[DE] Calling somebody "du" (the familiar form of address) in advertising for online roll-up games is not a prohibited children's advertising

IRIS 2015-5:1/39

Ingo Beckendorf
Institute of European Media Law (EMR), Saarbrücken/Brussels

Not every "du" (the familiar form of address) in an online roll-up game is automatically an anti-competitive advertising. Rather, the average age of the targeted group is important that is to be addressed with the respective advertising within an online game. The District Court of Berlin (Landgericht) found this with a judgment of 21 April 2015 (Az .: 16 O 648/13).

The Federation of German Consumer Organisations (vzbv) had filed a complaint. The lawsuit of the consumer protectionists was directed against the operator of an online role playing game. The company had promoted virtual game supplements, including the following messages: "Kauft ein im Haustiershop!", "Neues exklusives Reittier: Gepanzerte Blutschwinge - Holt es Euch jetzt!" and "Diese monströse, fleischfressende Fledermaus ist der perfekte Begleiter für einen Abstecher zum nächsten Schlachtfeld, um Tod und Zerstörung zu verbreiten". The federal association rated these messages with the familiar form of addressing users as a violation of the law against unfair competition (UWG). According to this, the prohibited direct purchase requests to children were prohibited by the statements in § 28 of the Annex to § 3 (3) UWG (the so-called "blacklist"),which is shown by the use of the word "euch".

The District Court, however, did not share this view. First of all, the court clarified that the term "child" was to be interpreted in this context according to EU law, because the "blacklist" was based on an EU directive. Theoretically, an interpretation is possible that all minors have to be understood as "children". However, the District Court considered this interpretation to be incorrect and, interpreted only children under the age of 14 as "child" in the sense of the „blacklist“. This age group, however, was not specifically addressed by advertising in the online roll-up game. For neither the advertising product nor the context of advertising or the formulations used makes such a targeted approach. The product is a complex and challenging game, according to the district court. It was irrelevant whether children under the age of 14 were attracted by curiosity or by a "charm of the forbidden." A different interpretation must lead to the conclusion that practically every call for purchase should be prohibited, which is obviously not the purpose of the legal regulation.

© European Audiovisual Observatory (Council of Europe) 2026

The judges saw no indication for the targeted addressing of children in the familiar form of addressing users, too. The familar form of adress is now also common with adults.

Finally, there is nothing else to be deduced from the formula of the Federal Court of Justice in the "Runes of Magic" judgment (judgment of 17.07.2013, ref .: I ZR 34/12), according to which a targeted approach by children has to be assumed in the case of a combination of the second person plural and with "predominantly childish terms including common anglicisms". On the one hand, according to the Landgericht, the case is different because the game was designed for an older targeted group and sentences such as that of the "monstrous, carnivorous bat" are not suitable for children. On the other hand, the Federal Court of Justice has not already been able to ascertain with the necessary clarity how the characteristic of the "predominantly childish terms including common anglicisms" should be understood and applied in practice so that, in doubt, a ban on advertising promises is out of the question.

Berliner Landgericht (Az .: 16 O 648/13), 21. April 2015

https://www.telemedicus.info/urteile/Wettbewerbsrecht/Jugendschutz/1594-LG-Berlin-Az-16-O-64813-Informelle-Ansprache-bei-Online-Spielen-keine-verbotene-Kaufaufforderung-an-Kinder.html

Judgment of the District Court of Berlin (Az .: 16 O 648/13), 21 April 2015

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026