

## HUNGARY



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<b>1. Title:</b>	New restrictions applicable to direct marketing of tobacco products
<b>Topic:</b>	Data Protections and Tobacco advertising
<b>Who:</b>	Data Protection Commissioner
<b>When:</b>	February 2007
<b>Where:</b>	Budapest
<b>What Happened:</b>	<p>The Data Protection Commissioner examined if in the course of point- earning promotions and other direct marketing activities (in this case organized by Shell Hungary Kft.), it is allowed to collect information regarding smoking habits of consumers and afterwards, send them tobacco advertising (in this case of BAT Pécsi Dohánygyár Rt.). In this case Shell credited 50 points to the customers who consented to receive tobacco advertising materials.</p> <p>Since Hungarian business advertising regulations forbid direct or indirect advertising of tobacco products, the Data Protection Commissioner requested the opinion of the Competition Office on the application of the prohibition to the above mentioned activities.</p> <p>The Competition Office confirmed that the above mentioned activities are a business advertising activity.</p> <p>Based on, and agreeing with such opinion, the Data Protection Commissioner decided that – without consideration of the fact that the persons have given their express consent - it is forbidden to collect personal data in promotions or use personal data previously collected, in order to send information or advertising of tobacco products or promoting smoking.</p>

<b>2. Title:</b>	End to the sponsorship of tobacco products
<b>Topic:</b>	Tobacco products
<b>Who:</b>	Hungarian Parliament
<b>When:</b>	7 December 2006
<b>Where:</b>	Budapest
<b>What Happened:</b>	<p>In December last year, the Hungarian Parliament passed Act CV of 2006 modifying the dispositions of the Act on Business Advertising Activities (Act LVIII of 1997).</p> <p>The amendment expressly extends the scope of application of the Act on Business Advertisement to sponsorship activities. It is necessary to remark that in Hungary it has always been considered that sponsorship is a business advertising activity, but the European Commission had doubts about it; more specifically, the European Commission was concerned that the general prohibition on the advertisement of tobacco products could not include sponsorship activities.</p> <p>In order to satisfy the European Commission, according to the text introduced, sponsorship activities are defined as contributions to any event or activity given to any person – in connection with the event or activity – with the aim of or the direct or indirect effect of promoting a tobacco product.</p>

	<p>The new text forbids the sponsorship of tobacco products in connection with events or activities that involve or take place in several members of the European Economic Area or that have cross-border effects.</p> <p>Putting an end to the dispute between the European Commission and the Government of Hungary, the new act eliminates the disposition that authorized the Ministry of Economics to grant derogations to the general prohibition for a determined period of time with regards to events particularly relevant to the national economy (Formula 1 competition).</p>
<b>Comment:</b>	With the new regulations passed, the Hungarian Parliament fully implements the dispositions of directive 2003/33/EC, putting an end to the disputes and proceeding initiated by the European Commission against Hungary.

<b>3. Title:</b>	Inaccurate advertising
<b>Topic:</b>	Misleading advertising
<b>Who:</b>	Competition Office
<b>When:</b>	November 2006
<b>Where:</b>	Budapest
<b>What Happened:</b>	<p>ING Pénztárszolgáltató és Tanácsadó Zrt. published on the main page of its website (<a href="http://www.ing.hu">www.ing.hu</a>) the rates of benefits obtained to its customers by ING Pension schemes.</p> <p>The Competition Office found that the rates of benefits published on the main page of the web site between 15<sup>th</sup> March and 30<sup>th</sup> May 2006 were not the present benefit rates, but the rates reached in 2004.</p> <p>The benefits obtained by ING Pension funds were 19,12% and 19,98% in 2004 while in 2005 the benefits were 10,81% and 11,89%.</p> <p>When the proceedings were initiated, ING immediately eliminated the questioned advertising.</p> <p>Although clicking on the icon of the main page the full information was available, the Competition Office concluded that the conduct of ING was misleading to consumers, but decided not to impose a fine considering that the infringement was committed only on the web page and that the decision of the Competition Office establishing the infringement should be enough to prevent ING from breaking the regulations in the future.</p>

<b>4. Title:</b>	Promotions without stock of products
<b>Topic:</b>	Misleading advertising
<b>Who:</b>	Competition Office
<b>When:</b>	October 2006
<b>Where:</b>	Budapest
<b>What Happened:</b>	<p>Rossmann Magyar Kereskedelmi Kft published a promotion in a newspaper (distributed to consumers), valid from 27<sup>th</sup> March 2006 till 2<sup>nd</sup> April 2006, with the following wording "Fun water drops edt 30 ml 75% discount 999.-Ft instead of 41490.- Ft".</p> <p>A consumer complained that the first day of the offer, in the morning, the promoted product was not available.</p> <p>The Competition Office found that on the first day of the promotion, the shop had 4 units of the product promoted, which were sold by midday.</p> <p>Rossmann argued that in 2006, before and after the time of the offers, it had not</p>

sold a single unit of the product and that it had a stock enough to satisfy the habitual weekly demand.

According to the position of the Competition Office, the basic issue is that in this case, if consumers go to the shop to buy the promoted product and do not find it but instead buy other products, then the promotion infringes Hungarian regulations.

Rossmann had an unrealistic low stock of products at the start of the offer and the type of products involved (low price product, easily exchangeable product) and the wide offer of products that can be found at Rossmann, make it more probable that if a consumer goes to the shop attracted by the offer, does not find the promoted product and buys other products that he finds in the shop.

The Competition Office concluded that the conduct of Rossmann was misleading to consumers and imposed a fine of 1.000.000.- HUF.