[DE] Data Protection Internet Products for Children

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Following a complaint by the Verbraucherzentrale Bundesverband e.V. (national consumer advice centre - VZBV), the Oberlandesgericht (regional appeal court - OLG) in Frankfurt am Main decided on 30 June 2005 that the Internet-based " Autokids-Club ", which was aimed at children and run by the car manufacturer Škoda, infringed competition law (case no. 6 U 168/04). On the website http://www.autokids.de/, children could apply for membership of the " Škoda Kinderclub Autokids ", which entitled them, amongst other things, to discounts at leisure parks and invitations to special events, some of which were held in Škoda car showrooms. In order to join, applicants had to fill in an online application form, which asked them about their hobbies, favourite car and most recently visited leisure park, as well as other personal information. Applications could then be sent off without parental consent.

The court ruled that this arrangement amounted to a breach of competition law, since it exploited the inexperience of children in the sense referred to in Article 4.2 of the UWG (Unfair Competition Act). The Internet club was used to draw attention to the company and its image and was in practice a form of sales promotion. Children were usually accompanied by their parents to the events that were open to club members, giving the company an opportunity to advertise its products. However, children, especially if they were of preschool or primary school age, were unlikely to appreciate either the connection between a questionnaire and a company's advertising strategy or the other disadvantages of disclosing personal data. Nevertheless, the court added that the collection of data from children was not necessarily unfair. If parents were included in the membership application process, it would not be classified as anti-competitive.

Pressemitteilung des OLG Frankfurt vom 1. August 2005

http://www.olg-frankfurt.justiz.hessen.de/internet/olg-frankfurt.nsf/vwContentByKey/W26EUDQR689JUSZDE

Press release of the Frankfurt regional appeal court, 1 August 2005

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