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The Internet offers companies a wide range of opportunities to make themselves and their products and services better known. Companies may, for example, send advertisements by e-mail, either solicited or unsolicited (spamming). They can advertise on the web sites of themselves, or on the web sites of others. They may make use of hyperlinks to use information of other web sites, or they may make use of metatags in order to be found more easily by the search engines.

Online advertising and -marketing can raise questions with respect to unfair competition. The traditional forms of unfair competition, such as misleading advertising, disparagement and causing confusion, may also occur on or through the Internet. How such acts may constitute an act of unfair competition, should be answered under the national rules of unfair competition as there are no international rules on this issue. A recent European initiative intends to harmonise certain rules with respect to electronic commerce, including rules on online advertising and -marketing (commercial communication). In December 1998 the European Commission made a proposal for a Directive on certain legal aspects of electronic commerce in the Internal Market. Very recently, on February 28th, a common position has been adopted by the European Council. The draft Directive includes rules on commercial communication in general, including the unsolicited sending of advertisements through e-mail (spamming), and rules on the liability of Internet intermediaries and electronic contracts.

However, that leaves unsolved the question which national law applies in an international dispute resulting from the use of the Internet. Current conflict rules, like the lex loci delicti and the market rule are no longer efficient as the Internet (often) offers no geographical connections. An alternative conflict rule for Internet unfair competition matters needs therefore to be sought. Much discussed is the country-of-origin principle, meaning in an Internet context; the place where the information originates. The country-of-origin principle is also included in the draft European Directive, but there it is not intended as a conflict rule. However, opinions differ as it comes to the question whether the country-of-origin rule in the draft Directive has the effect of a conflict rule. Still, research is needed for an efficient alternative conflict rule in international unfair competition disputes resulting from the use of the Internet.