



Combined offers in advertising

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However, if a significant reduction is granted in order to sell the actual main product or service, the advertiser is obliged to fully explain the actual value of the overall offer. Generally speaking, combined offers are subject to the obligation that prices must be uniformly assessed.

GRP Rainer Lawyers Tax Consultants, Cologne, Berlin, Bonn, Dusseldorf, Hamburg, Munich, Stuttgart, Frankfurt www.grprainer.com elaborate: An advertisement is deemed to be anticompetitive if it only highlights the promise of a gratuitous partial performance or the low price of a partial performance, without indicating at the same time in a clear, easily identifiable and clearly legible form the payment required for the other part of the combined offer.

Two cases which are interesting for practice were brought before the Federal Supreme Court (BGH), involving electrical equipment that could be purchased much cheaper if a power supply contract was concluded at the same time.

In the first case, the Federal Supreme Court (BGH) reached the following decision: "After abrogation of the Ordinance on Bonuses, the admissibility of combined offers is to be assumed. However, such an offer is anticompetitive if the risk exists that consumers will be misled or otherwise provided with inadequate information about the actual value of the offer, in particular about the offered additional benefit. In addition, the fact that a combined offer may emanate such a strong attraction force that the rationality of the consumer's demand decision is exceptionally pushed entirely into the background may also contribute to the assessment of the offer as being anticompetitive. However, a general obligation to always indicate the value of the bonus can neither be inferred from the general clause of the Law on Unfair Competition nor from the prohibition of misleading statements." (BGH judgment of 13.06.2002 - I ZR 173/01)

In the second decision, judges of the Federal Supreme Court ruled that an advertisement for a combined offer consisting of a power supply contract with a term of at least two years and a television set for 1 DM is deemed to be anticompetitive if the conditions under which the benefit is granted are not made sufficiently clear (cf. BGH judgment of 13.06.2002 - I ZR 71/01).

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Anlage: Bild

