

Press release dated 1<sup>st</sup> of March 2016

## **Misleading order button for Amazon Prime subscriptions**

vzbv wins legal action in Cologne Higher Regional Cour

**Amazon is no longer allowed to offer a 30-day free trial of its Prime service using an order button labelled “Jetzt gratis testen – danach kostenpflichtig” (“Try for free now – incurs costs afterwards”). Such is the verdict of the Cologne Higher Regional Court after an action brought by Verbraucherzentrale Bundesverbands (vzbv) [Federation of German Consumer Organisations]. The court deemed that the order button was misleading and did not make it sufficiently clear to customers that they would have to pay for the service.**

Amazon offered a subscription for a premium membership including video streaming (“Amazon Prime”). After a free 30-day trial the subscription was automatically transformed into a paid service incurring costs of 7.99 euros per month, unless the customer cancelled it in advance. The order was submitted by clicking on a button labelled “Jetzt gratis testen – danach kostenpflichtig”.

### **Payment obligations must be made clear**

The judges agreed with vzbv's claim that the order button does not comply with the law. Since July 2014 online retailers are obliged to clearly state when an order is linked to a payment obligation. If the order is submitted via a button it must be labelled with the words “order and pay” or a similar phrase that makes it clear that a payment is involved. This is designed to protect consumers from hidden costs when ordering online.

The judges criticised Amazon's button for not making it clear that the order triggers a payment obligation. Indeed, they felt that the words “Jetzt gratis testen – danach kostenpflichtig” were misleading. There is a danger that consumers believe they are only ordering a free trial and that this trial is only available “now”.

### **Amazon must state total price of subscription package**

The judges also criticised the fact that Amazon did not provide the consumer with details of the total price before ordering if the customer decided to order a package

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contained in the Prime subscription as well as an additional subscription for a DVD rental. They ruled that it was insufficient to only quote individual prices for package subscriptions.

The Cologne Higher Regional Court decided that Amazon could not appeal. However, Amazon can appeal against this denial of the right to appeal at the Federal Court of Justice.

*Verdict of the Cologne Higher Regional Court dated 3 February 2016, Az. 6 U 39/15 – not yet enforced*

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