
INTELLECTUAL PROPERTY RIGHTS AND MISLEADING ADVERTISING OF DRUGS AND COSMETIC PRODUCTS IN THE REPUBLIC OF NORTH MACEDONIA

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Abstract: The purpose of this study was to evaluate the intellectual property rights and misleading advertising of drugs and cosmetic products in the Republic of North Macedonia. Intellectual property rights are the currency of the knowledge economy. They give confidence to authors, artists, designers and inventors that they will be rewarded for successful creations and inventions, and to consumers that they are purchasing genuine products. (European Commission, 2015). Intellectual property rights protects the work of companies, inventors and researchers .To the consumers intellectual property provide safe and authentic products (U.S.Chamber of Commerce, 2021).The advertising industry is sector where individual creativity and intellectual property rights have basic meaning. Successful advertiser have to follow the legal framework (WIPO, 2005).Protection against unfair competition is part of industrial property protection. Directive 84/450/EEC concerning misleading and comparative advertising establishes minimum criteria for harmonizing legislation on misleading advertising, but does not prevent measures which provide more extensive protection for consumers. Harmonization of the criteria will considerably increase legal certainty for consumers and business. For the purpose of this study, after literature research, an on-line questionnaire was prepared in order to collect information how participants reacts in IPR and misleading advertising for drugs and cosmetic products. The answers were tabulated using Microsoft Excel®, computed and evaluated using statistical program IBM SPSS Version 23.0. The majority of the participants in the survey think that most often they can recognize a misleading advertisement. Only 3.19% of respondents are certain in the truthfulness of the available advertisements. 45.05% of respondents answered that unfair competitive advertising exists, while only 8% believe that unfair competitive advertising does not exist. When asked for which type of product categories they believe that advertisements are misleading, 25.88% of the respondents answered that advertisements for cosmetic products are most often misleading and 3.19% of the participants think that most often advertisement of drugs are misleading. The findings of this study indicate the perception of people in the Republic of North Macedonia concerning misleading and unfair competitive advertising. Further researches will be proceeded in order to contribute to harmonization of the regulative on an international level.

Keywords: intellectual property rights, misleading advertising, drugs, cosmetic products.

1. INTRODUCTION

Intellectual Property Rights (IPR) are the currency of the knowledge economy. They give confidence to authors, artists, designers and inventors that they will be rewarded for successful creations and inventions, and to consumers that they are purchasing genuine products. (European Commission, 2015). Intellectual property rights protects the work of companies, inventors and researchers while to consumers intellectual property provide safe and authentic products (U.S. Chamber of Commerce, 2021).The advertising industry is sector where individual creativity and intellectual property rights have great importance. Successful advertiser have to follow the legal framework(WIPO, 2005).Protection against unfair competition is part of industrial property protection. Directive 84/450/EEC concerning misleading and comparative advertising establishes minimum criteria for harmonizing legislation on misleading advertising, but does not prevent from retaining or adopting measures which provide more extensive protection for consumers. Harmonization of the criteria will considerably increase legal certainty for consumers and business. The purpose of this study was to evaluate the intellectual property rights and misleading advertising of drugs and cosmetic products in the Republic of North Macedonia (RNM).

2. MATERIALS AND METHODS

For the purpose of this study a comprehensive research was made by collecting secondary and primary data. We prepared pilot questionnaire first in order to predict possible problems and unclear questions. After analysis of the responses of the pilot questionnaire and excluding unclear aspects an on-line questionnaire was prepared, final questionnaire was prepared which included 9 questions primary related to the influence of intellectual property rights on the choice of the products and different aspects of misleading and unfair competitive advertising. The answers were analyzed using Microsoft Excel® and evaluated using statistical program IBM SPSS Version 23.0. The obtained data is presented tabulated. For comparing of the answers related to gender, age categories, level of education, social category and professional structure were used non-parameter tests for independent samples (Chi-square and Fisher exact test). The statistical significance was defined at level of $p < 0.05$.

3. RESULTS AND DISCUSSIONS

The majority of the survey participants responded that most often they can recognize a misleading advertisement. Only 3.19% of respondents are certain in the truthfulness of the available advertisements. 45.05% of respondents answered that unfair competitive advertising exists, while only 8% believe that unfair competitive advertising does not exist.

When asked for which type of product categories they believe that advertisements are misleading, 25.88% of the respondents answered that advertisements for cosmetic products are most often misleading and 3.19% of the participants think that most often advertisement of drugs are misleading. In the table 1 are shown responses of the participants about perception for truthfulness of advertisements.

Table 1

Question	
Are you certain in the truthfulness of the available advertisements? n (%)	
Yes	10 (3.19)
Most often	112 (35.78)
Rarely	144 (46.01)
No	47 (15.02)
Can you recognize a misleading advertisement? n (%)	
Yes	69 (22.04)
Most often	188 (60.06)
Rarely	48 (15.33)
No	8 (2.56)
Do you think there is unfair competitive advertising in RNM? n (%)	
Yes	141 (45.05)
Most often	92 (29.39)
Rarely	54 (17.25)
No	26 (8.01)
For which product category do you believe advertisements are most often misleading? n (%)	
Drugs	10 (3.19)
Cosmetic products	81 (25.88)
Dietetic supplements	202 (64.54)
Other	20 (6.39)

Further analysis of the responses showed the answers to the question: Are you certain in the truthfulness of the available advertisements, did not depend significantly on the gender of the respondents ($p=0.91$). 46.31% of female respondents and 44.93% of male respondents answered with *rarely*, while 34.84% female and 39.13% male respondents answered with *most often*. The majority of female and male respondents answered *yes* to question: Do you think there is unfair competitive advertising in RNM?; that includes 44.7% of female and 46.4% of male respondents. 30.7% female and 24.6% male respondents answered *most often*. The difference in the distribution of the *yes*, *most often*, *rarely* and *no* answers was statistically insignificant ($p=0.75$).

Concerning the age group results, respondents in the age group of 18 to 35 years, 36 to 50 years and 50+ years usually *rarely* believe in the truthfulness of the available advertisements – 47.93%, 46.05% and 40% of respondents, respectively. Only 3.31% of respondents between age 18 and 35 are certain in the truthfulness of the available advertisements, while the same is true for 1.97% of respondents between the age of 36 and 50, and 7.5% of the 50+ age group. The difference between respondents with different levels of education relative to their opinion of the

truthfulness of advertisements did not prove statistically significant ($p=0.8$). The level of education also did not have a significant influence on their opinion on whether unfair competitive advertisement exists in RNM ($p=0.73$). In table 2 are shown results about the behavior of the respondents when they are faced with untruthful advertisement

Table 2

Question	
What do you do when you face misleading advertising? n (%)	
Not buy the product anymore	216 (69.01)
Talk about your experience	32 (10.22)
Write a complaint to the company or responsible institution	11 (3.51)
Return the product	21 (6.71)
Share your experience on social media	33 (10.54)

The most respondents 69.01% are not buying anymore the product, only 3.51% write compliant to the company or responsible institution.

The next part shows the distribution of the respondents' answers to the questions regarding the influence of intellectual property on drug advertising. The majority of respondents, 53.03%, stated that advertisements influence when they choose a drug (shown in table 3)

Table 3

Question	
Do advertisements influence you when choosing a drug? n (%)	
Yes	105 (33.55)
No	166 (53.03)
I don't know	42 (13.42)

More than a half (68.37%) answered the brand has an influence when they choose a drug, the results are shown in table 4.

Table 4

Question	
Does product brand influence your choice in drug? n (%)	
Yes	214 (68.37)
No	73 (23.32)
I don't know	26 (8.31)

The next part in table 5, shows the distribution of respondents' answers regarding the influence of intellectual property on advertisements for cosmetic products.

Table 5

Question	
How are you influenced by trademark, brand when choosing a cosmetic product? n (%)	
Imperative	40 (12.78)
It matters	195 (62.3)
Not much	65 (20.77)
It doesn't matter	13 (4.15)
Do you think that the declared ingredients on a cosmetic product match the actual ingredients? n (%)	
Yes, of course	81 (25.88)
Most often	174 (55.59)
Rarely	50 (15.97)
No, never	8 (2.56)

The brand of cosmetic products most often influences 62.3% of respondents, and is imperative for 12.8% of respondents. 55.6% of respondents trust the truthfulness of the declaration of cosmetic products, while 2.6% stated that they do not believe that what is declared in the ingredients of a cosmetic product matches the actual ingredients.

4. CONCLUSIONS

The findings indicate that intellectual property rights significantly influence on the choice of the participants for non-prescription drugs and on the choice for cosmetic products

Significant percent of the respondents think there is misleading and unfair competitive advertising in Republic of North Macedonia. These findings indicate that the existing international problem with unfair competition and misleading advertising is present in our country too. Our further researches will be proceeded in order to contribute to the harmonization of the regulative on international level.

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