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CHANGES TO HUNGARIAN CONSUMER PROTECTION REGULATIONS

EU level protection for consumers in Europe

The Hungarian Parliament recently passed new legislation transposing the provisions of Directive (EU) 2019/2161 ("**Directive**") on the better enforcement and modernisation of Union consumer protection rules, introducing widespread changes to currently effective Hungarian consumer protection laws.

Both the Directive as well as the following Hungarian regulatory changes are a result of the efforts pursued by the European Commission and the Hungarian Parliament to further strengthen the consumer protection laws to better suit and to more efficiently protect consumer rights in the rapidly expanding e-commerce sector.

Due to the issue of differences in quality between the goods advertised online and those subsequently delivered, there is an ever-increasing need for an efficient and EU wide consumer protection network.

Changes to Hungarian consumer protection regulations:

In order to accommodate the provisions of the Directive, the new Hungarian legislation now includes:

- The long-awaited introduction of electronic means of communication to Hungarian Consumer Conciliation Committee procedures (in Hungarian "*Fogyasztóvédelmi Békéltető Testületi eljárás*") both for legal entities as well private individuals;
- A significant expansion of the criteria and circumstances to be considered when determining fines imposed by the competent Hungarian consumer protection authority.
- Some examples of such criteria are: (i) the nature, gravity, scale and duration of the infringement; the (ii) action taken by the trader to mitigate or remedy the damage suffered by consumers; (iii) any previous infringements or fines imposed on the trader either locally or in cross-border consumer protection cases in the EU

and (iv) the financial benefits gained (i.e. the profits realised from the sales of the infringing product or services) or losses avoided by the trader due to the infringement;

- Changes to the amount and method of calculation of consumer protection fines for coordinated infringements pursuant to Article 21 of Regulation (EU) 2017/2394 (i.e. if there is reasonable suspicion of a widespread infringement in multiple jurisdictions which the competent authorities may jointly investigate and manage) in which case:
 - the maximum amount of such fines being at least 4 % of the trader's annual net sales turnover; or
 - in case the trader's annual net sales turnover cannot be established, at least an amount of EUR 2 million.
- In accordance with the Directive, certain definitions have also been included or updated in Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices to allow for better interpretation, such as "product" (now also covering digital services), "ranking" regarding the chosen presentation of products in a trader's marketplace or communication as well as the term for "online marketplace";
- The list of misleading marketing or sales practices has also been supplemented, now including a ban on dual quality of products as introduced under the Directive;
- The complaint handling policy is no longer treated as significant information to consumers and as such content displayed in this section cannot be subject to review or sanctions regarding misleading commercial practices. However, the same provision now requires the trader or service provider to inform consumers whether the *third party offering goods, services or digital content* is considered as a trader or not, through the declaration of the third party as a trader or non-trader, based on the declaration of the respective third party;
- Traders will have to make sure that consumer reviews of products published on their websites in fact originate from consumers who have used or purchased the reviewed product;
- Furthermore, the "*blacklist*" of practices deemed as misleading and unfair without further consideration has been expanded to now include a set of additional items, including amongst other the above mentioned prohibition of submitting unsolicited product reviews from fake consumers or commissioning other legal entities or private individuals to submit false consumer reviews or endorsements in order to promote products.

These changes will enter into force in stages, some already from 1 January 2021, while others only as of 28 May 2022.

The efforts of the Hungarian legislator to make online and offline markets more consumer friendly are further substantiated by making the general warranty rules in B2C relations more stringent from 1 January 2021 by: (i) increasing the statutory warranty period for more valuable goods (i.e., with sales price above HUF 100k and 250k, approx. EUR 280 and 700 respectively) up to 2 and 3 years respectively, (ii) introducing a new e-warranty ticket system as well as (iii) introducing shorter deadlines to conclude repairs of faulty goods.

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