to a certain sum of money or a percentage reduction for the subsequent purchase of other products, such as non-prescription medicinal products.
