



HRC Hamm on a misleading dental advertisement online - Competition law

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - www.grprainer.com/en conclude: In its judgment of September 24, 2013, the Higher Regional Court (HRC) of Hamm ruled that this constituted misleading advertising (Az.: 4 U 64/13) to the extent that none of the services beyond the regular statutory programme are offered. The Regional Court (RC) of Essen had previously come to a similar ruling.

In the instant case, a competitor had sued for interim legal protection. The defendant is a firm from Essen that offers management services in the healthcare sector. Thus, patients receiving dental treatment are presented with services which are not covered by the regular programme. These additional services are offered by the statutory health insurance companies. The costs associated with this kind of supplementary services must normally be borne by the patients themselves.

The defendant firm had promoted its dental health programme online with the slogan referred to above. The HRC considered this slogan to be doubly misleading and prohibited its continued use. It stated that with this advertisement the general public was being addressed which was interested in supplementary dental services of the partner health insurance companies. However, the interested patient was given the impression that services beyond the regular programme would also be covered by the advertised "complete programme?" in the course of this, but this was not actually the case. The "complete programme?" does not encompass preservative surgical treatments or X-ray services, with the result that essential dental services are in fact not covered.

Furthermore, according to the HRC, the consumer must have understood the statement as meaning that no other dental health programme would include the listed treatments, that is to say there was no other "complete programme?" of this kind. However, this was not correct. The plaintiff had furnished prima facie evidence that at least one other provider of dental services offered a dental programme of the same scope.

Infringements of the UWG (German Act Against Unfair Competition) can have far-reaching consequences for the business concerned. Competitors can assert claims for injunctive relief, damages or restitution of the profits obtained. In the event that one commits an infringement or a competing business takes an unfair course of action, you should turn to a lawyer active in the field of competition law. He can assist in enforcing claims or fending off accusations from competitors.

<http://www.grprainer.com/en/Competition-Law.html>

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Anlage: Bild

