

Case law**Case Details****National ID:** I ZR 2/11**Member State:** Germany**Common Name:** link**Decision type:** Supreme court decision**Decision date:** 19/07/2012**Court:** German Federal Supreme Court - Karlsruhe**Subject:****Plaintiff:** Stuttgarter Wochenblatt GmbH**Defendant:** RLvs Verlagsgesellschaft mbH**Keywords:** advertisement, black list, full harmonisation, misleading omissions, Scope of the UCP Directive – Full harmonisation, sponsorship**Directive Articles**Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 2](#). Unfair Commercial Practices Directive, [Annex I, 11](#).**Headnote**

The obligation under German national press law to identify sponsored articles as "advertisement" is compliant with European Union law, and more in particular with the UCP Directive.

Facts

The plaintiff is publisher of the weekly local newspaper "Stuttgarter Wochenblatt". The defendant is publisher of the ad newspaper "GOOD NEWS". In June 2009 the defendant published two articles for which it received payment from sponsors. Both articles displayed the graphically highlighted information "Sponsored by [Name of Sponsor]".

The plaintiff is of the opinion that these publications infringe Section 10 of the Press Act for the state of Baden-Wurttemberg (LPresseG), as they are not clearly headlined with the word "Anzeige" (Advertisement) as stipulated by said provision.

Both preceding instances (LG Stuttgart and OLG Stuttgart) had ruled that the respective articles may not be published in "GOOD NEWS" without the respective headline "Advertisement". With this revision, the defendant pursued its claim for dismissal of the lawsuit, as in its opinion Section 10 LPresseG is not applicable as it infringes European Union law.

The court decided that the outcome of this revision depends on the interpretation of article 3, 5 and article 7, 2 and no. 11 of Annex I of the UCP Directive and has therefore suspended the proceeding and referred it for a preliminary ruling to the European Court of Justice pursuant to article 267, 1 (b), 3 of the Treaty.

Legal issue

The court has decided that the outcome of this revision depends on the interpretation of article 3, 5 and article 7, 2 and no. 11 of Annex I of the UCP Directive and has therefore suspended the proceeding and referred it for a preliminary ruling to the European Court of Justice pursuant to article 267, 1 (b), 3 of the Treaty.

Decision

Do article 7,2 and no. 11 of Annex I to article 5, 5 in conjunction with articles 4 and 3, 5 of the UCP Directive preclude the application of a national provision (here: Section 10 LPresseG) which is intended not only to protect consumers against misleading commercial practices but also to protect the independence of the press and which, in contrast to article 7, 2 and no. 11 of Annex I of the UCP Directive, prohibits any publication for remuneration, irrespective of the purpose thereby pursued, if that publication is not identified by the use of the term 'advertisement', unless it is already evident from the arrangement and layout of the publication that it is an advertisement?

Full text: [Full text](#)**Related Cases**

No results available

Legal Literature

No results available

Result

The European Court of Justice ruled (C 391/12) that the obligation under German press law (Section 10 LPresseG) to identify sponsored articles as "advertisement" is not precluded by the UCP Directive.