

## **Abstract**

### **Unlawful comparative advertisement**

The thesis, whose subject is unlawful comparative advertising, deals in detail with regulation of such advertising not only in the Czech law but also in the European Union law. The aim of the thesis is to analyse thoroughly the conditions of permissibility which decide whether a particular advertising is an unlawful and unfair one and introduce the readers to the means of legal protection against unlawful comparative advertising.

Unlawful comparative advertising is one of nine listed facts of unfair competition, which are among the most frequent ones in economic competition. The unfair competition law and the law against restriction of economic competition are two fundamental branches of the economic competition law, whose main purpose is to affect conduct directed generally against competition. Nowadays, comparative advertising is regulated by the provision § 50a of the Commercial Code. In the new Civil Code, which will come into force on 1 January 2014, comparative advertising will be slightly modified and regulated by the provision § 2980.

The regulation of unfair competition in the Czech Republic is greatly influenced by the Act against unfair competition of 1927, whose general clause made it possible to affect subjects acting contrary to the rules of fair trade. Comparative advertising was not regulated in the Act, although it was considered undesirable within economic competition. The regulation of comparative advertising in the Czech law came along with the harmonisation of the Czech law with the European law and with the compulsory implementation of the directive dealing with misleading and comparative advertising.

Advertising is considered comparative if it identifies, either directly or indirectly, another competitor. As far as comparison goes, comparative advertising is considered unlawful if it does not cumulatively meet eight exhaustively listed conditions whose task is to equilibrate a variety of interests and which it is necessary to assess separately.

Legal order offers various means of protection against unlawful comparative advertising. These are means of Civil law, means implemented in commercial code or in statutory laws, criminal code included. Advertising Council also plays a role in the protection against unlawful comparative advertising as it ensures auto regulation of advertising that is further enabled by basic ethical rules implemented in advertising code, to which important subjects acting in advertising have agreed upon adhering.