

HUNGARY



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1. Legislation	
Topic:	Modification of Personal Data Protection Act
Who:	Hungarian Parliament
When:	7 th July 2003
Where:	Budapest
What happened:	<p>In the interest of fully implementing EU directive 95/46/EC the Hungarian Parliament has introduced several modifications to Act LXIII of 1992 on Personal Data Protection.</p> <p>The new regulations specify the personal and territorial scope of application of the Hungarian Act (which was not previously determined). The Act applies to every data controlling and data processing performed in the territory of Hungary, without consideration of the citizenship, address or registered seat of the performer. Complying with EU directives, the data processing by a natural person for exclusively personal goals has been excluded from the scope of application.</p> <p>Terminology has been adapted according to the definitions used by the EU directive. The meaning of "identified or identifiable natural person", "data subject's consent", "third country", "data subject's objection" and "filing system" have been introduced according to the wording of the directive.</p> <p>The new act grants to every data subject the right to object the processing of personal data relating to him if the data processing is exclusively necessary for the enforcement of the rights or legitimate interests of the data controller. A data subject may also object to the use or transfer of personal data for marketing purposes, and for public opinion or scientific research.</p> <p>Regarding Criminal Personal Data, the Act prescribes a stronger protection than the one provided by the directive: criminal personal data may only be processed by the State and local Authorities.</p> <p>New legitimate data processing cases are introduced:</p> <ul style="list-style-type: none">- whenever processing is necessary for the performance of a private contract in which the data subject is a party,- for the purposes of public interest, the exercise of a public authority and of a legitimate interest. <p>According to Article 17 of the directive, processing contracts shall be in writing.</p>

In the case the data controller is not established in the territory of the EU and makes use of persons or equipment situated in Hungary for the purposes of personal data processing, he must nominate a representative in Hungary (unless the equipment is exclusively used for purposes of data transfer within the EU).

From 1st May 2004, all differences between the flow of personal data within Hungary and flows to EU countries are abolished.

Regarding data transfer abroad to third countries, from the date of accession to the EU (1st May 2004) it will only be allowed to countries which provide adequate protection according to the opinion of the competent EU authority.

The Hungarian Data Protection Act was originally passed in 1992. Since then new technologies have been developed, so it was necessary to take into account such developments.

A new element is the regulation of automated individual decisions. In this case, the express consent of the data subject is required and, at his request, information regarding the mathematical system used should be provided.

The Act introduces the obligation for data controllers to implement appropriate security measures.

The powers of the Data Protection Parliamentary Commissioner (also known as Data Protection Ombudsman) are widely extended in order to comply with the directive, giving him an authority which is unknown to Hungarian parliamentary commissioner institutions and to ombudsman institutions. The Data Protection Commissioner may:

- order the blocking, erasure or destruction of data illegally processed,
- ban the illegal data controlling or processing,
- suspend data transfer abroad,

The Commissioner may make accessible to the public opinion cases of illegal data controlling or illegal data processing.

The Commissioner ensures the implementation of data protection regulations and contributes to its application (this means that the commissioner may, for example, determine the security measures that should be adopted by data processors).

Another new element introduced by the Act is the prior checking by the Commissioner of data processing activities. Such prior checking may be carried out before the registration of a data processing activity or in the case big data processors (public authorities, banks, insurance companies, private pension managing companies, public utility companies, telecommunication companies, etc.) plan to introduce new data protection technology or to process new databases.

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2. Self - Regulation	
Case Report:	
Topic:	Negative models of conduct
Who:	Ethical Committee of the Hungarian Advertising Association
When:	2003
Where:	Budapest
Advertisement:	Chips advertising
What happened:	<p>Several complaints were filed before the Committee regarding a TV advertisement for chips</p> <p>The TV ad showed an elderly couple fighting each other (grandma trips up grandpa, etc.) in order to get a package of chips.</p> <p>The Committee decided that the advertisement infringes advertising ethical prescriptions, with special reference to Article 4 of the Hungarian Code of Advertising Ethics, according to which "an advertisement may not include such elements and may not create a general impact that would injure the generally accepted moral and ethical norms of society" and that an advertisement may not include elements and may not create a general effect that encourages, supports or justifies aggressive, violent or unlawful behavior.</p> <p>The humor present in the advertising can not be accepted as an excuse for a chain of violent and aggressive actions, morally unacceptable.</p> <p>The target audience was mixed, but since it was also targeted to children (who may watch the advertisement) it also infringes Article 11 of the Code of Ethic Advertising (an advertising aimed at children may not show poor role models and negative moral values) since it is a poor role model and may encourage the imitation of a bad example.</p> <p>Therefore the Commission suggested the discontinuation of the advertising.</p>

3. Self-Regulation:	
Topic:	Sexism
Who:	Ethical Committee of the Hungarian Advertising Association
When:	2003
Where:	Budapest
Advertisement:	Citroën "Do you want to belong to the elite"
What happened:	<p>On 31st March 2003 Citroen's Xsara advertising was published in a newspaper.</p> <p>The picture showed in a humiliating situation the gentle sex, featuring a beautiful young girl dragging herself along the leg of the higher rank male, under the following text: "Do you want to belong to the elite?".</p>

	<p>The Committee considered that the picture suggests that the elite is represented by the man, and not by the possession of the car. The advertising would have been balanced if another ad, where the role of the man and the woman were the opposite/inverted, so that the car would be the common line/feature.</p> <p>The advertising, in the way in which it was published, infringes Article 4 of the Code of Advertising Ethics: an advertisement may not include such elements and may not create a general impact that would injure the generally accepted moral and ethical norms of society and more specifically that "an advertisement may not distinguish sexes disadvantageously and may not support such views"</p> <p>The Committee suggested the remaking/adaptation of the advertising taking into account the above mentioned considerations.</p>
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4. Self-Regulation:	
Topic:	Religious symbols
Who:	Ethical Committee of the Hungarian Advertising Association
When:	2003
Where:	Budapest
Advertisement:	"Jesus in 2000 an after"
What happened:	<p>A complaint was filed against a free card and an outdoor advertisement of an art gallery. The advertising featured one of the photographs of an exhibition of two art photographers.</p> <p>In the picture a young girl was seen wearing a nun cap, one of the breasts uncovered, from which blood poured. Over the picture appeared the inscription "I.N.R.I."</p> <p>As advertising material, the breast-bleeding nun with the I.N.R.I. inscription infringes Article 4 the Code of Advertising Ethics: an advertising may not insult any views on the world and, within that, any religious belief. Religious symbols and motifs may only be used in advertising within the limits of good taste and in such a way that their use matches the subject</p>

5. Case Report:	
Topic:	Deception to consumers
Who:	Competition Commission
When:	22 May 2003
Where:	Budapest
Advertisement:	Procter & Gamble - Head & Shoulders
What happened:	<p>In a TV advertisement and in Procter & Gamble's web site the following statements were made regarding Head & Shoulders dandruff shampoo:</p> <p>"It not only eliminates 100 % of the visible dandruff, but in the case of continuous use, it creates a protective layer, helping prevent the reappearance of dandruff. That's why there is no other dandruff shampoo more effective than Head & Shoulders! Ultra thin ZPT, the most</p>

popular formula against dandruff".

The product contains as much ZPT as other dandruff shampoos, but "it is not the quantity of ZPT the relevant factor, but the quantity of ZPT that reaches its target"

On the Internet web site it was possible to read that 1% cink pirition (ZPT) and 2% ketokonazol are the most popular formulas, underlining that clinic research proved that the formula has the same effects as pharmaceuticals with 2% of ketokonazol.

In the opinion of some Clinics, Universities and Research Institutes consulted, there is no scientific evidence of the effectiveness of the formula and that several other dandruff shampoos cause the same effects, which also depend on each person.

According to the Competition Council, Procter & Gamble was not able to show scientific evidence of the statements. Therefore, the Council concluded that the statements made were able to mislead consumers, imposing a fine of 5.000.000 HUF on Procter & Gamble.