[DE] Admissibility of Comparative Advertising on the Internet

IRIS 1999-3:1/3

Tobias Niehl
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a recently published judgement, the Wiesbaden Regional Court (Landgericht) ruled that comparative advertising on the Internet was not in itself inadmissible (see also IRIS 1998-3:3 and IRIS 1998-7:6). In 1997 the defendant, a health insurance company, had introduced a facility on its Internet site enabling people to compare its prices with those of other health insurance companies. If the user inputted his or her personal data and other information, the company's premium appeared on the screen. Another health insurance company could then be selected and its own premium would be shown. The premiums of the defendant and of the other insurance companies selected were shown at the same time. The Regional Court had to decide whether the defendant was allowed to quote the actual premiums of other health insurance companies or even just to ask prospective customers to compare their prices. The Court based its decision on the fact that this kind of comparative advertising on the Internet was different from other kinds of publicity because it was not directly "imposed" on the public. Rather, it had to be actively sought on the Internet. A prospective customer had to call up the individual pieces of information himself. Furthermore, the Regional Court believed it was important to note that the legislator had allowed competition between health insurance companies with the intention of bringing prices down. In order to promote such competition, the legislator had given customers the right to cancel any agreement within a certain period if their insurance company raised its premiums within that time.

LG Wiesbaden, Urteil v. 17. September 1997, 12 O 58 / 97.

Judgement by the Wiesbaden Regional Court on 17 September 1997, file no. 12 O 58/97.