

Case law

Case Details

National ID: 14 U 178/09

Member State: Germany

Common Name: link

Decision type: Court decision in appeal

Decision date: 30/06/2009

Court: Higher Regional Court (Dresden)

Subject:

Plaintiff: not disclosed

Defendant: not disclosed

Keywords: games of chance, misleading omissions, unfair competition

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 1.](#)

Headnote

(1) The organiser of a game of chance violates sect. 4 No. 6 UWG (the German Unfair Competition Act) if the handout of a prize requires the consumer to call a premium number.

(2) If the organiser of a game of chance insists that the winner calls a premium telephone number in order to confirm the date for the handover of the prize, without clarifying the consequences of this cost-intensive call on the callers chances of winning, sect. 4 No. 5 UWG is violated.

Facts

The organiser of a game of chance insisted on calling a premium telephone number, in order to set a date for receiving the (possible) prize, but failed to mention the consequences of not calling this value added service number.

The price for calling the telephone number was € 2,99 per minute.

As there was no alternative for the call/premium number mentioned, the consumer was led to believe that it was necessary to make the call in order to win the prize.

The plaintiff requested injunctive relief.

Legal issue

(1) The organiser of a game of chance violates sect. 4 No. 6 UWG (the German Unfair Competition Act) if the handout of the prize requires the consumer to call a premium number, as it constitutes an unfair practice to link the winning of a prize with the purchase of goods or services (in this case the cost for the premium telephone number).

(2) If the organiser of a game of chance insists on using a premium telephone number to acknowledge a target date for the handover, without notifying the consequences of not calling, sect. 4 No. 5 UWG is violated. It constitutes an unfair practice to conceal the actual chances of winning, if statements that are made in connection with the announcement of prizes are unclear and unnecessarily cause consumers to create certain costs.

Decision

Is it a violation of unfair competition law if the participation of a consumer to a game of chance seems to be depending on the use of a premium telephone number?

Full text: [Full text](#)

Related Cases

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Legal Literature

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Result

The plaintiff's request was granted.