



German pharmacists go to law over first affiliate of Netherlands' DocMorris

German pharmacists are to take legal action to try to force the closure of the first DocMorris affiliate to be opened in the country. DocMorris is a Netherlands-based drug direct mail group and has acquired a centrally-situated pharmacy in Saarbruecken. For its part, DocMorris has said the move will bring new impetus to the market.

Pharmacists are arguing, however, that a capital-based company such as DocMorris cannot operate a pharmacy under German law and a local pharmacist, Helga Neumann-Seiwert, is to clarify the legal position on competition before a Saarbruecken court.

Elsewhere, the sector is reportedly enraged because it maintains that the Saarland precedent could endanger the livelihoods of thousands of pharmacy outlets and jeopardize patients' health care.

Can govt ministers set aside laws?

Heinz-Guenter Wolf, president of the pharmacy federation, the ABDA, has asked whether they are living in a state under the rule of law or can government ministers, backed by their advisers, set aside existing legislation. The problem, as Mr Wolf sees it, is that the Saarland's Health and Justice Minister, Josef Hecken, has done precisely that and allowed DocMorris into the state capital to operate a pharmacy, thus infringing both German and European law in the process.

DocMorris has said that, in addition to the outlet, it will also set up a logistics center for the direct-mailing of pharmaceutical products.

Meanwhile, Mrs Neumann-Seiwert, has said she has no fear of competition from the Netherlands company. She adds that it is not the price war that DocMorris conducts or the Internet drug trade that is the problem but rather the legal position over acquisition of a German pharmacy by a foreign company.

Pharmacy chains prepare invasion

Meanwhile, a number of major pharmacy chains and financial investors are reportedly preparing to enter the German market in the wake of DocMorris, despite the lack of clarity in the legal situation. A number of media reports suggest further that basic financial discussions about investment and plans of operation on the ground are already well advanced.

However, an investment banking source admitted that the legal question over foreign investment will have to be cleared up. He added that no-one would be investing millions until all the legal hurdles are cleared away. The first stage will be the DocMorris court decision as a first stage. Then there is the question of how many pharmacies can be owned by a single company under German law, given that at present the limit is four.

The German subsidiary of an international pharmacy group reportedly said that it was hoped the court hearing the DocMorris case would decide that European law applied and that there were no national

state limits in the European Union. The current position is that there are about 22,000 individual pharmacies in Germany which are mainly majority-owned by one person. Unlike in the rest of Europe, pharmacy chains are not allowed.

Domestic firms also planning to set up pharmacy chains?

Sales in the sector reached 35.0 billion euros (\$45.0 billion) in 2005. Apart from foreign pharmacy groups preparing to enter the market, domestic enterprises including Celesio, Anzag, Noveda and Sanacorp are reported to have plans to set up chains. Individually, these companies have declined all comment.

Christopher Kummer, director of the European mergers and acquisitions institute the MANDA, based in Vienna, Austria, said that sooner or later there would be pharmacy chains in Germany. Mr Kummer added that, on the longer view, the German legal position could not be reconciled with European law. The DocMorris case is seen by Mr Kummer and the pharmacy sector as the trigger for a new wave of expansion.