



Press and Information

Court of Justice of the European Union

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Judgment in Case C-59/12

BKK Mobil Oil Körperschaft des öffentlichen Rechts v Zentrale zur
Bekämpfung unlauteren Wettbewerbs eV

The prohibition of unfair business-to-consumer commercial practices is also applicable to health insurance funds which are part of the statutory system

Neither their task of public interest nor their public law status are sufficient reason for them not to be covered by that prohibition

Having already on several occasions ruled that the *material* scope of the Unfair Commercial Practices Directive¹, which prohibits unfair business-to-consumer practices, is particularly broad², the Court of Justice for the first time makes clear that the same is true of the *personal* scope of that directive.

In its judgment today, the Court finds that the directive applies to a public law body charged with a task of public interest, such as the management of a statutory health insurance fund.

Despite its public status and its task of public interest, such a body must be considered a 'trader' within the meaning of the directive, to which the prohibition on unfair commercial practices applies. Indeed, the directive does not expressly exclude such bodies from its scope. In addition, the directive's aim of achieving a high level of consumer protection against unfair business-to-consumer commercial practices, and in particular from misleading advertising, requires that protection to be ensured independently of the public or private status of the body at issue or of its specific task.

In the present case, the Court is answering a question from the Bundesgerichtshof (Federal Court of Justice, Germany) which is called upon to settle a dispute between the Wettbewerbszentrale, a German association for the prevention of unfair competition, and BKK, a health insurance fund established as a public law body which is part of the German statutory system. The Federal Court was of the opinion that the information that BKK had published on its website, in 2008, according to which its members risked incurring financial losses if they were to leave that fund for another, constituted, as alleged by the Wettbewerbszentrale, a misleading practice within the meaning of the directive. It was, however, uncertain whether the directive and therefore the prohibition which it lays down were applicable to BKK as a public law body charged with a task of public interest.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

¹ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22).

² See, inter alia, the judgment of the Court of Justice of 19 September 2013 in Case [C-435/11](#) *CHS Tour Services*; see also Press Release No [113/13](#).

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