

## **10. Resume in English**

### **The selected unfair trade practice and legal protection against such practice**

This thesis deals with unfair competition, in particular with the selected unfair practice – misleading advertising.

The second chapter describes competition in general. Competition is not only legal, but also economic phenomenon, which, although regulated by law, is founded on the biological aspects of human being. Law regulates two main areas of (economic) competition: protects the competition against its unpermitted restrictions, and guarantees fairness of the competition.

In the third chapter unfair competition and its subjects are covered. The prohibition of unfair competition is regulated by the Commercial Code. Legal regulation of the unfair competition is based on a general provision, the general clause of unfair competition, with examples of unfair trade practices. Subjects participating in unfair competition are not only competitors themselves, but also consumers, legal entities entitled to represent competitors and consumers interests, and other subjects whose rights have been violated or jeopardized by an unfair conduct of a competitor.

The chapter four of my thesis describes the evolution of legal regulation of unfair competition in the Czech Republic since the first act on protection against unfair competition was adopted. This Act No. 111/1927 Coll. was very skillfully written and it continues giving inspiration till today; opinions of jurisprudence from that era are very often cited in contemporary judicial decisions and literature dealing with unfair competition.

The analyses of the general clause and misleading advertising are provided in chapter five. According to Section 44 of the Commercial Code, the general clause, the unfair competition shall mean conduct in (economic) competition which conflicts with the good manners (accepted practices) of competition and which may be detrimental to other competitors or customers. No conduct shall be classified as misleading advertising

under Section 45 of the Commercial Code unless it is considered unfair competition under the general clause.

The chapter six focuses on misleading advertising. The misleading advertising according to the Commercial Code shall mean dissemination of information by a competitor about its own or someone else's enterprise, products or services, with the aim of creating misleading perceptions as to the advantage of its own or someone else's enterprise at the expense of other competitors or consumers. This chapter also describes the EU directives dealing with misleading trade practices, namely Directive No. 2006/114/EC concerning misleading and comparative advertising and Directive No. 2005/29/EC concerning unfair business-to-consumer commercial practices.

The chapter seven analyses legal instruments of protection against the unfair competition, and also deals with parties of a dispute arising out of an unfair trade practice. In this chapter also the differences from the common civil procedure rules are described.

The last chapter includes the final resume and suggests possibilities for future legal regulation. In particular some changes of the current regulation, which may lead to better enforceability of the rights and obligations arising out of the unfair trade practices, are suggested in this chapter.