

"Product placement as a particular form of commercial communication"

PhD THESIS ABSTRACT

written by: Magda Wilkowska - Walicka

under the supervision of: prof. dr hab. Ewa Nowińska

The aim of this thesis is to indicate the legal boundaries of product placement in relation to its major impact on consumers' choices, while still maintaining a very specific character and a different *modus operandi*, distinct from conventional advertising. Such an approach requires presenting different legal regulations as well as entrepreneurs' eligibility within the scope of product placement as a means of influence on consumers' market-based choices.

Strong emphasis was put on elaboration of the main principles of product placement, which were enacted by EU regulations, the Radio and Television Broadcasting Act, the Unfair Competition Act, the Unfair Market Act and the Press Law Act.

The need for further analysis occurred due to the fact that both conventional advertising (especially hidden advertising) and product placement are parts of commercial communication, which makes them similar in many aspects. Product placement was also compared to other forms of commercial communication such as sponsoring and public relations.

One of the objectives of the dissertation was to present the product placement's influence on consumers' market-based choices. To conduct the aforementioned it was necessary to analyze EU law regulations concerning the consumer's right to information, basic elements of consumer protection policies and its development over time, as well as defining the consumer in EU and domestic law regulations.

It has also been necessary to evaluate how different means of commercial communication (*inter alia* audiovisual) affect consumers' choices. Further study also included verification of the Radio and Television Broadcasting Act in terms of product placement and consumers' rights protection.

As a conclusion it has been stated that consumers still do not have sufficient commercial experience, which would allow them to assess all the commercial information received. Moreover, current law regulations in force are not adequate because of the psychological effect of product placement. To put it differently, most products are presented

in such a manner that very few of the recipients treat it as a commercial. All of the above was taken into consideration in terms of proposing revisions and amendments, de lege ferenda, to certain law regulations.

The thesis is divided into 6 sections. The first chapter is dedicated to commercial communication's legal character and features according to certain regulations stated in Directive 2010/13/EU of the European Parliament and of the Council. The second chapter comprises of the characteristics of commercial communication and product placement in the Radio and Television Broadcasting Act, including legal definitions and doctrinal topics overview. Due to the lack of case-law on this subject, some of the decisions by the National Broadcasting Council have been evoked. All of which concern product placement and thematic placement as they both are strictly related. Chapter three includes the concept of advertising in terms of the Unfair Competition Act (articles 3 and 16), a review of the Decency clause and an explanation of illegality premise. In addition, product placement was compared to advertising and hidden advertising. Chapter four compares product placement to related forms of marketing communication, e.g. sponsoring and public relations in terms of differences and similarities in the way they affect the consumer. Chapter five presents domestic legal regulations on product placement, including the Press Law Act and the Unfair Market Act. The last chapter is dedicated to consumer's protection issues and the influence of legal regulations on consumer's market-based choices. The sixth chapter also defines the consumer as such, presents the consumer protection policy development in matters of domestic and EU legislation, putting emphasize on various definitions of consumers and the standard model of a consumer.

The dissertation ends with a summary which includes a proposed legal framework on the basis of partial conclusions. The framework's objective is to establish legal boundaries providing consumers' protection, permissible forms of advertising as well as terms and conditions for media providers and entrepreneurs excluding the possibility of unfair advertising.

In addition it has been indicated that it is crucial to develop comprehensive programmes covering information and educational features in order to increase the consumers' legal awareness, and thereby judicial culture.

21.05.2021 r.
Muriel Welsch