

Stephan R. Schulenberg LL.M.Eur.  
Rechtsanwalt

André Schenk LL.M. Eur.  
Rechtsanwalt

Alsterchaussee 25  
20149 Hamburg

T 040 7 34 40 86 0  
F 040 7 34 40 86 29

beratung@sus-law.de  
www.sus-law.de

Schulenberg & Schenk Alsterchaussee 25 20149 Hamburg

One Network Services Ltd.  
Tsar Osvoboditel 12

1000 Sofia (Bulgarien)

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### Expert Opinion

**on the Compatibility of the One Network Services Ltd. Distribution System with § 16 Abs. 2  
UWG Sec. [Sec. 16 (2) of the German Act against Unfair Competition] and Nr. 14 Anh. zu §  
3 Abs. 3 UWG [No 14 Annex to Sec. 3 (3) German Act against Unfair Competition]**

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## I.

Subject of the opinion is the question, whether the One Network Services Ltd. distribution system (hereinafter referred to as "One Network") fulfils the requirements to be met by a legal distribution system. Of decisive importance are here § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG] (advertising incurring criminal liability) and Nr. 14 Anh. zu § 3 Abs. 3 UWG [No 14 Annex with reference to Sec. 3 para. 3 UWG] (prohibition on pyramid selling).

§ 16 Abs. 2 UWG [Sec. 16 para. 2 UWG] reads as follows:

**"Whoever in the course of trade operates to cause consumers to purchase goods, services or rights by holding out the prospect of consumers obtaining specific benefits from the promoter himself or from a third party if they cause other persons to conclude equivalent transactions where, in terms of this kind of advertising, these other persons are, in turn, to receive such benefits for corresponding advertising directed towards further purchasers shall be liable to imprisonment not exceeding two years or to a fine."**

Following Nr. 14 Anhang zu § 3 Abs. 3 UWG [No 14 Annex with reference to Sec. 3 para. 3 UWG], it is always impermissible to establish, operate or promote a sales promotional scheme system

**"creating the impression that compensation can be obtained solely or primarily from introducing other participants into the scheme (scheme with a snowball effect or pyramidal structure)".**

The "Bonus Plan", based on the "ONECOIN Presentation", and further, by the company provided information was subject to the examination.

As a result it can be anticipated, that in the context of an evaluative overall view it corresponds to the legal requirements of § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG] and the

substance of the same requirements of Nr. 14 des Anhangs zu § 3 Abs. 3 UWG [No 14 Annex with reference to Sec. 3 para. 3 UWG].

Strong points for the lawfulness of the OneCoin distribution system are in particular, that the main focus of the distribution partner's (= "Independent Marketing Associate" = "IMA") commercial activity is on sales or promotion of products. Furthermore, there is no obligation to purchase products. Without making extensive investments, an IMA can become active within the distribution system and earn commissions.

Further strong arguments for the lawfulness of the system are that there exists no obligation for recruiting new IMA. In addition, the IMA has a right of return.

Concerning the OneCoin distribution system, there is also no risk of "narrowing/tightening of the market" or increased product prices typical for systems in the meaning of § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG], because no commissions are being transferred upwards within the structures resulting in increased product prices. The IMA are also not given the false impression of reaching an exceptionally fast economic success when taking part in the OneCoin distribution system - without the respective work effort.

## II.

The One Network Service Ltd. is a direct selling company. Purpose of the company is the trade with cryptocurrency or the respective Token and the corresponding education and training material which are distributed by independent and legally separate IMA.

Cryptocurrency is a digitally created currency, comparable with Bitcoin. This currency consists of so called OneCoins, which are - in form of mathematical algorithms based on so called Token - generated on a computer. On the legality of this currency, reference is made to the written statement of Kanzlei Breidenbach [Breidenbach Law Firm] dated 11 December 2014.

Both using these OneCoins and Token, exchange activities can be realized via the trading system called "OneExchange". The prices are governed by the free market principle of supply and demand.

At the start of the distribution activities, the IMA will receive a free of charge "Activation Kit". It contains basic information on the distribution system, the access to the back-office and an e-book.

The IMA will then have the status of a "Rookie". In this position, the IMA has the opportunity of earning commissions totaling to 10%, which will result from direct sales. Depending on a certain

sales volume, he will also get the Matching Bonus based on team sales up to 4 levels downwards of 10 to 25%.

Moreover, the IMA has the possibility to purchase a product package. The prices for the product packages range from EUR 100 for the "Starter" package up to EUR 5,000 for the "Tycoon" package. Each package comprises a training program forming an essential element with information about background, handling and trading in the digital currency and in OneCoins. In addition, each package contains a certain number of Token, necessary for generating OneCoins. Depending on personal targets within the OneCoin system, the IMA can hence make a choice referring to what scope of training courses he needs and to what extent he wants to participate in generating and dealing in the digital currency to adjust his purchase of the package, accordingly. Both the training material and the Token are offered independently from a position within the distribution system. The major part of training units and Token purchasers acquires them because of the market and added values, regardless of a sales position.

Moreover, every IMA will get a certain number of "Aurum Gold Coins". This is a virtual gold currency, which can also be traded in within the internal system. For each virtual coin, 1 mg of physical gold is being deposited at the provider.

### III.

In Germany, the case-law relating to MLM distribution systems with respect to § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG] is extremely restrictive. In its latest decisions (OLG Frankfurt a.M., Urteil vom 12.05.2011, AZ 6 U 29/11 und Urteil vom 19.05.2011, AZ 6 U 286/10) [Frankfurt/Main Higher Regional Court, decision of 12 May 2011, file number 6 U 29/11 and decision of 19 May 2011, file number 6 U 286/10] by the case-law is assumed, that it should be necessary to make an overall consideration of the compensation plan, and not just an evaluation of separate components in isolation.

The key question is, whether the arrangement of the system primarily serves the product sale, or whether it is typically designed to integrate new participants into the sales structure. For this determination, a number of specific criteria were developed by the jurisdiction which help to differentiate a legal distribution system from an illegal system of progressive canvassing. They have to be compared with the OneCoin sales system as follows:

#### 1.

The OLG Frankfurt [Frankfurt Higher Regional Court] regarded the following factors as characteristic for the lawfulness of a distribution system: For participating in the sales system, neither "entrance fees" have to be paid, nor is there any obligation for a minimum purchase

volume. The purchase of minimum equipment possibly necessary for entering the system can be done with expenditure at a manageable level.

Within the OneCoin distribution system, there is no need of making higher initial investments which have to be amortized by attracting new IMA (OLG Frankfurt, Urteil v. 12.5.2011, Az. 6 U 29/11, S. 7; OLG Frankfurt, Urteil v. 19.5.2011, Az. 6 U 286/10, Ziff. 2.b) [Frankfurt/Main Higher Regional Court, decision of 12 May 2011, file number 6 U 29/11, page 7; Frankfurt/Main Higher Regional Court, decision of 19 May 2011, file number 6 U 286/10, Clause 2.b].

For the activity as a "Rookie", there is no investment needed at all. In this position, an IMA can already realize sales activities by distributing packages comprising Token and training units. For this, he will receive a commission amounting to 10%. In addition, he can build up his own team based on recruiting new IMA. With a sales volume of EUR 5,000 resulting from direct sales activities, he will receive an extra Matching Bonus in relation to the turnover generated by the IMA recruited through him.

Furthermore, he will get 5 Aurum Coins for which 5 mg of gold are being deposited. With this Aurum Coins, he can also deal on the trading platform "OneExchange".

Thus, there is the possibility of participating in the distribution system without own investments.

The compensation shall be activity-related and neither depends on when the IMA started his activity nor on his position-level within the distribution system.

## 2.

Additionally, there is no "requirement for realizing (business) activities", where the participants have to purchase a certain number of products to be entitled to commissions. Such a requirement for realizing activities is a strong argument for the illegal character of a system, because permanent monthly investments – both legally and in practice – are equal to an obligatory, high initial investment (OLG Frankfurt, Urteil v. 12.5.2011, Az. 6 U 29/11, S. 5) [Frankfurt/Main Higher Regional Court, decision of 12 May 2011, file number 6 U 29/11, page 5].

## 3.

Against a system in the meaning of § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG] speaks also the fact, that the remuneration system does not provide for an obligation to recruit new participants (vgl. LG Frankfurt, Urteil v. 19.11.2010, Az. 3-12 O 108/10, S. 5; LG Frankfurt, Urteil v. 15.10.2011, Az. 3-11 O 94/10, S. 4; Brammsen/Leible, Beilage 10 zu BB 1997, 1, 17) [see Frankfurt/Main Regional Court, decision of 19 November 2010, file number 3-12 O 108/10, page

5; Frankfurt/Main Regional Court, decision of 15 October 2011, file number 3-11 O 94/10, page 4; Brammsen/Leible, insertion 10 with reference to BB 1997, 1, 17].

This is precisely the case with the OneCoin distribution system, where the IMA are not obliged to attract new IMA and to build up a sale structure, but can just concentrate on the mere product marketing. Even in the case that an IMA builds up a team based on recruiting new IMA, there is no need for him to make investments because he can achieve his qualification through the sale of products.

But also in reality, there exists no compulsion for building-up a distribution structure, because there is no need of making initial investments which could only be amortized via recruiting new IMA. This is an indication against a system in the meaning of § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG] (vgl. OLG Frankfurt, Urteil v. 12.5.2011, Az. 6 U 29/11, S. 7; OLG Frankfurt, Urteil v. 19.5.2011, Az. 6 U 286/10, Ziff. 2.b); LG Frankfurt, Urteil v. 26.10.2010, Az. 3-06 O 41/10, S. 10) [see Frankfurt Higher Regional Court, decision of 12 May 2011, file number 6 U 29/11, page 7; Frankfurt Higher Regional Court, decision of 19 May 2011, file number 6 U 286/10, Clause 2.b); Frankfurt Regional Court, decision of 26 October 2010, file number 3-06 O 41/10, page 10] .

#### 4.

Commissions within the distribution line are not being passed “upwards”, so there is no risk of increased product prices inside the distribution structure (OLG Frankfurt, Urteil v. 12.5.2011, Az. 6 U 29/11, S. 4; LG Frankfurt, Urteil v. 26.10.2010, Az. 3-06 O 41/10, S. 8 f.; LG Frankfurt, Urteil v. 15.10.2011, Az. 3-11 O 94/10, S. 7; LG Offenburg, WRP 1998, 85, 86; Köhler/Bornkamm, in: Köhler/Bornkamm, 30. Aufl., Anh. zu § 3 Abs. 3, Rn. 14.4 m.w.N.; Wünsche, BB 2012, 273, 277) [Frankfurt Higher Regional Court, decision of 12 May 2011, file number 6 U 29/11, page 4; Frankfurt Regional Court, decision of 26 October 2010, file number 3-06 O 41/10, page 8 and following; Frankfurt Regional Court, decision of 15 October 2011, file number 3-11 O 94/10, page 7; Offenburg Regional Court, WRP 1998, 85, 86; Köhler/Bornkamm, in: Köhler/Bornkamm, 30<sup>th</sup> edition, Annex to Sec. 3 para. 3, recital 14.4 with further references; Wünsche, BB 2012, 273, 277]. The IMA is not obliged to pay the remuneration to his higher-ranking IMA (LG Frankfurt, Urteil v. 19.11.2010, Az. 3-12 O 108/10, S. 5) [Frankfurt Regional Court, decision of 19 November 2010, file number 3-12 O 108/10, page 5].

#### 5.

The IMA are also not given the false impression of reaching an exceptionally great and fast economic success without the respective work effort within the remuneration system (OLG München, Urteil v. 1.6.1995, Az. 6 U 5039/94, S. 27) [Munich Higher Regional Court, decision of

01 June 1995, file number 6 U 5039/94, page 27]. So, it is expressly brought to the IMA's attention that the level of income decisively depends on the personal work effort and individual skills. Referring to the level of income, no promises are being made.

## 6.

Purchasing a higher-quality product package ensures a higher rank to the IMA and thus higher commission prospects. Initially, this could be seen as being a progressive element. However, the case-law shows, that such a provision is harmless inside a remuneration system if economically attractive alternatives will be offered (LG Frankfurt, Urteil v. 26.10.2010, Az. 3-06 O 41/10, S. 10) [Frankfurt Regional Court, decision of 26 October 2010, file number 3-06 O 41/10, page 10]. This is the case, here. Within the OneCoin distribution system, every IMA can improve his rank through generating turnover based on product sale. On the basis of the corresponding work input, the IMA has the opportunity of moving up to the highest ranks without making own investments.

## 7.

The demonstrated contractual and factual circumstances indicate that the focus of the OneCoin distribution system is on product sale. There is no obligation to purchase products. Thus, an IMA can make money by the very product sale or, if intended, build up a sales structure getting the qualification through mediating sales to customers.

The products are of intrinsic value. The digital currency Cryptocurrency offers a high potential for development. The training units are of high value and were developed by renowned professors. They contain teaching material on digital currency and gold investments. Their price at OneCoin is below the price demanded by the free market for training units of this kind. Accordingly, they are of the corresponding, intrinsic value. Furthermore, each package contains Token which can be used for generating digital currency or be offered – so, they can be sold profitably. This argues in favor of the lawfulness of the system (OLG Frankfurt, Urteil v. 12.5.2011, Az. 6 U 29/11, S. 6; OLG Frankfurt, Urteil v. 19.5.2011, Az. 6 U 286/10, Ziff. 2.a)) [Frankfurt Higher Regional, decision of 12 May 2011, file number 6 U 29/11, page 6; Frankfurt Higher Regional Court, decision of 19 May 2011, file number U 286/10, Clause 2.a)].

In addition, there is no requirement of attracting new IMA for realizing profits. This is another strong factor which speaks against the presence of a progressive element in the meaning of § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG] (OLG Frankfurt, Urteil v. 12.5.2011, Az. 6 U 29/11, S. 7; OLG Frankfurt, Urteil v. 19.5.2011, Az. 6 U 286/10, Ziff. 2.b); LG Frankfurt, Urteil v. 26.10.2010, Az. 3-06 O 41/10, S. 10) [Frankfurt Higher Regional Court, decision of 12 May 2011, file number 6 U

29/11, page 7; Frankfurt Higher Regional Court, decision of 19 May 2011, file number 6 U 286/10, Clause 2.b); Frankfurt Regional Court, decision of 26 October 2010, file number 3-06 O 41/10, page 10].

Moreover, the IMA of OneCoin are trained for the marketing of the products; there is extensive training material available in the back-office. In addition, webinars are being provided on a regular basis. This ensures that even inexperienced persons will have the chance to sell products.

#### 8.

Furthermore, a right of return is granted to the IMA. By the OLG Frankfurt (Urteil v. 12.5.2011, Az. 6 U 29/11, S. 7) [Frankfurt Higher Regional Court, decision of 12 May 2011, file number U 29/11, page 7), this fact was evaluated as follows:

*“Such possibilities for return are typically not being offered by a chain marketing system. Normally, such a system requires from the IMA to make an initial investment and is not combined with a right of return. Thus, IMA can only amortize the investment through recruiting new customers and promising the corresponding advantages.”*

So, offering a right of return is a further important indication for the lawfulness of the distribution system (vgl. Harte/Bavendamm, UWG, 2. Aufl., Rn 42 zu § 16 UWG; Leible WRP, 1998, 18, 20) [see Harte/Bavendamm, UWG, 2nd edition, recital 42 referring to Sec. 16 UWG; Leible WRP, 1998, 18, 20].

The term for exercising this right comprising 3 days is relatively short. But against this background these circumstances are justified, because the purchased training units are services which can immediately be used by the IMA.

#### IV.

The overall assessment of the different components of the OneCoin distribution system results in the fact, that the OneCoin distribution system is, in our opinion, a lawful system and not a progressive one in the meaning of § 16 Abs. 2 UWG [Sec. 16 para. 2 UWG].

Signature

Stephan R. Schulenberg, LL.M.Eur.

- Rechtsanwalt -

[- Attorney -]