

Full title of law or regulation

This is a 'Practical Checklist' for use of names and images of celebrities for advertising purposes for free and without consent:

<https://drschwenke.de/anleitung-zur-werbung-mit-prominenten-geld-sparen-wie-sixt/>

<https://drschwenke.de/>

It's from the practitioner linked above, Dr. Thomas Schwenke. While this appears to be well grounded, we suggest specific legal advice on any plans to use personalities without their agreement. We have not referenced relevant legislation on which Dr Schwenke bases his Checklist.

The checklist

1. **Find a prominent person** (The person must be so prominent that the people who come into contact with the advertisement will have an interest in it. This means the more famous the better).
2. **This person must be at the centre of a current event that arouses public interest** (The resignation of a Minister of Defence, the theft of the official car of a Federal Minister, a public attack on a nightclub owner are sufficiently significant).
3. **The advertising must refer to this event, not just to the person** (for example in this case: the publisher Axel Springer vs ex-foreign minister, Joschka Fischer, which stemmed from this advert:
<http://www.gregsregs.com/downloads/DEGenFischer.jpg>
which mounted the head of Fischer onto that of a baby to advertise the smaller sized format of national daily newspaper, Die Welt (The World). The prominent events in Fischer's life were certainly his time as a political activist, appointment as the Federal Foreign Minister or the ups and downs of his body. However, the ad did not focus on any event but just the person of Joschka Fischer in the foreground. Therefore, Fischer won the subsequent court case against Springer (Case: LG Hamburg judgment of October 27, 2006, 324 O 381/06)
4. **The statement expressed in the advertisement must be an opinion** (Here it is advisable to go back to satire because it is always a form of expression; so using ironic-satirical analysis/ commentary of a contemporary historical event)
5. **The opinion (satirical/ ironical) must not be pushed into the background** (the image must not be used for the sole purpose of serving the economic interests of the company – i.e. for advertising purposes/ to boost sales) For example see this ad:
<http://www.gregsregs.com/downloads/DEGenSixtMerkel.jpg>
from SIXT in response to the statement by Angela Merkel: "The Internet for us all is new territory" (*Das Internet ist für uns alle Neuland*) - made on the occasion of Barak Obama's Berlin visit on 19.06.2013. The ad depicts Merkel next to a car and the line: "For those who want to explore new territory" (*für alle, die Neuland entdecken wollen*). This would not have worked had SIXT shown advert with "New Territory" in big print next to the car and had instead said something along the lines of: "Come to us, we have the most affordable off-road vehicles" and then in small inconspicuous print the line: "This links well where Mrs Merkel discovers new territory". The satirical comment would have been side-lined.
6. **It must not give the impression that the prominent person identifies with the advertised product.** (must not exploit the advertising value or image value of the prominent personality and transfer it to the advertised product)

BEWARE: risk of high claims for damages, not to mention costs and time in resolving any subsequent legal dispute. The former German minister of foreign affairs, Joschka Fischer (case referenced above) or former professional tennis player Boris Becker for example were awarded EUR 200K and EUR 1.2 million by the German courts for the utilization of their portraits in respective advertisements (for newspapers).