

Report on the seminar series – Current Problems of Private Commercial Law: MMag. Erika Ummenberger-Zierler (Austrian Federal Ministry for Digitalisation and Economic Location) and Prof. Dr. jur. Ansgar Ohly, LL.M. (Cambridge), LMU Munich with the lecture: “UWG new – Effects of the New Deal for Consumers”

On Monday, 6 December 2021, the fourth event of the seminar series “Current Problems of Private Commercial Law” (also known as “Monday Seminar”) took place in the winter semester 2021/2022. The online event was organised and moderated by **Prof. Dr. Susanne Augenhofer, LL.M. (Yale)** and **Prof. Dr. Alexander Schopper**. The speakers MMag. Erika Ummenberger-Zierler (BMDW) and Prof. Dr. jur. Ansgar Ohly, LL.M. (Cambridge), LMU Munich gave a presentation on the topic “UWG new – Effects of the New Deal for Consumers”. The topic of the lecture was the implementation of Directive (EU) 2019/2161 on better enforcement and modernisation of consumer protection rules in the European Union (“Omnibus Directive”) from an Austrian and German perspective. The “Omnibus Directive” amends four existing consumer law directives: Directive 93/13/EEC (“Clauses Directive”); Directive 98/6/EC (“Price Indication Directive”); Directive 2011/83/EU (“Consumer Rights Directive”); Directive 2005/29/EC (“UCP Directive”). The deadline for the transposition of the Directive is 28 November 2021 and the legislation is applicable from 28 May 2022.

First, Ms Ummenberger-Zierler gave the participants connected via Zoom a brief overview of the main changes brought about by the “Omnibus Directive”. For example, more transparency for consumers is planned for online trading platforms in the future, as the Directive standardises additional information obligations for entrepreneurs. Among other things, the criteria for the evaluation of offers on online marketplaces must now be disclosed. This should make it clear to consumers whether the reviews are neutral. Another central regulatory aspect of the Directive is that the Member States, with a view to the four amended Directives, must in the future provide for effective, proportionate, and dissuasive sanctions in the event of infringements of consumer protection provisions. Consumers will therefore also be entitled to individual compensation in the event of such infringements.

Following these remarks, Prof. Ohly focused in his lecture on the concrete practical effects of the now envisaged individual claim for damages by consumers in the case of violations of consumer protection regulations with regard to German Law and the German Civil Code (BGB). For example, in the future it will be possible for consumers who have been misled to claim damages through §5 UWG against the misleading entrepreneur for the loss of confidence caused by the misleading conduct (and the resulting business act). In addition, Prof. Ohly also dealt with the regulations on influencer marketing introduced with the German legislative package in the course of the implementation of the Directive. Influencers will therefore have to label their postings on social media platforms as advertising in the future if they receive a fee or “similar consideration” for doing so.

After the two exciting presentations, the seminar participants took the opportunity to exchange views with the two speakers on the changes in Austrian and German law caused by the implementation of the Directive.

(Julian Nigg)



The screenshot shows a Zoom meeting interface. On the left, a woman is visible in a video call, wearing headphones. The main part of the screen displays a presentation slide titled "0. Einführung: Omnibus" with the LMU logo. The slide content is as follows:

0. Einführung: Omnibus

Umsetzung in Deutschland

- Gesetz zur Stärkung des Verbraucherschutzes im Wettbewerbs- und Gewerberecht
 - BGBl. 2021 I, 3504 v. 17.8.2021
 - Tritt erst am 28.5.2022 in Kraft
- Vorrangklausel (§ 1 II UWG n.F.)
- Neuordnung der Irreführung durch Unterlassen
 - Aus § 5a I, II ff. UWG wird § 5a, b UWG n.F.
 - Neue Informationspflichten in § 5b II, III UWG n.F.
- Individueller SchE-Anspruch der Verbraucher (§ 9 II UWG n.F.)
- Bußgeldvorschriften §§ 5c, 19 UWG n.F.
- Anpassung der Schwarzen Liste an die UGP-RL und neue Nr. 32 (Aufforderung zur Zahlung bei unerbetenen Vertreterbesuchen)