

Greenwashing as Unfair Competition Practice

Abstract:

The thesis focuses on one of the major obstacles in the fight against climate change, greenwashing. Given the difficulty in defining and the diversity of this phenomenon, this thesis aims to introduce greenwashing and examine it through the lens of unfair competition law. In particular, it examines whether greenwashing can be an unfair competition act, i.e. whether it fulfils the general unfair competition clause, whether it can possibly also fulfil one of the special unfair competition acts and whether the current unfair competition legislation is sufficient or whether it would be appropriate to create a new special unfair competition act regulating greenwashing.

The first chapter of the thesis focuses on competition, defines competition law and discusses the basic concepts related to competition. All of this is important in order to subsequently highlight how competition is changing in the context of environmental protection efforts and related activities and what threats it faces.

The second chapter continues with the definition of the law against unfair competition, explains the nature of unfair competition, introduces the general clause of unfair competition and describes in more detail the three most important specific acts of unfair competition for the thesis; misleading advertising, misleading designation of goods or services and impermissible comparative advertising. It also touches on the non-legal provisions in the field of unfair competition, which are more flexible in response to the current situation.

The third chapter looks at the changing market in the context of environmental protection, with an emphasis on changes in consumer and competitor behaviour. For competitors, it describes in more detail the strategies they can adopt in pursuit of greening. At the same time, this chapter defines basic environmental terms.

The fourth chapter focuses on the opposite of maximum environmental performance, greenwashing. It defines the concept through its origins, definitions developed by various authors and the so-called seven sins of greenwashing. It does not neglect greenwashing as an unfair commercial practice in both EU and Czech law.

The fifth chapter describes four selected cases of greenwashing, the behaviour of Volkswagen AG, Ryanair Ltd, entities involved in the production and sale of clothing made from falsely certified organic cotton and SodaStream International Ltd. The chapter

concludes with a sub-conclusion both summarising the findings from the previous sub-chapters and answering the research questions.

Key Words:

greenwashing, sustainability, competition, unfair competition, consumer protection