**OLG Frankfurt – Misleading Advertising by Carrying over Likes and Reviews**

Franchisees need to be careful. If they change their franchise partner, they cannot simply carry over the likes and stars they have accumulated to the new company.

Many businesses nowadays choose to present themselves online, including on social networks. Any positive reviews in the form of likes or stars that they accumulate naturally have a positive advertising effect. Franchisees need to be careful nonetheless. They cannot simply carry over the reviews they have accumulated online to the new company if they change their franchise partner. We at the commercial law firm GRP Rainer Rechtsanwälte note that doing so could violate the Gesetz gegen den unlauteren Wettbewerb (UWG), Germany’s Unfair Competition Act, and thus competition law.

In a ruling from June 14, 2018, the Oberlandesgericht (OLG) Frankfurt, the Higher Regional Court of Frankfurt, found carrying over online reviews in a case involving a change of company to be misleading and therefore constituted a violation of competition law (Az.: 6 U 23/17).

In the case in question, the defendant was a franchisee running several restaurants as part of a chain. Facebook users were able to review and like the restaurants on the company’s Facebook page. When the defendant changed its franchise partner, it carried over the reviews to the new company and got more than it had bargained for in the form of an injunction suit. The OLG Frankfurt upheld the judgment of the court of lower instance as well as the plaintiff’s injunction suit.

The OLG noted that the parties are and were in practice in a competitive relationship, ruling that the defendant had violated the UWG by publishing reviews and likes on its Facebook pages for the restaurants of its new partner despite these having been written and given in relation to the original partner’s restaurants.

The OLG Frankfurt went on to say that this kind of advertising is misleading to consumers because it gives the target audience the impression that the reviews were written in reference to the restaurants of the new partner, which was not in fact the case. The fact that the defendant personally created the relevant Facebook pages was said not to preclude the finding that the advertising was misleading; the risk of misleading the public could have been easily eliminated by creating a new Facebook page.

Misleading advertising as well as other violations of competition law can be met with sanctions, including formal warnings and injunction suits. Lawyers who are experienced in the field of competition law can advise on enforcing and fending off claims.

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