In its decision of 18 July 2013, the Court of Justice of the EU ruled that the Belgian prohibition of combined offers of which at least one component is a financial service does not violate the EU Commercial Practices Act.

Combined offers or tying arrangements are controversial in Belgium because the Commercial Practices Act had been prohibiting them in most cases until the Court of Justice of the EU ruled in 2009 that the general prohibition of joint offers did not comply with EU Directive 29/2005. The legislators adopted a new Commercial Practices Act on 6 April 2010, which no longer prohibited joint offers. The only exception, however, was a joint offer of which at least one component is a financial service. Such offers were still prohibited and the question now arose as to whether this prohibition complied with EU law.

In its decision of 18 July 2013, the Court of Justice ruled that the Belgian prohibition does not violate EU law.

The case submitted to the Court regards the promotion offer of the importer of Citroën cars in Belgium, which offered “6 months’ free comprehensive insurance” on all private and commercial vehicles sold through official Citroën distributors. The Federation of Insurance Brokers filed a lawsuit and the Brussels Commercial Court held at first instance that the offer at issue did indeed constitute a combined offer for the purposes of Article 2(27) of the law of 6 April 2010 and was directed at potential purchasers of new vehicles. It held that the offer constituted a prohibited combined offer under Article 72(1) of that law and that such an offer was an act contrary to honest market practices and therefore prohibited under Article 95 of that law.
Citroën appealed and the Brussels Court of Appeal referred the case to the EU Court of Justice for a preliminary ruling.

The Court of Justice stated that combined offers of which at least one component is a financial service constitute commercial practices within the meaning of Directive 2005/29 and are therefore subject to the requirements laid down in that directive. While Directive 2005/29 in principle fully harmonizes at Community level the rules relating to unfair business-to-consumer commercial practices, it allows an exception to the objective of full harmonization in relation to financial services.

Financial services, by reason of their complexity and inherent significant risks, necessitate detailed requirements, including positive obligations on traders. Therefore, Member States have the right to go beyond the provisions of the Directive to protect the economic interests of consumers.

The Belgian Commercial Practice Act, which lays down a general prohibition – save in cases exhaustively listed by national legislation – of combined offers to consumers where at least one of the components of those offers is a financial service, does therefore not violate EU law. Contrary to what Citroën claimed, there is therefore no need to restrict the application of Directive 2005/29 to combined offers composed of a number of financial services or to combined offers involving a complex financial service.