
Wettbewerbszentrale

Information

Centre for Protection against Unfair Competition, Frankfurt am Main, Germany

Competition and its Rules

Competition is one of the fundamental principles of our economic and social system. In order to maintain the economic freedom of all market participants, it is necessary for certain minimum rules to be respected. That is the reason why the German legislature passed the Act against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG), which allowed for the regulation of competition. From the beginning the legislator gave the entire responsibility for surveillance of whether the rules were respected to the market participants: it is not the state with its authorities that intervenes when it comes to unfair advertising methods, but companies and their organisations. They themselves can initiate action in the courts against unfair competition by means of civil proceedings. Self-regulation in trade, industry and commerce is therefore the principle of prime importance in competition law.

The German System

In Germany, advertising is regulated within two systems: statutory rules and self-regulatory codes. The codes mainly cover questions of taste and decency and some specific types of advertising, e.g. that aimed at children, concerning alcohol and car advertising, and are dealt with by the German Advertising Council (Deutscher Werberat). Other matters, such as misleading statements, sales promotions, prize competitions, unfair marketing practices, price labelling and shop opening hours are regulated by law. The most important law concerning advertising is the Act against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG) and is part of civil law.

According to § 8 UWG, competitors, certain trade associations, chambers of commerce and consumer associations are authorised to enforce statutory law if competition rules are infringed. One of the most important institutions which has a formal, i.e. judicially authorised right to initiate legal action against those who infringe laws concerning unfair competition is the Centre for Protection against Unfair Competition (Wettbewerbszentrale).

Wettbewerbszentrale

The Centre for Protection against Unfair Competition (abbr. Wettbewerbszentrale)

Within the framework of their self-responsibility for maintaining fair competition, trade, industry and commerce founded the Wettbewerbszentrale in 1912, immediately after the Act against Unfair Competition was passed. As it is an association of companies and trade associations from all sectors of industry, it is represented throughout the federal republic of Germany. According to § 8 UWG its aim is the advancement of trade, industry and commerce. All chambers of commerce, most trade corporations, about 800 other industrial or commercial associations and approximately 1200 companies are members of the Wettbewerbszentrale. Its head office in Bad Homburg and four regional branch offices deal with about 10,000 complaints a year. The association also gives advice to its members regarding advertising regulations.

Functions and Aims

- ⇒ to maintain functioning competition
- ⇒ to pursue infringements of competition law
- ⇒ to support fair competition by
 - participation in legal research
 - giving information to the public
- ⇒ to contribute to the development of law by
 - bringing test cases
 - participating in consultation and giving statements on planned legislation at national and European levels
 - its membership of international organisations (International Chamber of Commerce, Paris; International League for Competition Law, Geneva; European Advertising Standards Alliance, Brussels)

Procedures and Measures

The Wettbewerbszentrale is responsible for all questions concerning competition law. It looks back on decades of experience and of working closely together with leading organisations of trade, industry and commerce. As it is a self-regulatory body in trade, industry and commerce, the Wettbewerbszentrale gives an objective and neutral legal opinion on advertising campaigns which are submitted to it. Its main functions are:

- ⇒ to pursue infringements of competition law according to the principles of leading organisations of trade and industry

Wettbewerbszentrale

- to deal with complaints submitted by members, authorities and consumers (the complainant stays anonymous)
 - to aim to achieve an amicable agreement by issuing a warning notice to the advertiser and if necessary by consulting the board of conciliation set up at the regional chambers of commerce
 - to take court proceedings against the advertiser by temporary injunction or legal action in the name of the Wettbewerbszentrale
- ⇒ to give advice to members relating to competition law
- to answer questions relating to competition law
 - to check advertisements at the planning stage with regard to competition law
- ⇒ to provide information and contribute to development of law
- by publishing a monthly report of important verdicts in the section „Aus der Praxis – für die Praxis“ in the academic journal „Wettbewerb in Recht und Praxis“ (wrp)
 - by giving out regular press releases on current verdicts
 - by giving talks and seminars
 - by giving legal reports on questions related to competition law
- ⇒ to deal with enquiries in general and specialised sections such as health matters (medical law and law concerning advertising in the field of medical care) / law relating to professions and professional organisations / food law / tourism / general business terms / matters relating to expert witnesses / advertising of organic and environmentally friendly products and services / oil industry / new media / internet / international and European competition law
- ⇒ to advise members at five offices throughout Germany (Bad Homburg, Berlin, Dortmund, Hamburg, Munich)

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