

Restrictions on the advertisement of dietary supplements. Legal aspects

The aim of this doctoral thesis is to find an answer to the question, whether or not laws effective in Poland and limiting advertisement of dietary supplements have been constructed properly and whether or not they protect food consumers and food entrepreneurs in a proportionate and adequate manner. The aim will be achieved by determining:

- whether or not legal provisions governing the advertising of dietary supplements account for the nature of the proposed product, the specific nature of the advertising message and the variety of advertisement addressees,
- whether or not the boundaries of permitted advertisement of dietary supplements match the general purposes of food law, the purposes of providing consumers with information on food, and whether they fulfil constitutional rights and freedoms,
- whether or not the effective legal regulations governing the advertisement of dietary supplements provide proportionate protection to the food consumers and food entrepreneurs, and
- whether or not there are any problematic areas in the advertisement of dietary supplements which require a new regulation or modification of the existing ones.

With those research tasks, it is possible to formulate the **working thesis**, notably that: the provisions effective in Poland and governing the advertisement of dietary supplements are not sufficient to protect the interests of food consumers and that they do not properly protect the legitimate interests of food entrepreneurs.

In her thesis, the author demonstrates that specific changes in law are necessary which account for the fact that the law concerning food-related information should be sufficiently precise and flexible at the same time. The precision should be about adapting the legal regulations to the reality of the evolving market (consumer and entrepreneurs protection), the specific nature of the individual food products (including but not limited to the dietary supplements) and forms of communication (e.g. advertisement). Flexibility on the other hand should consider new informational needs of the consumers, while ensuring the right balance between protection of the internal market and securing the interests of entrepreneurs vs the differences in perception of consumers in different Member States. On the one hand, the current formula of the regulation does not afford adequate protection to the recipients of dietary supplements advertisement; on the other hand, overinterpretation of its provisions may violate legally protected interests of food entrepreneurs, and contradict the principle of restrictions proportionality.

Furthermore, the thesis comprises a postulative layer. The purpose of legal restrictions on dietary supplements advertisement proposed in the thesis is to protect public health by preventing excessive consumption of those products and the consumers being misled as to their medicinal properties. The idea behind the legal restrictions defined as part of *de lege ferenda* is to streamline and unify the effective legal regulations and eliminate the most common unfair practices in the advertisement of dietary supplements. Their implementation will certainly have a positive impact on the development of fair competition without breaching the principle of restrictions proportionality. Proportionality of legal restrictions implemented in the advertisement of dietary supplements should involve maintaining the necessary balance between

the values subject to protection, while employing measures proposed by the author which are least burdensome for both parties.