



# ADVERTISEMENT LAW COMPLIANCE PROGRAM



SZECSKAY ATTORNEYS AT LAW  
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## WHY DO WE NEED AN ADVERTISEMENT COMPLIANCE PROGRAM?

Every company carrying out commercial advertising activities in Hungary is subject to the laws of Hungary concerning advertising. Compliance with these rules is the sole responsibility of companies themselves and, amongst other things, the breach of such rules may result in severe financial consequences. This is especially true for companies advertising sensitive products (e.g. pharmaceuticals) or targeting a sensitive segment of consumers (e.g. people with health issues or elderly people).

While the legal background of advertising in the European Union is harmonized and thus quite similar, in our experience it is definitely recommended - and even necessary - to seek Hungarian legal advice before a company uses an advertisement in Hungary which it otherwise uses throughout the rest of Europe. The reason for this is that, in several cases, the Hungarian Competition Authority (HCA) has taken a stricter approach in comparison to other European authorities and could deem an advertisement, which in other EU member states may not necessarily raise problems, as unlawful.

## THE CONSEQUENCES OF UNLAWFUL ADVERTISEMENTS CAN BE VERY SEVERE FROM MULTIPLE POINTS OF VIEW:

- the fine imposed by the HCA may amount to 10% of the annual net turnover of the previous year. Fines imposed by the Hungarian Competition Authority in such cases often reach tens of millions of forints and, in the biggest cases, the amount of the fine may be in the magnitude of several hundred million forints);
- the costs of the modification of the unlawful advertisements and the potential withdrawal of products from the market can be high;
- the time and costs incurred in connection with the procedures of the HCA are also significant; and
- last but not least the negative PR value of the automatically published HCA decision establishing the infringement may be significant as well, while the mitigation / elimination of such could also generate further costs.

## WHAT IS AN ADVERTISEMENT COMPLIANCE PROGRAM?

An advertisement compliance program would typically include the following:

- A claims clearance system

The essential aim of an advertisement compliance program is to prevent and to minimize the legal risks of advertising. In order to do that, our experienced advertisement lawyers would cooperate closely with the marketing team of your company by analysing the planned advertisements from a legal point of view, in order to produce effective marketing materials which at the same time comply with the relevant legislation. This analysis includes a risk evaluation of the claims and also the suggestion of safer alternatives if necessary.

- Training of employees

Another crucial part of any regulatory compliance program is the training of employees. Our attorneys are ready to provide the necessary regular on-site training to your team so that they can understand and recognize

conduct which may have advertisement law risks and implications.

- Compliance audit

Based on our client's personal needs, we are prepared to conduct a full compliance audit which will highlight all potential risk factors and provide effective, tailor made solutions in order to mitigate the risks.

- Preparation of bylaws and internal processes

Our firm can also prepare the necessary written bylaws and create the internal processes that can serve as a foundation for the compliance program.

- Legal representation

Should it become necessary, we can also provide legal representation for our clients in front of the authorities and the court in advertisement matters and representation in front of the Advertising Self-Regulatory Board as well.

## WHO ARE WE AND HOW CAN WE HELP?

SzecsKay Attorneys at Law is one of the leading Hungarian law firms providing tailor made advertisement law compliance services to small, medium-sized and large companies operating in Hungary. Monitoring a company's PR activities and advertising strategy is a complex and sensitive issue because such a process usually involves the close cooperation of both the employees and the external advisors (e.g. legal professionals) of the company, who work together - often under strict deadlines. For this reason, our firm always aims for an approach where compliance is not only present in internal policies but is also integrated into the end-to-end process of planning and executing the advertisement campaigns. This result can be reached with continuous education and the establishment of proper internal checks and processes. Throughout our practice we have experienced that regulatory fines and other risks of unlawful advertising can be best mitigated by measures such as proper training programs and internal policies. These create a true culture of understanding of the risks involved in advertisement law within the company's internal structure and also a so-called 'claims clearance system', for the external verification of claims, built into the processes of the company.

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