

## Legal Literature

### Legal Literature Details

**Member State:** Germany

**Title:** Is § 4 No. 6 UWG (the German Unfair Competition Act) compliant with the UCP Directive?

**Subtitle:**

**Type:**

**URL:**

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**Reference:** Gewerblicher Rechtsschutz und Urheberrecht (GRUR) 2009, pages 626-633

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### Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2](#). Unfair Commercial Practices Directive, [Chapter 2, Article 5, 3](#). Unfair Commercial Practices Directive, [Chapter 2, Article 5, 5](#). Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7](#) Unfair Commercial Practices Directive, [Chapter 2, Section 2, Article 8](#) Unfair Commercial Practices Directive, [Chapter 2, Section 2, Article 9](#)

### Headnote

The author discusses whether § 4 Nr. 6 UWG (the German Unfair Competition Act), which prohibits to link a prize draw to the purchase of products and/or services (the ban on so-called tie-ins), is compliant with the UCP Directive.

The author concludes that § 4 Nr. 6 UWG is compatible with the UCP Directive, as it has to be read in conjunction with Sec. 3 II 1 UWG, which specifies the requirement of the "professional diligence", and enables a consideration of the circumstances of the individual case.

In particular, if such tie-in offer is directed at a group of particularly vulnerable consumers, such as children and minors, § 3 II 3 UWG enables a correct interpretation of § 4 Nr. 6 UWG and is therefore compliant with the UCP Directive.

### General Note

In the meantime, on 14 January 2010, the ECJ decided (C-304/08) that Sec. 4 Nr. 6 UWG is not compliant with the UCP Directive as this national law does not consider the particular circumstances of the individual case.

### Related Cases

No results available