

## **Act XLVIII of 2008**

### **on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities<sup>1</sup>**

Having regard to the protection of the health of citizens, with particular attention to minors, to the suppression of incidents that may be detrimental to public policy, and - with a view to sustain market competition which serves economic efficiency and social welfare - protecting the interests of enterprises which honor the requirements of fair business practices, recognizing the weight of self-governance and - for this purpose - fostering the enforcement of codes of conduct established within the framework of self-governance, Parliament has adopted the following Act.

#### ***General Provisions***

##### *Section 1*

(1) This Act 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.

(2) Special provisions relating to commercial advertising disseminated in connection with certain goods or through certain means of communication may be prescribed in an act or in an implementing decree. Unless otherwise provided for in specific other legislation, the provisions of this Act shall apply to any infringement of the aforesaid regulations.

(3)<sup>2</sup> Advertising published within the framework of audiovisual and radio media services shall be subject to Act CIV of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content, as well as to Act CLXXXV of 2010 on Media Services and on the Mass Media.

##### *Section 2*

The provisions of this Act relating to misleading advertising applies inasmuch as the advertisement is addressed only to business entities or persons, other than natural persons, who are acting for purposes which are outside of their trade, business or profession.

##### *Section 3*

For the purposes of this Act:

---

<sup>1</sup> Promulgated on 28 June 2008.

<sup>2</sup> Established: by paragraph (1) Section 227 of Act CLXXXV of 2010. In force: as of 1. 01. 2011.

- a) ‘tobacco products’ shall mean all products prepared for consumption in any way or form inasmuch as they are made, even partly, of tobacco;
- b) ‘health care institution’ shall have the meaning defined in Paragraph g) of Section 3 of Act CLIV of 1997 on Health Care;
- c) ‘young person’ shall mean persons between the age of fourteen and eighteen;
- d) ‘commercial advertising’ shall mean any form of communication, information or the making of a representation in any form with the aim or having the direct or indirect effect of promoting the supply of goods of a fungible nature that are capable of being delivered, including natural resources that can be utilized as capital goods, including money, securities and financial instruments (hereinafter referred to collectively as “product”), and services, immovable property, rights and obligations (all of the above hereinafter referred to collectively as “goods”), or in connection with this objective, the representation of the name, the trade mark or the activities of a producer of goods or a provider of services (hereinafter referred to as “advertisement”);
- e) ‘children’ shall mean persons under the age of fourteen;
- f) ‘publication’ shall mean the dissemination of advertisements either to the general public or to a single recipient;
- g) ‘code of conduct’ shall mean an agreement or set of rules imposed by means of market self-governance, which defines the behavior of companies who undertake to be bound by the code in relation to one or more particular commercial practices or business sectors;
- h) ‘misleading advertising’ shall mean 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;
- i) ‘comparative advertising’ shall mean advertising that directly or indirectly identifies another enterprise which engages in the same or a similar activity as the advertiser, or of goods manufactured, sold or introduced by such other enterprise for the same or similar purpose as those featured in the advertising;
- j) ‘advertisement target’ shall mean the person to whom it is addressed or to whom it is transmitted;
- k) ‘publisher of advertising’ shall mean a person who possesses means suitable for the publication of advertising, and uses them to disseminate advertising;
- l) ‘advertiser’ shall mean a person on whose behalf advertisements are disseminated, or who orders the publication of advertisements;
- m) ‘advertising service provider’ shall mean a person professionally involved in producing or creating advertising, or in providing other related services;
- n)<sup>3</sup> ‘press product’ shall mean the individual volumes of newspapers and other periodicals, as well as online journals and news portals, provided under the editorial responsibility of a natural or legal person or unincorporated business association, and the principal purpose of which is the provision of content containing text and/or images, in order to inform, entertain or educate, to the general public in printed format or by electronic communications networks;
- o) ‘outdoor advertising media’ shall mean any media located outside a building for the purpose of the dissemination of advertising;

---

<sup>3</sup> Established: by paragraph (2) Section 22 of Act CIV of 2010. In force: as of 1. 01. 2011.

p) 'sponsorship' shall mean any form of public or private contribution to any event or activity, or to any individual in connection with an event or activity with the aim or having the direct or indirect effect of promoting the purchase or use of a product;

q) 'subliminal advertising' shall mean 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 an intensity below the threshold required for conscious perception;

r) 'company' shall mean a person who is acting for purposes relating to his trade or business.

#### *Section 4*

The code of conduct must not instigate any action to violate the provisions of this Act.

#### *Section 5*

(1)<sup>4</sup> Advertising may be disseminated only if the advertiser has provided at the time of placing the order for the advertisement to the advertising service provider - or failing this at the time of ordering publication of the advertisement to the publisher of advertising - its corporate name, or name, and registered address, or failing this his home address, and tax number, and the state tax authority's authorization for the pursuit of gambling activities if the advertisement pertains to gambling operations.

(2) In connection with advertising relating to products which are subject to prior quality control or conformity assessment in accordance with specific other legislation, the advertiser shall supply a statement to the advertising service provider - failing this to the publisher of advertising - that the product has been inspected or certified, and found suitable for marketing. If the product is not subject to prior quality control or conformity assessment, the statement shall be supplied to this effect. In the absence of such statement, no advertising may be published.

(3) The advertising service provider or the publisher of advertising shall keep records on the information referred to in Subsection (1) and on the statements mentioned in Subsection (2), and shall retain these records for a period of five years from the time of publication of the advertisement.

(4) All outdoor advertising media shall explicitly indicate the name (corporate name) and home address (registered address) of the publisher of advertising.

#### *Section 6*

(1) Unless otherwise provided by specific other legislation, advertisements may be conveyed to natural persons by way of direct contact (hereinafter referred to as "direct marketing"), such as through electronic mail or equivalent individual communications - subject to the exception set out in Subsection (4) -, only upon the express prior consent of the person to whom the advertisement is addressed.

---

<sup>4</sup> Established: by Section 39 of Act CXXV of 2011. In force: as of 1. 01. 2012.

(2)<sup>5</sup> The statement of consent may be made out in any way or form, on condition that it contains the name of the person providing it, and - if the advertisement to which the consent pertains may be disseminated only to persons of a specific age - his place and date of birth, furthermore, any other personal data authorized for processing by the person providing the statement, including an indication that it was given freely and in possession of the necessary legal information.

(3) The statement of consent referred to in Subsection (1) may be withdrawn freely any time, free of charge and without any explanation. In this case all personal data of the person who has provided the statement must be promptly erased from the records mentioned in Subsection (5), and all advertisements mentioned in Subsection (1) must be stopped.

(4)<sup>6</sup> Direct mail may be sent to natural persons within the framework of direct marketing in the absence of the prior express consent of the person to whom it is addressed; the advertiser and the advertising service provider, however, are required to provide facilities for the person to whom the advertisement is addressed to unsubscribe at any time from receiving further advertisement material, freely and at no cost to the addressee. Such unsolicited advertisement material may not be sent by way of direct marketing to the person affected.

(5) Advertisers, advertising service providers and publishers of advertising shall maintain records on the personal data of persons who provided the statement of consent referred to in Subsection (1) to the extent specified in the statement. The data contained in the aforesaid records - relating to the person to whom the advertisement is addressed - may be processed only for the purpose defined in the statement of consent, until withdrawn, and may be disclosed to third persons subject to the express prior consent of the person affected.

(6) The notice of withdrawal mentioned in Subsection (3) and the notice to unsubscribe as specified in Subsection (4) may be transmitted by way of the postal service or by electronic mail, with facilities to ensure that the person sending the notice is clearly identifiable.

(7)<sup>7</sup> In the advertisement disseminated by way of the means specified in Subsections (1) and (4), a clear and prominent statement shall be inserted to inform the person to whom it is addressed concerning the address and other contact information to which the statement of consent for receiving such advertisement and the aforesaid notice to unsubscribe has to be sent, furthermore - in the case referred to in Subsection (4) - the advertisement material sent on behalf of the same advertiser and addressed to the same person after 1 October 2009 for the first time 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.

(8) The consignment sent for requesting the statement of consent mentioned in Subsection (1) may not contain any advertisement, other than the name and description of the company.

(9)<sup>8</sup> For the purposes of this Section 'direct mail' means a communication consisting solely of advertising, marketing or publicity material and comprising an identical message, except for the addressee's name, address and other modifications which do not alter the nature of the

---

<sup>5</sup> Amended: by Section 407 of Act LVI of 2009. In force: as of 1. 07. 2009.

<sup>6</sup> Amended: by paragraph (2) Section 19 of Act CIII of 2013. In force: as of 30. 06. 2013.

<sup>7</sup> Amended: by Section 406 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>8</sup> Enacted: by paragraph (1) Section 19 of Act CIII of 2013. In force: as of 30. 06. 2013.

message, which is sent to at least five hundred addressees, in accordance with the Act on Postal Services, which is not expressly identified therein.

## ***General Advertising Prohibitions and Restrictions***

### *Section 7*

(1) No advertisement may be disseminated if it contains violence, or if it encourages any conduct that is likely to jeopardize personal or public safety.

(2) No advertisement may be disseminated if it encourages any conduct that is likely to jeopardize the natural or man-made environment.

### *Section 8*

(1) No advertisement may be disseminated if it is capable of harming the physical, intellectual or moral development of children and young persons.

(2) No advertisement addressed to children and young persons may be disseminated if it has the capacity to impair the physical, mental or moral development of children and young persons, in particular those that depict or make reference to gratuitous violence or sexual content, or that are dominated by conflict situations resolved by violence.

(3) No advertisement may be disseminated if it portrays children or young persons in situations depicting danger or violence, or in situations with sexual emphasis.

(4) No advertisement of any kind may be disseminated in child welfare and child protection institutions, kindergartens, grammar schools and in dormitories for students of grammar schools. This ban shall not apply to the dissemination of information intended to promote healthy lifestyles, the protection of the environment, or information related to public affairs, educational and cultural activities and events, nor to the display of the name or trademark of any company that participates in or makes any form of contribution to the organization of such events, to the extent of the involvement of such company directly related to the activity or event in question.

### *Section 9*

(1) 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).

(2) No advertisement of sexual services may be disseminated. The definition of sexual services and additional restrictions pertaining to the advertisement of such services are laid down in specific other legislation.

(3) No advertisement that is aimed to arouse sexual interest may be disseminated.

(4) The restrictions set out in Subsections (1) and (3) shall not apply to advertisements on sex products or to advertisements displayed in sex shops. The definition of sex product and sex shop is contained in specific other legislation.

### *Section 10*

Advertising is prohibited for goods whose production or marketing is illegal.

### *Section 11*

The dissemination of subliminal advertising is prohibited.

## ***Misleading and Comparative Advertising***

### *Section 12*

(1) It is forbidden to disseminate misleading advertisements.

(2) For the purpose of a definition of misleading advertising, the information conveyed in the advertisement shall be taken into consideration which pertains to:

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

(3) Within the meaning of Paragraph a) of Subsection (2), information pertaining to the general characteristics of the goods shall cover construction and composition, technical specifications, quantity, place of origin, provenance, the procedure and time relating to manufacture or delivery, availability, transport, application, the knowledge required for use and maintenance, suitability for a given function, the expected results from use, safety and risk factors, its impact on health, environmental features and energy consumption, the way it is controlled or tested and the results of such tests.

### *Section 13*

(1) Comparative advertising:

- a) may not injure the reputation of another company or the name, merchandise, brand name and other marking of such company;
- b) may not lead to any confusion between the advertiser and another company or the name, merchandise, brand name and other marking of such company;
- c) may not result in any unfair advantage derived from the reputation of another company or the name, merchandise, brand name and other marking of such company;
- d) may not violate the provision of Section 6 of Act LVII of 1996 on the Prohibition of Unfair or Restrictive Market Practices (hereinafter referred to as "UMPA") on the prohibition of imitating the merchandise of another company or the characteristics of such merchandise.

(2) Comparative advertising:

- a) shall be allowed to compare only goods which are similar in terms of purpose and function;
- b) must objectively compare one or more feature of the goods in question which are definitive and typical, and which can be confirmed;
- c) must objectively exhibit the prices, when applicable;
- d) shall pertain to products of the same origin where it pertains exclusively to products with designation of origin.

(3)<sup>9</sup>

---

<sup>9</sup> Repealed: by Section 239 of Act CXLVIII of 2010. No longer in force: as of 1. 01. 2011.

## ***Restrictions and Prohibitions Relating to the Advertisement of Certain Goods and to the Sponsorship of Such Goods***

### *Section 14*

(1) Weapons, ammunition, explosives and other means which are considered extremely dangerous to public safety may not be advertised.

(2) The prohibition set out in Subsection (1) shall not apply:

a) to advertisements addressed to persons professionally and exclusively engaged in the marketing and use of the products referred to in Subsection (1);

b) to advertisements related to weapons and/or ammunition posted in a gun shop authorized according to specific other legislation, or in a separate section of such shop designated for the marketing of weapons and ammunition, or if posted at weapon fairs and exhibitions authorized according to specific other legislation; and

c) to advertisements of means which are considered particularly hazardous to public safety if posted inside a shop authorized under specific other legislation.

### *Section 15*

No advertisement may be disseminated relating to dogs which are considered dangerous according to specific other legislation, nor to animal fights.

### *Section 16*

No advertisement may be disseminated relating to human organs or tissues for any purpose whatsoever.

### *Section 17*

No advertisement may be disseminated relating to abortions, institutions carrying out abortions, nor to means and procedures for carrying out abortions.

### *Section 18*

(1) No advertisement may be disseminated relating to alcoholic beverages that:

a) is addressed to children or young persons;

b) depicts children or young persons;

c) encourages immoderate consumption of alcohol or presents abstinence from the consumption of alcoholic beverages or moderation in a negative light;

d) links the consumption of alcohol to enhanced physical performance or to driving;

e) creates the impression that the consumption of alcohol contributes towards social or sexual success;

f) claims that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;

g) claims that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts; or

h) places emphasis on high alcoholic content as being a positive quality of the beverages.

(2) No advertisement may be disseminated relating to alcoholic beverages:

a) on the outside of the first page of any printed media, or on the home page of a website;

b) in theaters or cinemas before 20:00 hours, as well as immediately preceding any programs for children or young persons, during the full duration thereof, and immediately afterwards;

c) on goods which have been clearly designed and manufactured for the purpose of a toy, including the packaging of such goods; and

d) in institutions of public education and in health care institutions, or on any outdoor advertising media situated within a two hundred-meter radius from the entrance thereof.

### *Section 19*

(1) Advertising of tobacco products is prohibited.

(2) The prohibition defined in Subsection (1) above also applies to any indirect advertising of tobacco products. Indirect advertising of tobacco products shall, in particular, mean:

a) when, although it does not specify a tobacco product, it is aimed at advertising a tobacco product by using any other marking or trademark that can be related to the tobacco product in question;

b) when it presents a tobacco product under the name, marking or trademark of another product;

c) when it presents another product under the name, marking or trademark of a tobacco product.

(3) The advertising of a product whose name, marking or trademark is the same as that of a tobacco product shall not be deemed as the advertising of a tobacco product, provided that the name, marking or trademark of such product is clearly distinguishable from that of the tobacco product.

(4)<sup>10</sup> The prohibition laid down in Subsection (1) above shall not apply:

a) to advertisements addressed exclusively to participants of the tobacco industry;

b) to any media which are printed and published outside the territory of any State that is a party to the Agreement on the European Economic Area (hereinafter referred to as “Member States of the European Economic Area”), and which are not intended to be distributed in any Member State of the European Economic Area.

(5)-(6)<sup>11</sup>

### *Section 20*

(1) Sponsorship of tobacco products shall be prohibited:

a) in connection with events or activities involving or taking place in several Member States of the European Economic Area or otherwise having cross-border effects;

b) in connection with sporting and cultural events, or events or activities relating to health care;

c) in connection with events and activities organized by political parties.

---

<sup>10</sup> Established: by paragraph (3) Section 25 of Act CXXXIV of 2012. In force: as of 1. 07. 2013.

<sup>11</sup> Repealed: by paragraph (4) Section 25 of Act CXXXIV of 2012. No longer in force: as of 1. 07. 2013.

(2) Tobacco companies shall publish the amount of their spending on advertisements and sponsorship during the current year on or before 31 March of the following year on their website and in at least two national daily newspapers.

### *Section 21*

(1) No advertisement may be disseminated addressed to children and young persons containing a presentation to enter any games of chance.

(2) No advertisement involving games of chance may be disseminated in any printed media which are published primarily to children and/or young persons.

(3)<sup>12</sup> No advertisement may be disseminated relating to games of chance offered without the state tax authority's authorization.

(4)<sup>13</sup> Playing a role in any advertisement disseminated relating to games of chance offered without the state tax authority's authorization is prohibited.

### *Section 22*

(1) 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 and other contact information, a description of their services, in alphabetical order without any discrimination among the service providers.

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

## ***Vested Responsibilities***

### *Section 23*

(1) The advertiser, the advertising service provider and the publisher of advertising shall all bear responsibility for any violation of the provisions of this Act, with the exceptions set out in Subsections (2)-(7). The advertiser, the advertising service provider and the publisher of advertising shall bear joint and several liability for any damage caused due to the violation of these provisions.

(2) In connection with any infringement arising from the contents of advertising, the publisher of that advertising:

a) shall be relieved from liability if treated as an intermediary service provider in accordance with Act CVIII of 2001 on Electronic Commerce and on Information Society

---

<sup>12</sup> Enacted: by Section 40 of Act CXXV of 2011. In force: as of 1. 01. 2012.

<sup>13</sup> Enacted: by Section 40 of Act CXXV of 2011. In force: as of 1. 01. 2012.

Services (hereinafter referred to as “ISSA”), if in compliance with the requirements set out in Sections 8-12 of the ISSA;

b) shall be held liable in the cases not regulated under Paragraph a) - with the exception set out in Paragraph c) - only if being able to study the contents of the advertisement; or

c) shall not be held liable for the facts stated in advertisement materials addressed to unspecified recipients.

(3) Liability for any infringement of the provisions contained in Section 4 lies with the person or persons drawing up the code of conduct, or the person or persons in charge of the review of the codes or for monitoring the enforcement of the codes by the companies that have decided freely to adhere to such codes.

(4) Liability for the contents and authenticity of the data specified in Subsection (1) of Section 5 and the statements made out under Subsection (2) of Section 5 lies with the advertiser.

(5) Liability for discharging the obligation referred to in Subsection (4) of Section 5 lies with the publisher of advertising.

(6) The advertising service provider or the publisher of advertising shall be held liable for any infringement of the provisions of Sections 12 and 13 only to the extent that the violation stems from a reason relating to the representation of the advertisement, the result of which is other than the carrying out of any specific instruction of the advertiser.

(7) The sponsor and the party accepting sponsorship shall both be held liable for any violation of the provision set out in Section 20.

(8)<sup>14</sup> Responsibility for any breach of the provision contained in Subsection (4) of Section 21 lies with the person having accepted the role in the advertisement.

### ***Proceedings in Connection with Infringements of the Provisions of this Act***

#### *Section 24*

(1)<sup>15</sup> Subject to the exceptions set out in Subsections (2)-(4), the consumer protection authority shall have jurisdiction in connection with any infringement of the provisions relating to commercial advertising and sponsorship, or the Pénzügyi Szervezetek Állami Felügyelete (*Hungarian Financial Supervisory Authority*) in respect of the advertising of activities supervised by the Pénzügyi Szervezetek Állami Felügyelete and of the related codes of conduct in accordance with the Act on the Hungarian Financial Supervisory Authority and other acts specified therein.

(2) In connection with any advertisement disseminated in violation of what is contained Sections 12 and 13, and in connection with any code of conduct inciting such conduct the Hungarian Competition Authority or the court shall have jurisdiction in accordance with Subsection (3).

(3) The Hungarian Competition Authority shall have powers to establish the infringement of Sections 12 and Subsection (2) of Section 13, and to determine whether the code of

---

<sup>14</sup> Enacted: by Section 41 of Act CXXV of 2011. In force: as of 1. 01. 2012.

<sup>15</sup> Established: by Section 82 of Act CXLVIII of 2009. In force: as of 1. 01. 2010.

conduct is inciting the infringement of those provisions, and the court shall have jurisdiction to establish the infringement of Subsection (1) of Section 13, and to determine whether the code of conduct is inciting the infringement of those provisions.

(4)<sup>16</sup> The Nemzeti Média- és Hírközlési Hatóság (National Media and Infocommunications Authority) shall have jurisdiction in accordance with the ISSA in connection with any infringement of the provisions of Section 6 relating to advertisements disseminated by information society services, exclusive of voice telephony services, and by way of electronic communication.

(5) Proceedings conducted under this Act shall not preclude the possibility for the aggrieved party to file a civil suit to enforce his claim arising in connection with any infringement of the provisions of this Act.

#### *Section 25*

Proceedings may not be opened after a period of three years following the publication of any advertisement in violation of the regulations on commercial advertising activities, upon the conclusion of any event or activity held or performed under prohibited sponsorship, or upon the cessation of the application of unlawful passage of the code of conduct.

#### *Section 26*

(1) The proceedings of the consumer protection authority shall be governed by Act CLV of 1997 on Consumer Protection (hereinafter referred to as “CPA”), subject to the exceptions set out in this Act.

(2)<sup>17</sup> In proceedings opened with respect to any infringement of the provision governing the advertisement of tobacco products and sponsorship relating to tobacco products, client rights shall be conferred upon the associations active in the field of protection of non-smokers.

(3)<sup>18</sup> The competent authority may request to see the records specified in Subsection (3) of Section 5 and Subsection (5) of Section 6 within the scope of the inspection.

(4) With the exceptions contained in Subsections (2) and (4) of Section 24, the provisions of this Act are treated as consumer protection regulations in the application of the CPA.

(5)<sup>19</sup>

#### *Section 26/A.<sup>20</sup>*

---

<sup>16</sup> Amended: by paragraph (26) Section 41 of Act LXXXII of 2010. In force: as of 11. 08. 2010.

<sup>17</sup> Amended: by Section 406 of Act LVI of 2009. In force: as of 1. 10. 2009. Amended: by Section 179 of Act CLXXV of 2011. In force: as of 22. 12. 2011.

<sup>18</sup> Amended: by Section 407 of Act LVI of 2009. In force: as of 1. 10. 2009.

<sup>19</sup> Repealed: by point 48 Section 84 of Act CLXVI of 2011. No longer in force: as of 1. 01. 2012.

<sup>20</sup> Enacted: by Section 83 of Act CXLVIII of 2009. In force: as of 1. 01. 2010.

(1) Subject to the exceptions set out in this Act, the proceedings of the Pénzügyi Szervezetek Állami Felügyelete (*Hungarian Financial Supervisory Authority*) shall be governed by the Act on the Hungarian Financial Supervisory Authority.

(2) The competent authority may request to see the records specified in Subsection (3) of Section 5 and Subsection (5) of Section 6 within the scope of the inspection.

#### *Section 27<sup>21</sup>*

#### *Section 28*

(1) In connection with any proceedings of the Hungarian Competition Authority under Subsections (2) and (3) of Section 24, or Section 31, the provisions of the UMPA pertaining to infringements of the provisions of Chapter III of the UMPA shall apply subject to the exceptions set out in Subsection (1) of Section 29, Section 30 and Section 27.

(2) In connection with any court proceedings under Subsections (2) and (3) of Section 24, the provisions contained in Sections 86-88, Subsection (2) of Section 29, Subsection (4) of Section 30 and Section 27 of the UMPA shall also apply.

#### *Section 29*

(1) At the request of the competent authority the advertiser shall provide proof to verify the authenticity of any fact contained in the advertisement. In the event of the advertiser's failure to comply, the fact in question shall be construed as untrue. The authority's notice shall contain a warning for the advertiser to this effect.

(2) The burden of proof relating to the authenticity of any fact contained in an advertisement lies with the advertiser in court proceedings under Subsections (3) and (5) of Section 24.

#### *Section 30*

(1) By way of derogation from Subsection (1) of Section 70 of the UMPA, the investigator shall adopt a ruling in which to order that an investigation be held in connection with any activity which is likely to violate the provisions of this Act, provided that the proceedings fall within the jurisdiction of the Hungarian Competition Authority.

(2) The measure referred to in Section 27 may also be ordered in accordance with Paragraph c) of Subsection (1) of Section 72 of the UMPA.

(3) The commitment referred to in Section 75 of the UMPA may also be applied if the client has already ceased the conduct investigated. In such cases the commitment shall pertain to the cessation of any repeat offense.

(4) Subsections (1)-(6) of Section 88/B of the UMPA shall also apply in the lawsuits specified in Subsection (5) of Section 24, if the Hungarian Competition Authority is vested with powers to conduct the proceedings under Subsection (3) of Section 24.

---

<sup>21</sup> Repealed: by point 1 of Resolution No. 23/2010 (III. 4.) AB of the Constitutionality Court. No longer in force: as of 4. 03. 2010.

### *Section 31*

(1) The Hungarian Competition Authority is vested with powers for the implementation of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council with a view to any intra-Community infringements of national laws on the transposition of the Directive 2006/114/EC of the European Parliament and of the Council.

(2) In connection with mutual assistance the Hungarian Competition Authority shall proceed in accordance with Commission Decision 2007/76/EC, as amended by Commission Decision 2008/282/EC.

(3) For information purposes, the minister in charge of the judicial system shall publish on the official website of his Ministry the list of legislation on the transposition of Directive 2006/114/EC of the European Parliament and of the Council.

### *Sections 32-38<sup>22</sup>*

## ***Closing Provisions***

### *Section 39*

(1) This Act - with the exceptions set out in Subsection (2) - shall enter into force on 1 September 2008, and shall apply to proceedings opened after the time of its entry into force.

(2) Paragraph a) of Section 3, Subsection (4) of Section 5, Section 19, Subsection (5) of Section 23 and Section 42 shall enter into force on 1 March 2009.

### *Section 40<sup>23</sup>*

### *Sections 41-42<sup>24</sup>*

### *Section 43<sup>25</sup>*

### *Section 44<sup>26</sup>*

---

<sup>22</sup> Repealed together with the previous Subtitle by Subsection (1) of Section 44 of Act XLVIII of 2008, effective as of 2 September 2008.

<sup>23</sup> Repealed by Subsection (1) of Section 44 of Act XLVIII of 2008, effective as of 2 September 2008.

<sup>24</sup> Repealed by Subsection (2) of Section 44 of this Act, effective as of 2. 3. 2009.

<sup>25</sup> Repealed by Subsection (3) of Section 44 of this Act, effective as of 1. 6. 2009.

<sup>26</sup> Repealed by Subsection (4) of Section 44 of this Act, effective as of 2. 6. 2009.

## *Section 45*

(1) This Act contains regulations that may be approximated with the following legislation of the European Communities:

a) Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) [Section 2, Paragraphs d), g)-i) and r) of Section 3, Section 12, Subsections (1) and (2) of Section 13, Subsections (3) and (6) of Section 23, Subsections (2) and (3) of Section 24, Sections 27-29 and Subsections (1) and (4) of Section 30];

b) Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products, with the exception of Article 5 (2) [Paragraphs a) and p) of Section 3, Subsections (1) and (2) of Section 19, Paragraphs a) and b) of Subsections (4) Section 19, Section 20, Subsection (7) of Section 23 and Subsection (2) of Section 26];

c) Article 3e (1) e) and Article 15 of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by Directives 97/36/EC 2007/65/EC of the European Parliament and of the Council [Subsection (1) of Section 18].

(2) This Act contains provisions for the implementation of the following legislation of the Communities in connection with the duties and proceedings of the Hungarian Competition Authority:

a) Article 4 (1) and 4 (6) of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws [Subsection (1) of Section 28, Subsection (3) of Section 30 and Subsection (1) of Section 31];

b) Commission Decision 2007/76/EC of 22 December 2006 implementing Regulation (EC) No. 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance [Subsection (2) of Section 31];

c) Commission Decision 2008/282/EC of 17 March 2008 amending Decision 2007/76/EC implementing Regulation (EC) No. 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance [Subsection (2) of Section 31].