

# **CONSUMER PROTECTION IN THE HUNGARIAN COMPETITION LAW**

**ZSÓFIA HORVÁTH**

Commercial Law Department, Institute for Civil Law, Faculty of Law, University of Miskolc

**PÉTER MISKOLCZI BODNÁR**

## **Key words**

Hungarian competition law- Hungarian consumer law- Hungarian case law- transposition of EC directive

## **Resume**

One of the significant elements of the economic competition is the battle to gain the consumers' confidence. In this "battlefield" consumers needed a special legal protection because their rights and interests were often violated by dishonest market behaviors in many different cases. To this end the state has established the frames of fair and free economic market. In Hungary the legal requirements being in force are in the Act LVII of 1996 with the title prohibition of unfair and restrictive market practices (furthermore: the Hungarian Competition Act). The aim of the regulation is to achieve a fair competition on the economic market with excluding behaviours having harmful effect on consumers' decision.

The Hungarian Competition Act dedicates an own chapter to the unfair manipulative activities, and in general it prohibits deceiving consumers in economic competition. The Hungarian Competition Act also gives examples of the typical unfair business activities. It should be remarked that this list is only setting some examples to make the application of law easier; the Hungarian Competition Authority has competence for intervention in other unfair manipulative situations as well.

We can find more articles protecting the interests of customers. For example the prohibition on abuse of a dominant position particularly, when it limits production, distribution or technical development to the disadvantage of the consumers. The Hungarian Competition Authority will only permit a concentration of certain undertakings if, inter alia, they have no harmful effect on the interests of the consumers.

In many cases consumers make their decisions on the basis of the information passes by advertisements. These commercial messages can also be suitable to deceive consumers' rights. Thus, consumers' interests need legal protection in this field as well. In Hungary the Act LVIII of 1997 (furthermore: Hungarian Advertising Act) contains the provisions concerning to the business advertising activity. The Hungarian Competition Authority also controls the application of the provisions on the comparative advertising and on the prohibition of misleading advertising declared by the Hungarian Advertising Act. In case of an infringement process, the Competition Council examines the reality of the facts stated in the advertisement. Sometimes even those ads containing accurate information can have a deceptive influence on consumers due to their pictorial appearance. The whole impression created by the advertisement is also taken into account during the process. The types of advertising are considered as well. Another relevant consideration is the fact that there are consumers who are well-informed and those who are not. In a lot of cases, the consumers can not repeat the details of the contract, although they concluded it personally. Other relevant aspects are for instance that it can not be expected from consumers to handle all excessive advertisements under protest and check their statements all the time. When the Competition Council judging a situation the aim of the advertisements also deserves attention: namely to inform generally potential customers about products and services in order to increase consumption. Consequently commercial messages are not suitable to cover all relevant information and facts.

In 2007 the Competition Council of the Hungarian Competition Authority conducted all together 158 processes. More than 50% of these cases were in connection with the deception of consumers. Most cases were in connection with misleading information about bank products and services. After the comparison, it can be concluded that most consumer-frauds occurred on the credit card market. The banks failed to give appropriate information about the use of credit cards, especially about the conditions of no-interest payments. At the end of the series of market cleaning investigation processes the Hungarian Competition Authority imposed fines that total 268 Million HUF (approximately more than 1 Million €) on 7 banks. In other cases, the reasons for conducting investigations against banks were incomplete guidance referring to the Standardized Deposit Interest Rates Index, promise of availing certain interest and credits.

The European Union is also dealing with the insurance of fair economic competition. In 2005 the European Council and European Parliament adopted a directive called the “Unfair Commercial Practices Directive”. In the following year the 2006/114/EC directive was released. The reason was that previously the laws of the Member States of the European Union concerning to these issues showed differences which could generate barriers against the functioning of the internal market.

The Hungarian drafts according to the transposition of these directives are now among the items of legislative schedule of the spring session 2008 of the Parliament. The amendments will touch upon more Acts such as the Consumer Protection Act or Hungarian Competition Act. A unified Code will regulate the provisions and the restrictions on business advertising activities. A completely new Act related to the business-to consumer relationship is also among the drafts with the title “Act on Prohibition of Unfair Commercial Practices against Consumers”.

It is doubtless that the current legal regulation needs changing in order to better serve the interests of consumers in the European Union. The reforms will concern to all participants of the economic market. It is still questionable whether the new system can redeem what is expected. One aspect will still remain: provisions on the protection of consumers in competition law will be declared in more Acts. It is worth deliberating with conformity of these acts to each other. Maybe it can not serve appropriately the interests of consumers if more Codes intend to protect them by “diffused” regulation. Time will probably give the solution, and it will also be emerged whether the business sector could get prepared to apply the new rules and meet the legal requirements.

**Contact – email:**

*horvathzsofia@gmail.com*