

Source: Electronic Commerce & Law Report: News Archive > 2017 > 04/12/2017 > News > Social Media: German Regulator Sets Sights on YouTube Ads

Social Media

German Regulator Sets Sights on YouTube Ads

By Jabeen Bhatti

A German media regulator has launched a proceeding against a YouTube channel operator for allegedly sneaking advertising into his videos.

The case likely marks the first time a German media authority has applied regulations on hidden advertisements to a streaming service such as YouTube, attorneys said.

It may be among the first cases there "where it became public that an internet service like YouTube, or a channel operator or provider of a YouTube program, was held liable for something they did on YouTube," Urs Verweyen, a partner at KVLegal in Berlin, told Bloomberg BNA.

Interested parties have been waiting for such a case to emerge, Verweyen said, "to see how it works out, what happens then and how effective the measures are."

The Media Authority of Hamburg/Schleswig-Holstein (MA HSH) said March 27 that a YouTube channel operator, who goes by the handle "Flying Uwe," promoted proprietary products in his videos without characterizing them as advertisements.

As a result, the operator allegedly violated advertising regulations under Germany's broadcasting law, the German Interstate Broadcasting Treaty (RStV).

"Even advertisements on platforms like YouTube are subject to legal limitations," said Thomas Fuchs, the media authority's director. "Whoever is professionally active here has to abide by these rules."

The operator did not immediately respond to a request for comment.

Law Catches Up To Tech

Under Germany's broadcasting law, state media authorities regulate and monitor issues such as total minutes of advertising on television programs, product placement, and hidden or surreptitious advertising on television and radio.

"There was a long discussion whether those rules applied to YouTube and similar services like that at all," said Verweyen. "But with the most recent negotiation of the RStV, some of these rules at least explicitly apply to streaming services and the internet as well."

The rules made it clear that channel operators on YouTube have to comply with product placement rules, he added.

The MA HSH said it simultaneously wrote to 30 additional YouTube channel operators from Hamburg and the state of Schleswig-Holstein to inform them of advertising and sponsorship provisions.

"It is fundamental to note that advertisements must be easily recognizable as such and appropriately set off from the other content provided," the MA HSH said.

Court, Fines Could Come Next

If the YouTuber doesn't comply with the media authorities' request, he could face a court proceeding and possibly a fine, attorneys said.

The MA HSH said violations of advertising regulations could result in fines of up to 500,000 euros (\$533,000).

For smaller scale channel operators, fines would likely be less, attorneys said. They also questioned if operators would stay in Germany if authorities begin applying that country's regulatory regime too strictly to YouTube channels and similar services.

"In this case, we're talking about a company that sits in Germany, so he falls under the rule of the state media authorities," Verweyen said. "But what happens if he just moves to another country like the Netherlands?"

Snapshot

- German media authority alleges surreptitious advertising
- Case tests applicability of rules to online platform

"It could be basically that these companies or services will pull out of Germany and go someplace else and operate their service from there," Verweyen said.

To contact the reporter on this story: Jabeen Bhatti in Berlin at correspondents@bna.com

To contact the editor responsible for this story: Keith Perine at kperine@bna.com

For More Information

The Media Authority of Hamburg/Schleswig-Holstein's statement, in German, is at: goo.gl/mONGsE

Contact us at <http://www.bna.com/contact-us> or call 1-800-372-1033

ISSN 2159-3051

Copyright © 2017, The Bureau of National Affairs, Inc. Reproduction or redistribution, in whole or in part, and in any form, without express written permission, is prohibited except as permitted by the BNA Copyright Policy.