

ADVERTISING LAW

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Introduction

In Hungary the government imposes restrictions and prohibitions on advertising activities in order to protect consumers, the public interest, and fair competition.

The Advertising Act and Other Regulations

On the one hand are laws applying to advertising in general, such as Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities (hereinafter the Advertising Act). On the other hand, rules and requirements specific to products or media are included in many different acts and laws of a lower level. Important among these are Act XLVI of 2008 on the Food Supply Chain and on the Control and Supervision of the Food Supply Chain (hereinafter the Food Supply Chain Act), Act XCVIII of 2006 on the General Provisions Relating to the Reliable and Economically Feasible Supply of Medicinal Products and Medical Aids and on the Distribution of Medicinal Products (hereinafter the Medical Product Act), and Act CLXXXV of 2010 on Media Services and on the Mass Media (the Media Act).

Regulatory Agencies

The primary Hungarian government regulatory agencies are the following: The National Consumer Protection Authority (*Nemzeti Fogyasztóvédelmi Hatóság*) has jurisdiction in connection with any infringement of the provisions relating to commercial advertising and sponsorship, while the Hungarian Financial Supervisory Authority (*Pénzügyi Szervezetek Állami Felügyelete*) has jurisdiction only in respect of the advertising of activities supervised by it. The Hungarian Competition Authority (*Gazdasági Versenyhivatal*) or the court has jurisdiction in connection with misleading and comparative advertising. The National Media and Infocommunications Authority (*Nemzeti Média- és Hírközlési Hatóság*) has jurisdiction in connection with any infringement of the provisions relating to advertisements disseminated by information society services, exclusive of voice telephony services, and by way of electronic communication.

Self-Regulation

Beyond the legal rules, professional self-regulation is also relevant. The Hungarian Advertising Association (*Magyar Reklámszövetség*), as the largest advertising association in Hungary—in addition to representing its members—chooses the strategy of maintaining a high professional level in the advertising industry, taking part in education, promoting the prosperity of the industry, and helping communication among the parties involved in advertising. The Self-Regulating Advertising Corporation (*Önszabályozó Reklám Testület*) pools the major Hungarian advertisers and agencies. The independent body's main aims and task are complaint settlement, the preliminary opinionating of bills, advertisement monitoring, and international networking.

Products and Services Banned From Advertising

Pursuant to the Advertising Act, advertising is prohibited for all goods whose production or marketing is illegal, such as drugs and other psychotropic materials, cosmetics registered as carcinogenic, and lighters registered as not child-resistant.

Specific products and services that are totally illegal to advertise in Hungary are the following:

- Sexual services
- Dogs which are considered dangerous according to the specific legislation
- Animal fights
- Human organs or human tissues
- Abortion, institutions carrying out abortions, and means and procedures for carrying out abortions

Regulations Related to Product and Service Advertising

Alcohol

Hungarian advertising law does not draw distinctions between types of alcohol (such as beer, wine, and spirits), thus the same restrictions apply to all kinds of alcoholic beverages. The Advertising Act places restrictions on the following:

Content of Advertisements

Advertisements for alcoholic beverages may not:

- Be addressed to children
- Encourage immoderate consumption of alcohol
- Link the consumption of alcohol to enhanced physical performance
- Claim that alcohol has therapeutic qualities

Method of Advertising

No advertisement relating to alcoholic beverages may be disseminated:

- On the outside of the first page of any printed medium
- On the home page of a website
- Preceding programs for children
- On toys
- In or near institutions of public education or health care

The National Consumer Protection Authority has jurisdiction in connection with any infringement of the provisions relating to the commercial advertising of alcohol.

As far as ethical rules are concerned, the Hungarian Code of Advertising Ethics, a legally not binding code created by the Hungarian Advertising Association basically adapted regulations of Council Directive 89/552/EEC. The Ethical Committee of the Association is entitled to proceed against advertisers who violate the rules of the code, and they can also take sanctions such as expulsion of members from the association. The Ethical Code for Advertisement created by the Association of Hungarian Beer Manufacturers lays down ethical rules especially applied for the beer market only.

Firearms, Weapons, and Ammunition

Pursuant to the Advertising Act, weapons, ammunition, explosives, and other means which are considered extremely dangerous to public safety may not be advertised. The above prohibition, however, does not apply to the following:

- Advertisements addressed to persons professionally and exclusively engaged in the marketing and use of the above products
- Advertisements posted on the premises of a gun shop, weapons fair, or exhibition authorized according to specific other legislation, or in a separate section of such a shop designated and authorized for the marketing of weapons and ammunition.

The National Consumer Protection Authority has jurisdiction in connection with any infringement of the provisions relating to commercial advertising of firearms, weapons, and ammunition.

Food

The Food Supply Chain Act places requirement on food labeling and presentation. Per this act, the labeling, shape, appearance, packaging, and display of articles of food may not mislead the final consumer as to the characteristics of the foodstuff, specifically by:

- Attributing to the foodstuff effects or properties which it does not possess
- Stating or suggesting that the foodstuff possesses special characteristics when it is not special
- Attributing to any foodstuff properties of preventing, treating, or curing a human disease
- Referring to such properties

Beyond these requirements are several special regulations setting forth restrictions on advertisement of foods, dietary supplements, and similar foodstuffs for special nutritional needs where the main requirement to be met by advertisements is to properly inform consumers of the special nutritional parameters of the given product.

The National Consumer Protection Authority has jurisdiction in connection with any infringement of the provisions relating to commercial advertising of food.

Gaming

In Hungary, all operations of gaming activities must be authorized by the state tax authority. Pursuant to Act XXXIV of 1991 on Gambling Operations (hereinafter the Gambling Act), operation of coin-activated gaming devices; casino games; card games; fixed server-based gaming machines and non-fixed server-based gaming systems, and—depending on further legal requirements—drawing games, is recognized as falling under the category of liberalized activities. Liberalized gaming activities may be conducted by any person that meets all of the necessary conditions in terms of personnel, equipment, and financial background for the safe and proper operation of gambling activities and that the state tax authority granted authorization to the gaming activities conducted by the person.

Non-liberalized contests of chance may be conducted by a business association that is owned by the Hungarian state, or that is in a majority state ownership. They may also be conducted by a state gaming operator or under temporary authorization by the state in the form of a concession. Lottery and betting operations other than horse-race betting and bookkeeping may be conducted only by a state gaming operator.

The state tax authority's authorization is not required, however its notification in advance is required, for:

- Drawings which are not operated continuously, provided that the number or value of tickets and the total value of prizes do not exceed limits prescribed by law
- Promotional contests of chance organized by a supplier among customers who have purchased specific goods or services, provided that no cash prize may be awarded.

Pursuant to the Gambling Act, the tax authority's authorization is required for any announcement using communications equipment and networks to solicit players for any contest of chance. Further, no sales, organizing, or publicity activities may be pursued in Hungary in connection with any contest of chance held in another country unless the state tax authority has authorized the contest.

The Advertising Act sets forth general regulations concerning gaming and does not differentiate between the different kinds, such as gambling or

lotteries. The act lays down restrictions with the following aims:

- Protecting children (no advertisement may be disseminated addressed to children containing a presentation to enter any games of chance, and no advertisement involving games of chance may be disseminated in any printed media published to children)
- Providing that the promoted games of chance are offered with the state tax authority's authorization (no advertisement may be disseminated and it is prohibited to play a role in any advertisement relating to games of chance offered without the state tax authority's authorization).

The National Consumer Protection Authority, the National Tax and Customs Administration, and the police have jurisdiction in connection with any infringement of the provisions relating to commercial advertising of gaming.

Legal Services

Lawyers are allowed to advertise in compliance with the rules prescribed by the Code of Conduct and the provisions on the advertising of legal services adopted by the Hungarian Bar Association. Among the provisions are the following:

- Advertising of legal services must be accurate
- The advertisement may not violate the prohibition on unfair market services
- Restrictions concerning economic advertisement must be followed
- Restrictions concerning advertisements disseminated by electronic means must be followed
- Comparative advertising is not allowed: it is forbidden to compare cases or clients, as all cases and clients are different and professional secrecy must also be respected when providing information about them.

There are also specific rules on the permissibility and contents of lawyers' websites. The code declares that a law firm may publish a website concerning itself provided that:

- It notifies the president of the Hungarian Bar Association in writing
- It respects all indications set forth by the Code of Conduct (ie. no banners, no indications about represented clients, and no offers or special fees for consultations)
- In case the above regulations are violated, the Ethics Committee of the Hungarian Bar Association is entitled to proceed against the lawyer.

Medical Devices

Restrictions and prohibitions on advertising of medical devices and pharmaceuticals are both set forth by the Medical Product Act. The following medicinal products may not be advertised to the general public:

- Articles not authorized to be marketed or used in Hungary
- Products available solely by prescription
- Products approved for social security subsidies
- Products that contain narcotics or psychotropic materials
- Investigational medicinal products

Further, advertisements for medicinal products may not be directed at children. The act also lays down several restrictions and prohibitions on the content of medical advertisements, among them:

- Medicinal products must be clearly identified and demonstrated
- The advertisement must contain information and warnings necessary for correct use
- An express, legible invitation to read carefully the instructions or the user's manual for the product must be included

The National Consumer Protection Authority has jurisdiction in connection with any infringement of the provisions relating to commercial advertising of medical devices and pharmaceuticals.

Medical Services

Apart from the above-listed and the general advertising law regulations, advertising of medical services must comply with the rules prescribed by the Code of Conduct adopted by the Hungarian Medical Association. Pursuant to this code, medical activities may be advertised if the aim of advertising is solely to serve the common weal by providing objective information without ranking. An advertisement that directly serves to increase medical examinations and attendance would be seen to violate this principle. The following are prohibited:

- Comparative advertisements
- Indirect or disguised advertisements
- Advertisements with the aim of raising financial benefits
- Advertisements that deceive patients
- Advertisements that are shocking or uproarious

Nonprofit Fundraising

Apart from the general advertising law regulations, further specific restrictions on nonprofit fundraising advertisements are included in Act CLXXV of 2011 on the Freedom of Association, on Public-Benefit Status, and on the Activities of and Support for Civil Society Organizations and in Governmental Decree No. 350/2011 (XII.30) on several questions regarding the management of civil organizations, fundraising, and nonprofit activities. Pursuant to these laws, soliciting donations in the name of or on behalf of a civil-society organization:

- May not entail the harassment or nuisance of others
- May not entail any violation of personal rights and human dignity
- Requires informing the grantor of the aim and utilization of the grants by the fundraiser

Nonprofit fundraising may be performed by phone or via the Internet as well. In these cases the fundraiser must ensure that the fundraiser organization is identifiable. Donations provided to a civil society organization must be registered at the value shown in the benefactor's books, or, in the absence of such, at open-market value.

It is the Prosecution Service which exercises legal control over civil-society organizations. The public prosecutor has powers within his legal control authority to bring action against a civil society in the court.

Nutritional Supplements

Nutritional supplements may be sold in Hungary only if the producer or importer has notified the National Institute for Food and Nutrition Science of the product. Nutritional supplements are subject to the restrictions on food advertising included in the Food Supply Chain Act as well as further restrictions per ESzCS Ministerial Decree No. 37/2004 (IV.26). No advertisement may be disseminated relating to nutritional supplements that claims or creates the impression that:

- The product has prophylactic or therapeutic qualities
- A varied diet is not sufficient to provide the necessary nutrients for the human body

Marking regulations on nutritional supplements are stricter than those for general foodstuffs, requiring further properties to be indicated on the product.

The National Consumer Protection Authority has jurisdiction in connection with any infringement of the provisions relating to commercial advertising of nutritional supplements.

Occult ("Psychic") Services

Apart from the general advertising-law regulations, no further specific prescriptions, restrictions, or prohibitions apply for occult ("psychic") services specifically.

Pharmaceuticals

Please see Medical Devices above. (Restrictions and prohibitions on advertising of medical devices and pharmaceuticals are both set forth by the Medical Product Act.)

Political Advertising

The Media Act sets forth definitions of "political advertisement" and "political magazine" and also determines the most important restrictions on their dissemination.

The person commissioning a political advertisement must be clearly identified in the publication or broadcast. Any person on whose behalf a political advertisement is broadcast, or any other person who has an interest in the broadcasting thereof, shall not exercise editorial influence concerning the media service. The political advertisement must be readily recognizable as to its nature and distinguishable from other media contents.

During election campaign periods, political advertisements may only be published in accordance with the provisions of acts on the election to a given position. Outside election campaign periods, political advertisements may only be published in connection with referendums already ordered. The media service provider shall not be responsible for the content of political advertisements. Political parties and political movements may not sponsor a media service or a program.

The National Media and Infocommunications Authority as an autonomous regulatory agency and its independent body, the Media Council, shall have jurisdiction in connection with any infringement of the provisions connecting to advertising of issues, persons and bodies relating to politics.

Products Related to Sexuality

The Advertising Act places general restrictions on the advertisement of products related to sexuality. Pursuant to the act, no advertisement may be disseminated if it displays sexuality in a gravely indecent manner, meaning in particular the open display of sexual intercourse or genitals (pornographic advertisement). No advertisement that is aimed to arouse sexual interest may be disseminated. The above restrictions, however, do not apply to advertisements on sex products or to advertisements displayed in sex shops.

The National Consumer Protection Authority has jurisdiction in connection with any infringement of the provisions relating to commercial advertising of products related to sexuality.

Religion

Apart from the general advertising law regulations, no further specific restrictions apply to religious advertisements. However, the Media Act and Act CIV of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content (hereinafter the Freedom of the Press Act) lays down many regulations intended to protect religion or belief in media broadcasting, such as the following:

- Commercial communication featured in media content may not be published if it is offensive to religious beliefs
- Commercial communications broadcast in media services shall not include or promote any discrimination based on religion or belief; shall not express religious beliefs, with the exception of commercial communications broadcast in special-interest media services on religion; and shall not prejudice the dignity of a religious conviction
- Programs having religious or ecclesiastic content may not be interrupted with advertisements or teleshopping
- Product placement is also prohibited in these programs

The National Media and Infocommunications Authority, as an autonomous regulatory agency, and its independent body, the Media Council, have jurisdiction in connection with any infringement of the provisions connecting to advertising of religion and religious issues.

Sex (Adult) Services

Act LXXV of 1999 on organized crime defines "sexual service" as an activity pursued by a prostitute which includes physical contact with a person receiving sexual services and the aim of the activity is to raise or gratify sexual desire of the receiving person. On the basis of the Advertising Act, no advertisement of sexual services may be disseminated.

Pursuant to Act II of 2012 on misdemeanors, a person who calls someone else to provide sexual services, or who receives such services in a protected area, commits a misdemeanor. Protected areas are areas listed by Act LXXV of 1999 on the Fight Against Organized Crime and Related Phenomena, such as public roads, buildings serving national and international authorities and organizations, and other locations local governments may designate where prostitutes are prohibited from offering or providing sexual services.

Police are entitled to proceed against persons committing a misdemeanor. The National Consumer Protection Authority has jurisdiction in connection with any infringement of the prohibition relating to commercial advertising of sexual services.

Tobacco Products

Pursuant to the Advertising Act, promotion of tobacco products is generally prohibited, and this prohibition also applies to indirect advertising. The prohibition, however does not apply to advertisements addressed exclusively to the following:

- Participants in the tobacco industry
- Any printed media printed or published outside the European Economic Area
- Advertisements installed inside a store, in a section designated solely for the sale of tobacco products, if it contains the general health protection warning "Smoking seriously harms you and others around you!"

The act also sets forth restrictions on the content and form of the tobacco advertisements, specifically prohibiting the following:

- Addressing such advertisements to children
- Encouraging immoderate consumption of tobacco products
- Implying that smoking is healthy
- Containing video footage or any special effect imitating sound(s) or odor(s) associated with smoking tobacco
- Sponsorship of tobacco products in connection with sporting, cultural and political events, or events or activities relating to health care

The National Consumer Protection Authority has jurisdiction in connection with any infringement of the provisions governing the advertisement of tobacco products and sponsorship relating to tobacco products. In proceedings opened with respect to any infringement related to tobacco advertising, client rights are to be conferred upon the associations active in the field of protection of non-smokers.

Toys

Apart from the general advertising law regulations, no further specific restrictions apply on advertisements of toys, however Ministerial Decree of National Economy No. 38/2011 (X.5), on the safety of toys, sets forth the general standards and safety requirements to be met before putting toys on the market (eg. packing of toys and/or the direction of use enclosed must take the attention of the costumers to the possible dangers and injuries that may emerge while using the toy).

The National Consumer Protection Authority has jurisdiction in connection with any infringement of provisions governing the advertisement of toys.

Other Regulated Products

Several specific restrictions on advertisements of specific products are established by the ad-hoc decisions of the Hungarian Competition Authority.

Among the regulated products are:

- Cosmetics
- Household products
- Different ad papers of supermarkets
- Financial organizations
- Motor vehicles
- Television and radio channels
- Publishers
- Airlines

Other Regulated Services

Funeral and Related Services

Pursuant to Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities, no advertisement relating to funeral and related services may be disseminated in health-care institutions, on the walls or fences of health-care institutions, and in cemeteries except in designated areas. This restriction shall not apply to information posted in the public-relations offices of health-care institutions or funeral service providers, showing their names, addresses, other contact information, and a description of their services, in alphabetical order without any discrimination among the service providers.

Advertisements relating to funeral and related services, with the exception of advertisements posted on the service provider's website, may indicate only the

name or other distinguishing mark of the service provider, contact information including business hours, and the word "funeral service," and a list of services and the fees charged in a manner that is objective and respectful.

Timeshare Services

Pursuant to Governmental Decree No 141/2011 (VII.21) on contracts relating to the purchase of usage rights to accommodation on a timeshare basis, advertisements of timeshare services must contain a statement that consumers are entitled to an information sheet concerning the advertised time services. In case the timeshare services are promoted at a specific event, the invitation to the event must contain the aim and nature of the program, and the above-mentioned information sheet must be available for the consumers at the place and time of the event.

Additional Restrictions

Several specific restrictions on advertisements of electronic telecommunication services; cable TV services and mail-order services are established by the ad-hoc decisions of the Hungarian Competition Authority.

Regulations Related to Advertising Methodology

Advertising to Children

Content

According to the Advertising Act, all advertisements are forbidden that are capable of harming, or that are addressed to children and young persons, and have the capacity to impair the physical, intellectual, or moral development of children and young persons. The prohibition applies in particular for gratuitously violent and sexual content, especially if it features children or young persons in such situations.

Advertisements may not include a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy these for them.

Advertising alcohol and tobacco products or gambling for children and young persons is forbidden.

Placement

Advertisements of any kind are banned in child welfare and child-protection institutions, kindergartens, grammar schools, and in dormitories for students of grammar schools (except for campaigns promoting healthy lifestyles, environment protection, or information related to public affairs, educational and cultural activities and events).

Time of Broadcast

According to the Media Act and the Freedom of the Press Act, TV and radio commercials are not required to be rated, however, they may not be broadcast at a time when it is foreseeable that upon their proper rating based on its contents, they may not otherwise be broadcast. This means that the anticipatory rating of commercials during and around children's programming must match that of the respective program.

Celebrity Endorsements

Pursuant to the Media Act, presenters, newscasters, and correspondents regularly appearing in programs offering news and political information in public and community media services cannot appear or play a role in advertisements or political advertisements broadcast in any media service, except for the self-promotion of public media services.

Some special regulations: Pursuant to the Advertising Act, promotion of tobacco products may not use images or statements of celebrities or persons of fame, while on the basis of the Medicinal Product Act the advertisement of a medicinal product or medical aid shall not contain any reference or expression which refers to a recommendation by scientists, health professionals, or celebrities.

Comparative Advertising

By virtue of the regulations of the Advertising Act, comparative advertising may not injure the reputation of another company, may not lead to any confusion between the advertiser and another company, may not result in any unfair advantage, and may not imitate the merchandise of another company.

Also, comparative advertising is allowed to compare only similar goods, must compare their definitive and typical features as well as their price (when applicable) objectively and verifiably, and, in case of products with designation of origin, may compare only products of the same origin.

Contests

On the basis of the Gambling Act, no authorization is necessary to advertise games of chance. However, if a promotional contest is linked to the purchase of goods or services, the state tax authority must be notified at least 10 days in advance. Notification is not needed for promotions not involving any purchase (e.g. only the filling out of a questionnaire). Either way, the participation must be free, because if the customer has to pay anything (other than the value of the goods purchased) to enter the contest of chance, it will qualify as gambling, and as such, must be authorized by the state tax authority. The above restrictions do not apply to games of skill.

Contests and games have to conform with the prohibition of unfair business-to-consumer commercial practices set forth by Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices (hereinafter the Unfair Commercial Practices Act) This act specifically identifies the following as unfair:

- Misleading or aggressive marketing of the contest
- The offering of a competition or prize promotion without awarding the prizes described or a reasonable equivalent
- Creating the false impression that the consumer has already won, or will win a prize or other benefit, when in fact there is no prize or it is subject to the consumer paying money

Deceptive or Misleading Advertising

Misleading advertising is defined by Advertising Act as follows:

...any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behavior or which, for those reasons, injures or is likely to injure a competitor who is engaged in the same or similar activities.

Misleading advertising is forbidden. Considerations that must be taken into account when deciding whether or not an advertisement is misleading include:

- The general characteristics of the goods
- The price of the goods or to the pricing method, and to other contractual conditions relating to the supply of such goods
- The disposition of the advertiser, such as its particulars, the rights, financial condition and/or endowments of or the awards received by the advertiser

Disguised Ads

Disguised ads are defined by the Freedom of the Press Act as any published commercial communication that misleads the public as to its nature, and as such, these are prohibited. Advertising may be considered as disguised even if it is not done in return for payment or similar consideration.

Nevertheless, displaying the name, logo, product, or service of the sponsor of a public event is not considered disguised advertising provided that the media service provider has no business interest in such appearance and the manner of appearance does not give undue prominence to the sponsor.

Information concerning the social or public-service commitment of a business is not considered as disguised advertising either, provided that such report only contains the name, logo, and trademark of the business and—if it is closely connected to the commitment—its goods and/or services. The slogan of the business entity or any part of its commercial communication may not appear in the report, and the information may not expressly encourage the purchase of the product or service of the business.

False Advertising

See regulations detailed above concerning deceptive or misleading advertising.

Free Gifts/Samples

No specific restrictions apply on free gifts and samples, only the prohibition of unfair business-to-consumer commercial practices. The Unfair Commercial Practices Act lists examples of such unfair practices in this field including the describing of a product as gratis, free, without charge or similar if the consumer has to pay anything other than the unavoidable cost of responding, collecting, or paying for delivery of the item; or including in marketing material an invoice which gives the consumer the impression that he has already ordered the marketed product when he has not.

Limits to Free Speech

Advertisements do not enjoy the same rights as free speech, as there are more limitations. Under the Media Act, these limitations include restrictions on advertising of some professions (doctors, veterinarians, and lawyers), or products (tobacco, alcohol), and restrictions on political, ideological, and religious advertisements, as noted elsewhere in this article.

Length of Commercial, Volume, and Similar Restrictions

Per the Media Act, the duration of advertising spots in linear media services (TV, radio) may not exceed 12 minutes within a given clock hour, including split-screen advertisements, virtual advertisements, and the promotion of the programs of other media services. Among others the following, however, are excluded from this restriction:

- Teleshopping windows (limited to 3 hours/day)
- Political, public service, and community facility advertisements
- Product placement
- Self-advertising
- Previews of the media service's own programs

The transmission time devoted to advertisements and teleshopping in linear media of the public media service provider may not exceed eight minutes within a given clock hour. For community media service providers, the limit is six minutes within a given clock hour.

Nutritional Claims

On the basis of the Medicinal Products Act and the Food Supply Chain Act, no products may be advertised as curative other than registered medicines. Other nutritional claims may not be deceptive, and must be verifiable.

Rights of Privacy

Pursuant to the Advertising Act, advertisements may be conveyed to individuals by way of direct marketing, such as through email or telephone, only upon the express prior consent of the person to whom the advertisement is addressed. Advertisement material may be sent by mail in the absence of prior express consent; however, means must be provided for the addressee to unsubscribe at any time from receiving further advertisement material, freely, and at no cost to the addressee. Such unsolicited advertising material may not be sent by way of direct marketing to the person affected.

Product Demonstrations

No specific restrictions apply to product demonstrations as an advertising method. However, on the basis of Governmental Decree 213/2008 (VIII.29) on consumer contracts negotiated away from business premises, purchase agreements concluded at these demonstrations will qualify as contracts negotiated away from business premises, and as such, may be rescinded by the consumers within eight days.

Regional Public and/or Community Standards

Community standards are similar to those of most western countries. Pursuant to the Advertising Act, public nudity, pornography, or any other offensive sexual conduct are not acceptable. Advertisements must not display gratuitous violence either.

Rebates

On the basis of the Unfair Commercial Practices Act, rebates must not be deceptive and must not withhold substantial information as to the terms and conditions of claiming the rebate. Unfair business-to-consumer commercial practices in this field include bait advertising as well as bait-and-switch.

Sex in Advertising

Pursuant to the Advertising Act, no advertisement may be disseminated if it displays sexuality in a gravely indecent manner, meaning in particular the open display of sexual intercourse or genitals (pornographic advertisement). Advertising sexual services and advertisements that are aimed to arouse sexual interest are also forbidden. The above restrictions do not apply to advertisements on sex products or to advertisements displayed in sex shops.

Sponsorships

The Advertising Act prohibits sponsorship of tobacco products in connection with sporting, political and cultural events, or events or activities relating to health care, as well as events or activities having cross-border effects. Besides this, no specific restrictions apply.

Subliminal Advertising

Subliminal advertising is defined as advertising which, when published, due to time constraints or any other reason, influences the consumer in a psychological sense with stimuli from images, sounds, or other effects of intensity below the threshold required for conscious perception; and as such, it is forbidden by the Advertising Act.

Sweepstakes Offers

See regulations detailed above concerning advertising of contests.

Testimonials

Testimonials are evaluated as being part of the advertisement, which means the factual statements made in these testimonials must be true and verifiable. However, pursuant to the Code of Ethics for Advertising in Hungary, the verification of the statements of an advertisement may not be based solely on testimonials, even if they happen to be true.

Tie-In Offers

No specific restrictions apply.

Use of a Public Person's Image or Name

According to the regulations of Act IV of 1959 on the Civil Code, any misuse of the image or name of another person is deemed as a violation of inherent rights. With the exception of public performances, the consent of the person affected is required for the public use of his/her image or name. Unauthorized use of a person's image for advertising purposes is considered to violate the right of privacy; use of a famous person's image may violate publicity rights; and use of a celebrity's image falsely suggesting the celebrity's endorsement violates the law against false advertising.

Use of Children in Advertising

The Advertising Act prohibits use of children for advertising alcohol or tobacco products. Furthermore, advertisements must not portray children in situations depicting danger or violence, or in situations with sexual emphasis.

Use of Foreign Language in Advertising

It is a general rule set forth by Act XCVI of 2001 on the Publishing of Commercial Advertisements, Shop Signs and Some Public Announcements in Hungarian Language that the use of foreign language in advertising is permitted; however, all advertisements, including shop signs and slogans, must be displayed also in Hungarian, except for the name of the company and trademarks. The above requirement does not apply to advertisements displayed in foreign-language media.

Use of Models as Doctors, Nurses, Lawyers, or other Professionals

No current restrictions apply on the actors; nevertheless, to meet the general rules of the Advertising Act, factual statements related by "experts" must be

true and verifiable and must not be deceptive.

Violence in Advertising

Pursuant to the Advertising Act, advertisements may not encourage any violent or such conduct that is likely to jeopardize personal or public safety, or the natural or man-made environment. Advertisements must not display gratuitous violence and must not be frightening.

Other Regulations Particular to Hungary

Product placements have recently become available (with restrictions set forth by the Media Act) in cinematographic works intended for showing in movie theaters; cinematographic works, films and series made for media services; sports programs and entertainment programs.

Regulations Related to Media Channels

The rules of advertising related to media channels are generally set forth along uniform lines, while some special requirements relating to different channels of advertising are laid down by specific provisions of law.

Billboard Advertising

The following laws pertain to billboard advertising:

- Governmental Decree 224/2011 (X.21) on the Location of Billboards, Advertising Means, and Other Equipment Used for the Purpose of Advertising
- Act XCVI of 2001 on the Dissemination of Commercial Advertisements, Business Captions and Certain Public Service Announcements in Hungarian Language (hereinafter the Advertisements in Hungarian Act)
- General rules of advertising set forth by the Advertising Act

While the first law protects clear and unhindered traffic and transport, the Advertisements in Hungarian Act protects the Hungarian language in connection with billboard advertising and the Advertising Act sets forth the rule that all outdoor advertising media must explicitly indicate the name and address of the publisher of advertising.

Digital Media Advertising

Definition of "Electronic Communication"

Electronic communications are governed by Act CVIII of 2001 on Electronic Commerce and on Information Society Services (hereinafter the Electronic Commerce Act), which defines "electronic communication" as any information society service or—excluding voice telephony services—any electronic message:

- In the form of commercial advertisement as specified in the Advertising Act, or
- Information relating to the implementation of social and societal aims, other than advertisement.

Requirements

Pursuant to the Electronic Commerce Act, the following information must be presented clearly and unambiguously to the recipient immediately upon viewing an electronic communication:

- The electronic communication (as defined above) must be clearly identifiable as such
- The identity of the electronic advertiser, or the person on whose behalf the electronic communication is transmitted by way of electronic mail or equivalent individual communications
- Promotional offers, such as discounts, premiums, and gifts, must be clearly identifiable as such, including the conditions which are to be met to qualify for them
- Promotional competitions or games must be clearly identifiable as such, including the conditions for participation

Any communication that aims to obtain the consent of the target person must be considered as electronic communication as well.

In connection with any infringement of the provisions relating to advertisements by way of electronic communication, the National Media and Infocommunication Authority has jurisdiction.

Direct Mail Advertising

Direct marketing activities performed in Hungary are governed principally by the Advertising Act. According to the act, the general rule is that direct marketing activities may be conveyed to natural persons only upon the expressed prior consent of the addressee. The consignment sent for requesting the statement of consent may not contain any advertisement and must include the indication that the consent, once given, may be withdrawn at any time. If the statement of consent is withdrawn, all personal data of the given person must be promptly erased from the “opt-in” records, and all advertisements must be stopped.

By way of exception, direct marketing activities by mail are permitted without such prior express consent if the advertiser and the advertising service provider include a facility for the addressee to unsubscribe at any time freely and at no cost to the addressee. Therefore, advertisement material sent by mail must contain a return envelope for sending the notice to unsubscribe in the form of registered mail with postage prepaid and with notice of delivery.

Email Advertising (Spam)

Rules on electronic communication set forth by the Electronic Commerce Act, as detailed under Digital Media Advertising above, also apply to email advertising.

Newspaper and Periodical Advertising

The Advertising Act defines newspapers and periodicals as press products published in printed format or by electronic communications networks, so the term is not limited to “hard copy.”

General rules on commercial communications featured in media content (which means press products and media services) are set forth by the Freedom of the Press Act, which stipulates that advertisements:

- Must be readily recognizable and distinguishable from the other content
- May not be offensive to religious or political beliefs
- May not encourage behavior prejudicial to health, safety or the environment

Disguised ads (see above) and the use of subliminal techniques (see above) are also prohibited. Advertisements promoting and describing products or services banned from advertising are also prohibited. It is also a general rule set forth by the Advertisements in Hungarian Act that all advertisements published in Hungarian press products (or in any other media service) must appear in Hungarian language as well, irrespective of the medium of publication.

Concerning advertisements published in online journals and news portals, see *Digital Media Advertising* above.

Periodical Advertising

See *Newspaper and Periodical Advertising*.

Radio Advertising

Apart from the general rules on commercial communications featured in media content (see *Newspaper and Periodical Advertising*), further regulations on radio and television advertising—as advertising in media services—are set forth by the Media Act.

Commercial communications broadcast in media services such as radio and television must meet some general requirements set forth by the Media Act in order to protect fundamental rights such as human dignity or freedom of religion, to protect children and to forbid discrimination.

The Media Act regulates the sponsorship of media services and programs as a special mode of radio and TV advertising. In the case of a sponsored media service or program, the identification of the sponsor is indispensable. However, pursuant to the Freedom of the Press Act, the sponsored media content may not encourage or advocate the purchase of the products or services of the sponsor or those of a third party designated by the sponsor, neither shall they discourage the purchase of such products or services. The following may not sponsor a media service or a program:

- Political parties and political movements

- Companies engaged in the manufacturing of tobacco products or in the pursuit of gambling activities without the state tax authority’s authorization

In connection with any infringement of the provisions relating to commercial advertising the Hungarian Consumer Protection Authority has jurisdiction, while in the case of advertisements in media content the National Media and Infocommunication Authority has jurisdiction.

Television Advertising

Apart from the above-mentioned regulations on commercial communications featured in media content and—as a part of it—in media services (see *Newspaper and Periodical Advertising* and *Radio Advertising* above) further special rules on TV advertising are set forth by the Media Act.

Telemarketing

Rules on electronic communication set forth by the Electronic Commerce Act (see *Digital Media Advertising* above) and rules on direct marketing set forth by the Advertising Act (see *Direct Mail Advertising*) apply to telemarketing.

Social Media Advertising (Facebook, YouTube, Twitter, etc.)

Rules on electronic communication set forth by the Electronic Commerce Act apply; see *Digital Media Advertising* above.

Product Placement

The Media Act regulates product placement as a special mode of TV advertising. It is a general rule that product placement in media services shall be prohibited, however, product placement in programs shall be admissible in cinematographic works intended for showing in movie theaters; cinematographic works, films and series made for media services; sports programs and entertainment program, or in other programs, provided that the manufacturer or distributor of the product in question, or the supplier or agent of the service does not provide the producer of the given program with any financial reward either directly or indirectly with the exception of making available a product or service free of charge for the purpose of placement.

Regulatory Agencies

Nemzeti Fogyasztóvédelmi Hatóság (NFH)

Hungarian Authority for Consumer Protection (HACP)

József krt. 6.
Budapest, H-1088
Hungary
Tel: [36] (1) 459 4800
Fax: [36] (1) 210 4677
Web: www.nfh.hu

In general HACP has jurisdiction in case of any infringement of the provisions relating to commercial advertising and sponsorship with the exceptions below.

Pénzügyi Szervezetek Állami Felügyelete (PSZÁF)

Hungarian Financial Supervisory Authority

Krisztina krt. 39.
Budapest, H-1013
Hungary
Tel: [36] (1) 4899 100
Fax: [36] (1) 4899 102
Web: www.pszaf.hu

Has jurisdiction in respect of the advertising of activities supervised by the Hungarian Financial Supervisory Authority.

Gazdasági Versenyhivatal (GVH)

Hungarian Competition Authority

Alkotmány u. 5.
Budapest, H-1054
Hungary
Tel: [36] (1) 472 8900
Fax: [36] (1) 472 8905
Web: www.gvh.hu

Email: ugyfelszolgalat@gvh.hu

Has jurisdiction in case of misleading or comparative advertising.

Ostrom u. 23-25.
Budapest, H-1015
Hungary
Tel: [36] (1) 457 7100
Fax: [36] (1) 356 5520
Web: www.nmhh.hu
Email: info@nmhh.hu

Has jurisdiction in case of any infringement of the provisions relating to advertisements disseminated by information society services, exclusive of voice telephony services, and by way of electronic communication.

Magyar Reklámszövetség
Hungarian Advertising Association

Pannónia u 11.
Budapest, H-1136
Tel: [36] (1) 322 0640, [36] (1) 322 1470
Fax: [36] (1) 322 7841
Web: www.mrsz.hu
Email: info@mrsz.hu

The Hungarian Advertising Association, as the largest advertising association in Hungary—besides members' representation—chooses the strategy of maintaining a high professional level in the advertising industry, taking part in education, promoting the prosperity of the industry and helping communication between the actors of advertising. The Ethical Committee of the Association is entitled to proceed against advertisers who violate the rules of the Code and they can also take sanctions such as termination of membership.

Önszabályozó Reklám Testület
Self-Regulating Advertising Corporation

Teréz körút 38.
Budapest, H-1066
Hungary
Tel: [36] (1) 301 0410
Fax: [36] (1) 301 0411
Web URL: www.ort.hu
Email: ort@ort.hu

Pools the major Hungarian advertisers and agencies. The independent body's main aims and task are the preliminary opinionating of bills, complaint settlement, advertisements monitoring and international networking.

Key Laws and Regulations

2008. évi XLVIII. törvény a gazdasági reklámtevékenység alapvető feltételeiről és egyes korlátairól - Magyar Országgyűlés

Act on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities Act XLVIII of 2008 - Hungarian Parliament

Applies to advertisers, advertising service providers and publishers of advertising in connection with their commercial advertising activities, to sponsorship and to the codes of conduct applied in connection with these activities.

2008. évi XLVII. törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról - Magyar Országgyűlés

Act on the Prohibition of Unfair Business-to-Consumer Commercial Practices Act XLVII of 2008 - Hungarian Parliament

Applies to unfair business-to-consumer commercial practices, before, during and after a commercial transaction in relation to goods, and it lays down the requirements relating to codes of conduct applicable to such commercial practices, as well as the provisions for proceedings in cases of infringements of these codes of conduct.

2010. évi CLXXXV. törvény a médiaszolgáltatásokról és a tömegkommunikációról - Magyar Országgyűlés

Act on Media Services and on the Mass Media Act CLXXXV of 2010 - Hungarian Parliament

Applies to the media services provided and the press products published by media content providers established in Hungary.

2010. évi CIV. törvény a sajtószabadságról és a médiatartalmak alapvető szabályairól - Magyar Országgyűlés

Act CIV on the Freedom of the Press and on the Basic Rules Relating to Media Content Act CIV of 2010 (Freedom of the Press Act) - Hungarian Parliament

Applies to all media services and press products provided or published by media content providers established in Hungary.

1997. évi CLV. törvény a fogyasztóvédelemről - Magyar Országgyűlés

Act on Consumer Protection Act CLV of 1997 - Hungarian Parliament

Regulates the general consumer protection provisions and provide appropriate protection for consumer interests, with particular regard to the safety of goods and services, protection of property, proper information and education, efficient legal remedy, and to consumer protection through associations.

2001. évi CVIII. törvény az elektronikus kereskedelmi szolgáltatások, valamint az információs társadalommal összefüggő szolgáltatások egyes kérdéseiről - Magyar Országgyűlés

Act on Electronic Commerce and on Information Society Services Act CVIII of 2001 - Hungarian Parliament

Applies to information society services provided from and directed to the territory of Hungary and natural and legal persons as the recipients or providers of these services.

Advertising Pre-Clearance Agencies

In Hungary there are no advertising pre-clearance agencies. The competent authority has jurisdiction in connection with any infringement of the provisions relating to commercial advertising and sponsorship, but concerning advertisements already published or broadcasted only.

Trends

The major laws regulating advertising activities (Advertising Act, Media Act, etc.) are all relatively new, as these were issued in years 2008 and 2010. Furthermore, the Consumer Protection Act of 1997 has been significantly amended, effective from 29th July 2012. The Media Act of 2010 reformed TV/Radio advertising materially, as it introduced restrictions on the volume of advertisement spots, but also made product placement legally available to advertisers. Online advertising has been expanding significantly in recent years, with Facebook and community shopping/coupon promotion being the hottest issues currently.

Author of this Article

Nagy és Trócsányi Ügyvédi Iroda

Nagy és Trócsányi was founded in 1991 with the aim of offering sophisticated legal services. We continue to seek excellence in a comprehensive, modern practice that spans a broad range of Hungarian and international commercial and business law, including financial services; communications and IT; financial restructuring; property and tax, competition; and international arbitration.

We are the largest home-grown independent law firm in Hungary, the only Hungarian law firm operating in New York, and the exclusive Hungarian member of Lex Mundi, the world's leading association of independent law firms.

Our lawyers are selected for their expertise as well as for their drive, talent, and integrity. As a consequence, we have been able to create a dynamic, innovative, and collegial workplace whose team members provide our clients with advice and representation in an active, thoughtful and ethical manner, with a real understanding of our clients' business needs and the markets in which they operate.

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