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Consumer protection in the field of advertising of the future

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Abstract: The relevance of the study lies in the fact that at the current stage, the protection of the rights of consumers in the field of advertising, as well as its producers during its production, implementation and distribution, is important to ensure the full functioning of civil circulation in the defined area. The primary task is the development of an effective method of protecting consumer rights in the field of advertising, which should be based on theoretical developments and studies, which will allow choosing the most optimal and effective option for practical application. The purpose of the study was to study the trends in the functioning of the advertising sphere at the current stage. In accordance with the specified goal, the task of the research is to study the peculiarities of the interaction of subjects with each other and the main elements of the advertising sphere, as well as the development of proposals for ways to improve and increase the quality and efficiency of advertising implementation and its consumption by consumers. Research methods: general and special methods of cognition, in particular, analysis of the scientific and information base, synthesis of the obtained data into theoretical conclusions and practical recommendations. Results and conclusions of the research: it is predicted that in order to improve the quality of advertising itself and prevent violations of consumer rights in this area, it is necessary to legislate provisions on the interpretation of the concept of “documentary confirmation” regarding the appropriateness or inappropriateness of advertising, as well as to strengthen the responsibility of all sub entities implementing their activities in the field of advertising to consumers. The results can be used in further scientific research and in the development of methodological recommendations for increasing the effectiveness of consumer rights protection mechanisms in the field of advertising.

Keywords: advertising services, inappropriate advertising, competition.

Introduction

The legal definition of advertising implies that it is information about the placed (distributed) object of advertising in any form by any means, aimed at attracting attention to the object of advertising, formation or maintenance of interest regarding it, and (or) its promotion in the market. The object of advertising may be products, goods, work or service, a natural or legal person, rights, legally protected

interests or obligations of legal entities or individuals, production facility, commercial facility, another service facility, means of individualization of participants in civil circulation, goods, results of intellectual activity, contests, lotteries, games and other game events, advertising, and other events, betting, phenomena (events) of social nature.

Research Problem

Advertising is part of our daily lives, but it can contain errors that qualify it as improper advertising and violate consumers' rights. Inappropriate advertising can be defined as inaccurate, unfair, unethical, hidden advertising.

Research Focus

In proving improper advertising, it is not necessary to refer to the fact of occurrence of negative consequences. It is enough that false or misleading information was capable of violating the legitimate interests of consumers in the field of advertising. Since their subjective composition does not matter, it is important to focus scientific research on the factors that entail the appearance of improper advertising and its consequences for consumers.

Research Aim and Research Questions

The purpose of the study is to analyze the state of consumer protection at the present stage, taking into account the trends in the development of the whole sphere.

Research Methodology

To achieve the goals and objectives of the study were used general and special methods of scientific knowledge: analysis and synthesis, dialectical, induction and deduction, as well as methods of prediction and modeling.

Research Results

Advertising has a firm place in the system of civil law relations, especially in the entrepreneurial aspect of economic activity. In order for any goods (services) to be sold to consumers in the greatest number, it is necessary to announce them, i.e., to use advertising services. In other words, a natural or legal person wishing to arouse consumers' interest in themselves, or their products should contact an advertising agency.

The advertising agency is an advertising producer, it concludes a contract with the advertiser for the provision of advertising services, which, in addition to the terms of the subject and term of the contract, provides for the payment of advertising services by the advertiser. If the advertiser is not at the same time an advertisement distributor, the price of the contract shall include payment for the services of advertisement distributors (couriers, mass media, owners of vehicles, owners of road billboards, buildings, structures, etc.). Then the advertiser proves the advertisement to consumers in the advertiser's chosen way.

Of course, advertising services are expensive and inaccessible to small legal entities and individual entrepreneurs, and the goods, works, services they produce are not delivered by advertising to consumers. Large companies become monopolists in their activities, forcing out of the market those that produce no less quality products, but cannot make themselves known through expensive advertising.

In addition, in order to prevent violations of consumer rights in advertising in the future, it is important to eliminate other negative factors that cause at the present stage. The main violation of consumer rights is unfair advertising, by which we mean one that uses words that create an impression of preference for goods over other goods if they cannot be documented. Examples are slogans: "the best

quality goods”, “the best products”, “you will not find a better product”. It is possible to distinguish as an error the use of such words that create the impression of preference for goods over other goods just by the price. In this case, the wording will be: “our prices are the lowest”, “the best price”, but there is no documented confirmation, which is a violation not only of the legislation on advertising, but also of anti-monopoly activity and anti-competitive development.

The legislation on counteraction to monopolistic activity and development of competition establishes the prohibition of unfair competition by improper comparison of a business entity and (or) its goods with a competitor and (or) its goods. The wording “our goods” are unmatched even by such companies as “A” and “B” is also incorrect since it will be regarded as a comparison of advertised goods with goods of other sellers of similar goods. A more correct wording, in this case, would be “our product has many advantages...” and list the advantages of the product, without comparing it with the products of other sellers. Advertising cannot contain the words “gift”, “free of charge” or other words that give the impression of providing a service (performance of work) for free if the provision of such a service (performance of such work) involves its payment.

Such violations will not only violate the law on advertising, but also on the protection of consumer rights, and can be qualified as deception of consumers, misleading them through the intentional introduction of an error regarding the cost of goods, works, services in advertising. For example, the advertisement notes: “buy one product, get another as a gift”. However, when buying it turns out that the second product is offered not for free, but for a fee. Even if such a product provides a symbolic payment, for example, for 1 kopeck, such advertising can be considered unethical and, therefore, inappropriate.

Discussion

“More recently in-store advertising through mobile devices has continued to become more prominent and consequently has created new options for how retailers communicate with customers” (Yang, Carlson, & Chen, 2020). In addition, “as consumer demands change rapidly and science and technology continuously develop, the competition among firms is becoming fiercer, particularly in the consumer electronics (e.g., mobile phones, personal computer) industry” (He, Wang, Guo, & Xu, 2019). Indeed, with the development of information and communication technologies, the field of advertising has expanded its sphere of influence on consumers. First of all, it is an active promotion of advertising services through the Internet, as well as the active use of social networks. Inadequate legal regulation of consumer protection in this area, typical for post-Soviet countries, makes them vulnerable when it comes to inappropriate advertising that contains elements of deception or fraud.

“Nowadays, supply chain management is necessary to company success” (Malekian & Rasti-Barzoki, 2019). In the conditions of globalization, preservation of interests of national producers, and intensification of international relations, it is possible for an enterprise to achieve economic success only by implementing a strategy of advertising and promoting its own goods, services and works. In this case, we are talking about unequal conditions for all representatives of business, because smaller enterprises, institutions, and organizations are not always able to pay for quality advertising services. Thus, there is a situation where, with equal quality, there are unequal opportunities to provide information to consumers, thus violating their rights.

At the same time with this, “the five most common point-of-purchase communication objectives are: (a) to attract consumers’ attention and differentiate the products; (b) to remind consumers of previous and ongoing communication actions; (c) to inform consumers about product attributes; (d) to create an image with positive associations; and (e) to persuade consumers to make impulse buys” (Reinares-Lara, & Martín-Santana, 2019). However, the achievement of these goals must not occur in

unfair competition between producers of goods, services, and works. It is unacceptable to allow untruthful information about quality without documentary evidence during advertising.

“The service industry is a growing industry, and the luxury industry, in particular, is expanding from product offerings to services” (Kim, Hyun, & Park, 2020). However, despite the fact that competition for consumers is growing rapidly, business entities must comply not only with the rules of fair competition, but also with moral and ethical standards regarding the final recipients of their goods, services, and works in the desire for maximum material and monetary gain. It should be agreed with the opinion that “with the ever-increasing competition in the service industry to gain higher market share, firms should discover various ways not only to build relationships with customers, but also to drive them to engage more with their marketing efforts in favor of capturing the value of customer engagement” (Itani, El Haddad, & Kalra, 2020).

It is also unacceptable to use any kind of manipulation of consumers in advertising in order to increase its audience and attract as many potential customers as possible, because “for example, consumers may be particularly sensitive to interference by incongruent elements (such as humor) once consumption has started, and if this is the case” (Söderlund, & Oikarinen, 2018). Indeed, no less important in the aspect of consumer protection is the observance of the rights of conduct, morality, and ethics of communication with them, because “including a failure was crucial because it tends to spark negative emotions, which have a stronger impact on performance outcomes than positive emotions” (Verhulst, Vermeir, Slabbinck, Larivière, Mauri, & Russo, 2020).

“It is an unfortunate truth that brands, retailers, and advertisers present consumers with deceptive information” (Aghakhani, & Main, 2019). And it should be noted that this false information contained in the advertising and disseminated to consumers may be of diverse content, such as a set of certain goods, its technical characteristics, the range of services provided, or the terms of payment for the performance of work.

It should also be noted that, for example, “surveys have shown that as many as 90 percent of customers use smartphones while visiting stores” (Högberg, Shams, & Wästlund, 2019). Thus, the circle of subjects in the field of advertising, which are responsible to consumers on the quality of provided goods, works, and services, are also the direct implementers. This provision confirms the need to strengthen liability for violations of consumer rights at the legislative level, especially in post-Soviet countries. Despite the small number of disputes arising in the protection of consumer rights in the field of advertising, its development trends indicate further expansion of such judicial practice.

Conclusions and Implications

For the future, the most important task for consumer protection in advertising is to:

1. combating inappropriate advertising in the above area, directly related to violations of the law, which may affect not only the law on advertising but also the rules of trade and consumer protection, as well as violate the rights of other business entities regarding unfair competition;
2. strengthening responsibility for improper advertising and enshrining the relevant provisions in the law, due to the fact that in the coming years with the strengthening of competition, increasing understanding of business and society of the law will develop judicial practice on these violations;
3. the need for legislation to oblige advertisers, advertising producers, advertising distributors to conduct a comprehensive study of legal and social phenomena: to check their advertising for compliance not only with the legislation on advertising, trade but also for compliance with consumer protection legislation and the absence of provisions that restrict competition and (or) violate the law on combating monopolistic activities and development of competition;

4. the need to legislate a provision revealing the content of the concept of “documentary evidence of the benefits of goods,” which may be the results of relevant market research, statistics, which must be available to the advertiser at the time of placement (distribution) of advertising.

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