
Abstract

Prohibited comparative advertising

The Diploma thesis, *Prohibited comparative advertising*, deals with prohibited comparative advertising according to Czech legislation and legislation of the European Union. The aim of the thesis is primarily to deal with what makes comparative advertising unlawful. The diploma thesis is divided into four chapters: terminology, development of the legislation in the Czech Republic, comparative advertising legislation in the Czech Republic and the EU legislation, and self regulation of advertising.

The attitude of the society to advertising as such has been developing as well as the attitude of the society to the comparative advertising. The legal regulation of unfair competition in the Czech Republic has its origins in the Austro-Hungarian monarchy. After the First World War, the newly created state of the Czechoslovak Republic, became a member state of the Paris Convention for the Protection of Industrial Property. Thus, it bound itself to ensure appropriate legal remedies for nationals of other countries in the Union to suppress unfair competition. Based on this commitment, the Act on Protection Against Unfair Competition, which is the inspiration for the currently valid legislation on unfair competition, was adopted.

The legal regulation of comparative advertising falls within the law of unfair competition. Unfair competition then belongs to the wider legal branch of competition law. Legal regulation of unfair competition and therefore unlawful comparative advertising is currently regulated in the Czech Republic by the Commercial Code. The legal regulation of unfair competition will be newly, in case of acceptance, regulated by the up-and-coming Civil Code. Czech law of comparative advertising is strongly influenced by the legislation laid down in the Directive on Misleading and Comparative Advertising, because the European regulation of comparative advertising is an example of the so called complete harmonization.

According to Article 2c of the Directive on Misleading and Comparative Advertising, comparative advertising is "any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor". Comparative advertising is, in terms of comparison, a lawful practice in case of the fulfillment of the cumulative conditions of the Commercial Code, or the Directive on

Misleading and Comparative Advertising. Self-regulation of advertising plays an important role in regulating comparative advertising. Self-regulation of advertising consists of regulating advertising by rules adopted by the advertising industry itself, and not the state.