[CH] Rulings concerning new Forms of Advertising

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In two of its decisions the Unfair Trading Commission has ruled on some fundamental questions concerning advertising using electronic media.

In an administrative decision dated 21 November 2001 the Commission declared spamming not to be legitimate where messages are sent without proof of an existing customer relationship. It stated that such spamming, i.e. the unsolicited sending of advertising e-mails when a customer relationship does not exist, represents an inadmissible `aggressive marketing technique' as understood in no. 4 (4) of the Principles of the Commission, and so is not legitimate in general terms (Art. 3 letter h, the Unfair Competition Act - UWG). In the case in point, they said advertising e-mails also violated Commission Principle no.'s 4.2 and 3.1 on account of false information and a lack of information about the sender's identity.

In another ruling of the same date the Unfair Trading Commission held that soliciting by pyramid selling using what is termed `chain letters' falls within the definition of pyramid selling, which is prohibited in Switzerland according to Art. 43 of the Lottery Ordinance, and should thus also be deemed a non-legitimate form of trading.

Decisions of the Unfair Trading Commission, 21 November 2001

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