

## RESUME

This thesis deals with the Czech, French and EU regulation of the Misleading, Comparative and Hidden advertisement.

I described imperfection and non-consistency of the Czech regulation. The Czech regulation of the Misleading, Comparative and Hidden advertisement is to the great extent result of the implementation of the EU Directives. Nevertheless, these directives have been implemented imperfectly and incompletely. This fact relates namely to the implementation of the Directive of the European Parliament and Council No. 2005/29/EC, on the Unfair commercial practices towards consumers. One of the key issues that the Czech Academia had to deal with was the possibility of consumer to use for its defence against unfair commercial practice stipulations of the General Clause of the Unfair Competition set by the Commercial Code. The broadly accepted answer is that the consumer is entitled to use for its defence against unfair commercial practice the General Clause of Unfair Competition, under the condition that the practice passes through the “unfair practice” test accordingly to the Consumer Protection Act.

In this thesis I am defending an opinion that the Czech legislator chose relatively easy, but incorrect way to achieve this implementation. Among other, it ignored a challenge to recodify Czech advertisement regulation resulting from the requirement of the maximum harmonisation of the Directive on the Unfair commercial practices. Accordingly, in the thesis I am presenting my proposition to change the relevant Czech law regulation by way of cancellation of the Act No. 40/1995 Coll., The Advertisement Act, and its complete substitution by the provisions of the Consumer Protection Act.

As concerns the regulation of the advertisement itself, The Misleading advertisement (i.e. advertisement which contains false, missing or misleading allegations) is regulated by both the Act No. 513/1991 Coll.,

Commercial Code, as the practice of the Unfair Competition, and by the Act No. 634/1992 Sb., The Consumer Protection Act. The regulation by the Consumer Protection Act originates from the implementation of the Directive on the Unfair commercial practices.

The Comparative advertisement (i.e. the advertisement which identifies goods or services of other competitor) is permissible under condition that it complies with the conditions set by the Commercial act. As concerns the Misleading and Comparative advertisement, this thesis focuses particularly on some specific issues such as advertising exaggeration, use of superlatives, the objectivity of comparison or the use of the trademarks of other competitors in the advertisement.

However, the predominant part of this thesis deals with the Hidden advertisement (i.e. the advertisement which disguise its advertising purpose and puts a form of other type of communication), one of the reasons being the fact that this phenomena is ignored by the Czech academia and by the supervising bodies. In the chapter on the Hidden advertisement, I am focusing on its new forms developed on the Internet – namely the Guerilla marketing, Viral marketing and the Hidden advertisement in the Internet news magazines and blogs. These new forms of advertisement are so far described only by the Czech marketing literature.

Further, I am presenting an empirical study on the „traditional“ forms of the Hidden advertisement in the Czech press medias in the years 2001 – 2008. The conclusion of this study is that the Hidden advertisement is relatively frequent, especially in the newspaper *Právo* and in the “lifestyle” magazines.

Further, the thesis contains a comparative study on the French regulation, including numerous Case Law. This comparative study should be helpful for the Czech Academia and for the Courts to further develop the research of the advertisement. Furthermore, the French Act in the field of the

consumer protection (Code de la consommation) should be used as a framework for the Czech legislator for the recodification of the Czech legal regulation of the advertisement.