



4.15. HU – Hungary – National legal summary²⁹⁹

4.15.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- *2010. évi CLXXXV. törvény a médiaszolgáltatásokról és a tömegkommunikációról*³⁰⁰ (Act CLXXXV of 2010 on Media Services and on the Mass Media – Media Act).³⁰¹
- *2010. évi CIV. Törvény a sajtószabadságról és a médiatartalmak alapvető szabályairól*³⁰² (Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content – Free Press Act).³⁰³
- *2001. évi CVIII. Törvény az elektronikus kereskedelmi szolgáltatások, valamint az információs társadalommal összefüggő szolgáltatások egyes kérdéseiről*³⁰⁴ (Act CVIII of 2001 on Electronic Commerce and on Information Society Services – E-commerce Act).³⁰⁵
- *2020. évi XXIV. Törvény az elektronikus kereskedelmi szolgáltatások, valamint az információs társadalommal összefüggő szolgáltatások egyes kérdéseiről szóló 2001. évi CVIII. törvény módosításáról*³⁰⁶ (Act XXIV of 2020 on the Amendment of the E-Commerce Act CVIII 2001 implements the Directive's rules on video-sharing platforms)
- *2008. évi XLVIII. Törvény a gazdasági reklámtevékenység alapvető feltételeiről és egyes korlátairól*³⁰⁷ (Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising – Advertising Act).
- *2006. évi XCVIII. Törvény a biztonságos és gazdaságos gyógyszer- és gyógyászatisegédeszköz-ellátás, valamint a gyógyszerforgalmazás általános szabályairól*³⁰⁸ (Act XCVIII of 2006 on the General Provisions Relating to the Reliable and Economically Feasible Supply of Medicinal Products and Medical Aids and on the Distribution of Medicinal Products – Medical Act).

²⁹⁹ The factsheet on Hungary incorporates the feedback received from György Ocskó, International Legal Advisor at the National Media and Infocommunications Authority (NMHH), during the checking round with the national regulatory authorities.

³⁰⁰ <https://net.jogtar.hu/jogszabaly?docid=a1000185.tv>.

³⁰¹ https://english.nmhh.hu/document/106487/act_clxxx_on_media_services_and_mass_media.pdf.

³⁰² <https://net.jogtar.hu/jogszabaly?docid=a1000104.tv>.

³⁰³ https://nmhh.hu/dokumentum/162262/smtv_110803_en_final.pdf.

³⁰⁴ <https://net.jogtar.hu/jogszabaly?docid=a0100108.tv>.

³⁰⁵ https://nmhh.hu/document/213838/act_cviii_of_2001.pdf.

³⁰⁶ <https://njt.hu/jogszabaly/2020-24-00-00>.

³⁰⁷ <https://net.jogtar.hu/jogszabaly?docid=a0800048.tv>.

³⁰⁸ <https://net.jogtar.hu/jogszabaly?docid=a0600098.tv>.



- 2008. évi XLVII. törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról³⁰⁹ (Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices).
- 1997. évi CLV. törvény a fogyasztóvédelemről³¹⁰ (Act CLV of 1997 on Consumer Protection).

Self- and co-regulatory instruments:

- *A Magyarországi Tartalomszolgáltatók Egyesületének Társszabályozási Magatartási Kódexe*³¹¹ (Co-regulatory Code of Association of Hungarian Content Providers – Code of Content Providers).
- *Magyar Reklámetika Kódex*³¹² (The Hungarian Code of Advertising Ethics – Advertising Ethics Code).³¹³

4.15.2. Definitions and restrictions regarding commercial communications

This section aims at identifying the relevant definitions related to commercial communications stemming from related laws, rules and current practices, as well as ongoing reforms under the transposition and implementation of the revised Audiovisual Media Services Directive (AVMSD). Please note that this review includes definitions which are part of the revised AVMSD, inclusive of audiovisual commercial communications, advertising, surreptitious commercial communications, sponsorship and product placement, but also the definitions of supplementary and/or related concepts, such as the advertiser, sponsor and sponsored content, as well as misleading commercial communication, for the purpose of providing a comprehensive overview.

4.15.2.1. Definitions

Table 41. Definition of the main concepts related to commercial communications

Concept	Existence of a definition
Audiovisual commercial communications	Yes.
Television advertising	Yes.

³⁰⁹ <https://net.jogtar.hu/jogszabaly?docid=a0800047.tv>.

³¹⁰ <https://net.jogtar.hu/jogszabaly?docid=99700155.tv>.

³¹¹ http://archiv.mte.hu/dokumentumok/MTE_Tarsszabalyozasi_Magatartasi_Kodex_20110630.pdf.

³¹² <http://www.ort.hu/wp-content/uploads/2018/09/magyar-reklametikai-kodex-2015.pdf>.

³¹³ <http://www.ort.hu/wp-content/uploads/2020/01/code-2015.pdf>.



Advertiser	Yes.
Surreptitious commercial communication	Yes.
Misleading commercial communication	Yes.
Virtual advertising	Yes.
Sponsorship	Yes.
Sponsor	No.
Sponsored content	No.
Product placement	Yes.
Other:	Digital advertisements and marketing communications, individually targeted communication and online behavioural advertising (OBA).

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.15.2.1.1. Audiovisual commercial communications

Section 203 paragraph 20 of the Media Act and Article 1 paragraph 9 of the Free Press Act define audiovisual commercial communications in the same manner by transposing the text of the revised AVMSD verbatim, as follows:

Commercial communication shall mean any media content shall mean the media content aimed at promoting, directly or indirectly, the goods, services or image of a natural or legal person carrying out business activities. Such content accompanies or is included in media content or user-generated videos against payment or similar consideration or for the purpose of self-promotion. Forms of commercial communication include, amongst others, advertisements, the display of the name, the trademark, the image or the products of the sponsor, or the teleshopping or and product placement.

The same definition can also be found in Article 37 paragraph, subparagraph 6, of the Code of Content Providers, and a reference to this definition is made in Article 2, letter r, of the E-Commerce Act.

4.15.2.1.2. Television advertising

There is no definition of television advertising, but Section 203 paragraph 59 of the Act CLXXXV on Media Services and Mass communication defines advertisement as:

Advertisement shall mean any communication, information or representation, qualifying as a programme, intended to promote the sale or other use of marketable tangible assets - including money, securities, financial instruments and natural resources that can be utilised as tangible assets - services, real estates or pecuniary rights or to increase, in connection with the above purposes, the public awareness of the name, designation or activities of an undertaking, or any merchandise or brand name.



4.15.2.1.3. Advertiser

Article 3 paragraph 1 of the Advertising Act defines advertiser as follows: “[a]dvertiser shall mean a person on whose behalf advertisements are disseminated, or who orders the publication of advertisements”.

4.15.2.1.4. Surreptitious commercial communication

Section 203 paragraph 4 of the Media Act and Article 1 paragraph 10 of the Free Press Act define surreptitious commercial communications in the same manner by transposing the text of the revised AVMSD verbatim, as follows:

Surreptitious commercial communication shall mean any commercial communication, the publication of which deceives the audience about its nature. Communications serving the purposes of commercial communications may qualify as surreptitious commercial communications, even if no consideration is paid for their publication.

A shortened version of this definition can also be found in Article 37 paragraph 2, subparagraph 1, of the Code of Content Providers referring to “a commercial notice the nature of whose publication may mislead the public”.

4.15.2.1.5. Misleading commercial communication

Article 10 paragraph 2 of the Advertising Ethics Code,³¹⁴ also applicable to video-sharing platforms (VSPs), defines misleading commercial communications as follows:

An advertisement is considered to be misleading when it misleads or might mislead a reasonably informed consumer acting with the care and consciousness that may be expected under the circumstances. The advertisement shall not be and cannot operate as a substitute for the briefing on and acknowledgement of the conditions of sale and contracting terms of rendering the services.

Also, Article 6 paragraph 1 of the Act on the Prohibition of Unfair Business-to-Consumer Commercial Practices states that a commercial practice is to be regarded as misleading:

[i]f it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more of the following elements, and in either case

³¹⁴ This Code is applicable according to Article 1 (2) to members of the signatory organisations and to all those who volunteer their adherence to the Code, inclusive of the two Hungarian VSP providers (videa, <https://videa.hu/> and indavideo, <https://indavideo.hu/>).



causes or is likely to cause him or her to make a transactional decision that he or she would not have taken otherwise.

4.15.2.1.6. Virtual advertising

Section 203 paragraph 72 of the Media Act defines virtual advertising as: “Virtual advertisement shall mean an advertisement inserted into the program signal or the program itself subsequently through a digital technology or by any other method.”

4.15.2.1.7. Sponsorship

Article 3, letter p, of the Advertising Act defines sponsorship as follows:

Sponsorship shall mean any form of public or private contribution to any event or activity, or to any individual in connection with an event or activity with the aim or having the direct or indirect effect of promoting the purchase or use of a product.

Article 203 paragraph 63 of the Media Act, Article 1 paragraph 12 of the Free Press Act and Article 37 paragraph 2, subparagraph 18 of the Code of Content Providers³¹⁵ define sponsorship in the same manner by transposing the text of the revised AVMSD verbatim, as follows:

Sponsorship shall mean any contribution provided by an undertaking to finance a media service providers, media services, video-sharing platform services, user-generated videos or a programme with the purpose of promoting its name, trade mark, image, activities or products.

Furthermore, Article 5 paragraph 7 of the Code of Content Providers stipulates requirements for sponsors and sponsorship, as follows:

(7) The name of the supporting organisation (sponsor) or the brand name, trademark or logo it so requests must be published in a way that all participants, viewers, readers or audience of the sponsored publication, programme, event, etc. should be aware of the support (sponsorship).

4.15.2.1.8. Sponsor

There is no definition of sponsor.

³¹⁵ This Code is applicable to the two Hungarian VSP providers (mentioned in footnote 291), as they are members of the Association of Hungarian Content Providers.



4.15.2.1.9. Sponsored content

There is no definition of sponsored content.

4.15.2.1.10. Product placement

Section 203 paragraph 68 of the Media Act and Article 37 paragraph 2, subparagraph 19, of the Code of Content Providers define product placement in the same manner by transposing the text of the revised AVMSD verbatim, as follows:

“Product placement” means a commercial communication consisting of the inclusion of, or reference to, a product, a service or the trademark thereof so that it is featured within a programme or a user-generated video in return for payment or for similar consideration.

4.15.2.1.11. Other definitions

Article 24 in Chapter III of the Advertising Ethics Code includes several definitions of other techniques of online commercial communications, such as: digital advertisements and marketing communications, individually targeted communication and OBA, as follows:

(1) Digital advertisements and marketing communications: these are marketing communications using the tools of digital interactive media to promote products, or to influence the behaviour of consumers.

(2) Individually targeted communication: a communication sent to an e-mail address or mobile number (e.g. via SMS) or to some similar address that can be associated with a concrete, identifiable person.

(3) Behavioural advertising (OBA): a practice using data derived from the online behaviour of users. Behavioural data are gathered with the help of a device from pages not belonging to the business group of the advertiser, so that on their basis the advertiser could develop an interest-based consumer segment, so that the ads that may be of interest to them could be communicated to these consumers. The activity of businesses operating websites and context-based advertising (e.g. an advertisement that has been published on the basis of the actual behaviour of consumers or a search) do not fall into this category.

This chapter contains technical requirements for digital advertisements regarding available bandwidth and browsing possibilities. The provisions also require the advertisement and the advertiser to be identifiable and contain rules on data protection and child protection.

4.15.2.2. Restrictions regarding commercial communications

The revised AVMSD introduces obligations for video-sharing platforms to, *inter alia*, respect certain requirements regarding commercial communications and this section aims at updating the information relative to these obligations and measures imposed under



national legislation on media service providers, including VSP providers related to commercial communications.

Article 15/D paragraph 1, letter d, of the E-commerce Act extends the restrictions of the Free Press Act (subsections (1)-(7) of Article 20) and the Media Act (Article 24) to VSPs. The restrictions in these articles of the Media Act and the Free Press Act are described in detail in the following sub-sections.

Section 15/D paragraph 1, letter d, provides that:

(1) In order to protect users of the service, a video-sharing platform provider shall implement the measures and technological solutions provided for in Section 15/F where: (d) the commercial communication broadcast by the user of the video-sharing platform service fails to comply with the requirements laid down in Section 20(1) to (7) of Act CIV of 2010 on freedom of the press and on the basic rules relating to media content (Act CIV of 2010) or Section 24 of Act CLXXXV of 2010.

4.15.2.2.1. Audiovisual commercial communications for alcoholic beverages and tobacco and tobacco related products, including electronic cigarettes and refill containers

Articles 18 to 20 of the Advertising Act set out general restrictions on the communication of alcoholic beverages and tobacco products respectively. With regard to alcoholic beverages, advertisements are not allowed to state that drinking alcohol can improve physical performance while driving, contribute to social or sexual success, have therapeutic, stimulating or sedative properties, etc., nor may they depict children. In particular, the advertising of alcohol to children or adolescents is prohibited. Advertisements may not be placed, for example, outside the front page of any printed media or on the home page of a website and in the vicinity of public educational and health care institutions. No advertising for alcohol may be shown, for example, in theatres or cinemas before 8 p.m. Article 24 paragraph 2 of the Media Act contains similar prohibitions for alcoholic beverages.

In addition to these general restrictions, Article 19 of the Advertising Ethics Code provides for additional prohibitions, e.g. related to drinking while driving or consuming alcohol in the workplace, and provides that age verification tools must be established to prevent minors from accessing the websites of alcohol-producing companies.

With regard to tobacco products, any direct or indirect advertising of tobacco products (including complementary products such as paper or electronic cigarettes) is prohibited.

4.15.2.2.2. Audiovisual commercial communications for medicinal products and medical treatment available only on prescription in the member state

According to Article 17 paragraphs (4) and (5) of the Medical Act, which is applicable to VSPs, the advertising of prescription medication is prohibited, with some exceptions, e.g. in brochures made available in pharmacies and on the websites of manufacturers, distributors



and sellers with the aim of providing objective information to patients. Similar prohibitions are contained in Article 20 paragraph 7 of the Free Press Act.

With regard to non-prescription medicines and medical aids, these products may only be advertised according to Article 17 paragraphs (1) to (3) of the Medical Act if the product is clearly identified, if the advertisement includes the name of the product and the information necessary for its correct use, and if the advertisement contains an explicit and legible invitation to read the instructions for use carefully. The advertisement must not contain claims or impressions, such as that consultation with a doctor or surgery is not necessary, that the effects are guaranteed, that the product is safe because it is natural, and it must not refer to a recommendation by scientists, health professionals or celebrities.

4.15.2.2.3. Surreptitious audiovisual commercial communications

No surreptitious commercial communication may be published in media content according to Article 20 paragraph 3 of the Free Press Act.

4.15.2.2.4. Subliminal techniques in commercial communications

Commercial communications in media content, including VSPs, may not use techniques that cannot be perceived by the conscious mind according to Article 20 paragraph 4 of the Free Press Act. A similar prohibition is set out in Article 11 of the Advertising Act, which prohibits the dissemination of subliminal advertising.

4.15.2.2.5. Prejudice with regard to human dignity

According to Article 24 paragraph 1 of the Media Act, commercial communications must not prejudice respect for human dignity. Furthermore, Article 8 of the Advertising Ethics Code states that an advertisement may not use the name, image – including a drawing, graphic representation or caricature – sound recording or statement of a person in an unjustified way, and may not damage the reputation (commercial recognition) of another natural or legal person or organisations without legal personality. An advertisement must not undermine the human dignity, piety and historical or cultural honour of deceased persons.

4.15.2.2.6. Inclusion or promotion of any discrimination (on the grounds of e.g. sex, racial or ethnic origin, nationality, religion, etc.)

Article 24 of the Media Act prohibits commercial communications from including any discrimination based on sex, racial or ethnic origin, citizenship, nationality, religion or belief, physical or mental disability, age or sexual orientation. Furthermore, Article 4 paragraphs 5-6 of the Advertising Ethics Code specifies that advertising may not insult any ideology and that an advertisement must not contain elements of negative discrimination



between nations, nationalities, ethnic groups, genders or age groups; nor may it discriminate on the basis of sexual orientation, religious beliefs or disability(ies) that one may live with. Similarly, an advertisement may not support discriminatory ideas on any of these grounds.

4.15.2.2.7. Encouragement of behaviour prejudicial to health or safety

Encouraging behaviour harmful to health, safety or the environment is prohibited in commercial communications under Article 20 paragraph 6 of the Free Press Act. In addition, Articles 7 paragraph (1) and 14 paragraphs (1-2) of the Advertising Act, also applicable to VSPs, stipulate that no advertisement may be broadcast if it contains violence or encourages behaviour that may endanger personal or public safety. Weapons, ammunition, explosives, and other means considered extremely dangerous to public safety may not be advertised.

4.15.2.2.8. Encouragement of behaviour grossly prejudicial to the protection of the environment

As mentioned in the previous section, encouraging behaviour harmful to health, safety or the environment is prohibited in commercial communications under Article 20 paragraph 6 of the Free Press Act. In addition, Article 7 paragraph 2 of the Advertising Act prohibits the broadcasting of advertisements encouraging any behaviour likely to endanger the natural or artificial environment.

4.15.2.2.9. Causing physical, mental or moral detriment to minors

Article 24 paragraph 1, letters c-f, of the Media Act prohibits advertisements that directly urge minors to persuade their parents or others to buy the products or services being advertised, that exploit the special trust of minors in their parents, teachers or other persons, or the inexperience and credulity of minors, or that show minors in dangerous situations without reason. In addition, Article 8 of the Advertising Act prohibits advertisements that are likely to harm the physical, intellectual, or moral development of children and adolescents, especially those that depict or refer to gratuitous violence or sexual content, or that are dominated by conflict situations resolved by violence. The law also prohibits advertisements that present children or adolescents in dangerous or violent situations, or in situations with sexual connotations. The Advertising Act was amended by a provision in 2021 that prohibits the provision of advertisements containing pornography, sexually dominated content and content that promotes the misuse of one's biological sex, sex change or homosexuality to minors.

4.15.2.2.10. Other

N/A.



4.15.3. Sponsorship and product placement

Certain obligations stem from the revised AVMSD vis-à-vis sponsorship and product placement and this part aims at identifying the rules and practices pertaining to these two specific categories of commercial communications.

4.15.3.1. Sponsorship

Some requirements pertaining to sponsorship are laid down in Article 20 paragraphs 8-10 of the Free Press Act, which provides that the sponsoring party must be named at the same time as, or immediately before or after, the publication of the media content. In addition, audiovisual media services and their programmes may not be sponsored by other companies providing audiovisual media services or producing audiovisual programmes or cinematographic works. The media content published and sponsored in the media service may not encourage, call for or discourage the purchase or use of products or services of the sponsor or of a third party defined by the sponsor. The sponsor may not influence the media content or its publication in a way that could affect the responsibility or editorial freedom of the media content provider.

The Media Act also provides for certain restrictions in Articles 26-28 which, *inter alia*, prevent entities from sponsoring any audiovisual media content if their activity is related to political parties or to the gambling or tobacco industry. In addition, Article 11 of the Co-regulatory Code of the Association of Hungarian Content Providers contains similar provisions.

In addition, Article 5 paragraph 7 of the Advertising Ethics Code specifies that the name, logo and brand of the sponsor must be published so that viewers are aware of the existence of the sponsorship.

4.15.3.2. Product placement

Articles 30 and 31 of the Media Act stipulate a series of requirements regarding product placement, including:

- in which programmes product placement is prohibited, such as news programmes and programmes aimed at minors under 14;
- which entities may not provide product placement in programmes, such as entities from the tobacco and gambling industries;
- that viewers must be clearly informed – by optical or acoustic means – of the existence of product placement by appropriate identification;
- that product placement should not directly encourage the purchase or rental of goods or services and should not give undue prominence to the product in question.

Similar provisions are laid down in Article 13 of the Code of Association of Hungarian Content Providers.



4.15.4. Obligations regarding (v)blogs and (v)blogging

There are no specific rules for v(blogs) and (v)bloggers. The general rules and prohibitions of the Advertising Act as set out in the previous sections of this factsheet apply to them, since E-commerce law establishes that VSPs are to respect the applicable general legislation, including the Advertising Act as a general law, reference to which is made in the aforementioned provisions of the Free Press Act and Media Act.

Also, if they qualify as a media content provider, all advertising restrictions of the Free Press Act will also apply. If they qualify as a media service provider, the restrictions of the Media Act and the Code of Content Providers will also apply, as per the scope of the Free Press Act and Media Act.

4.15.5. Other relevant information

N/A.

4.15.6. Content-related rules regarding commercial communications for VSP providers

While certain restrictions regarding the content of commercial communications stem from the revised AVMSD and relate to issues connected to the protection of minors and restrictions on the advertising of certain products and services, this part deals with less explored notions, such as rules pertaining to gambling, environmental claims vis-à-vis products and services, etc.

4.15.6.1. Advertising of, or on behalf of associations that are wholly or mainly concerned with religion, faith and other belief systems

As explained at the beginning of section 4.15.2.2 of this factsheet, the restrictions found in paragraphs 1-7 of Article 20 of the Free Press Act and Article 24 of the Media Services Act are applicable to VSPs.

Article 20 paragraph 5 of the Free Press Act specifies that no commercial communication may be presented in media content which is likely to offend religious or ideological convictions. A similar restriction is contained in Article 24 of the Media Act, which provides that commercial communications broadcast in the media shall not include or promote discrimination on the grounds of religion or belief. The article further specifies that such communications shall also not express religious, philosophical or other similar beliefs, with the exception of commercial communications broadcast in media services



specialising in religion and shall not offend the dignity of a national symbol or religious belief.

A prohibition on any form of discrimination against, *inter alia*, a church, or religious group in commercial communication is also established under Article 10 of the Code of Content Providers. In addition, as mentioned under Section 4.15.2.2.6. of this factsheet, Article 4 paragraphs 5-6 of the Advertising Ethics Code states that an advertisement may not insult any ideology (and in this context, 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 is appropriate to the subject matter.

4.15.6.2. Gambling, betting, betting tipsters, etc.

Commercial communication promoting gambling may not be broadcast to children and young people, and in any case, may not be broadcast without the authorisation of the state tax authority as per Article 20 paragraph 7 of the Free Press Act and Article 21 of the Advertising Act. Similarly, sponsorship or product placement by companies engaged in the pursuit of gambling activities without the gaming supervisory authority's authorisation is prohibited under Articles 27, paragraph 1 and 30 paragraph 4 of the Media Act.

Furthermore, Article 21 of the Advertising Ethics Code specifies additional requirements pertaining to commercial communication promoting gambling, which:

- may not suggest that gambling may be a tool to reach financial safety, or to be an alternative for work, and thus a tool to solve financial problems or to be a substitute for wages;
- may not encourage spending beyond the financial possibilities of the individual;
- may not be addressed to minors, feature or depict minors, or even use the symbols of the subculture typical to them;
- may not contain misleading information, especially regarding the chances of winning and the prizes.

4.15.6.3. Environmental or “green” claims for products

Article 22 of the Advertising Ethics Code sets out a series of requirements for environmental and protection claims in commercial communications, including, *inter alia*, that:

- such claims must be clear, understandable and, if necessary, justified by the qualifications of the competent authority;
- such claims should refer to a specific environmental benefit or a general environmental impact, which can be published only if the company has carried out an environmental impact assessment prior to its publication;
- the donation or support of a third party or organisation claimed in such an advertisement can only be included if it is true;



- claims such as "environmentally friendly" may only be used in statements from persons authorised to make them, unless the advertiser can prove that the product has no harmful effect on the environment during the entire life cycle of the product;
- comparative statements and references are acceptable if the advertiser can prove that the product is the result of an environmentally friendly development compared to competitors or the advertiser's previous products, but without unduly suggesting that the product as a whole is environmentally friendly.

4.15.6.4. Other

N/A.

4.15.7. Self- and co-regulation and enforcement

This section aims at identifying the legal framework and practice for self- or co-regulatory schemes and measures regarding commercial communications on VSPs, including the identification of the body or bodies in charge of self- and co-regulation and enforcement powers with regard to commercial communications and VSPs, as well as the scope of their activities with regard to commercial communications and VSPs.

4.15.7.1. Self- and co-regulatory bodies

4.15.7.1.1. Context of establishment and legal background

Commercial communications on VSPs, whether organised, marketed by platform providers or broadcast by users of VSPs must comply with the relevant provisions of the Free Press Act and the Media Act. VSP providers must implement measures to ensure compliance with these provisions. Finally, the Office of the National Media and Infocommunications Authority (NMHH)³¹⁶ may authorise the self-regulatory body (the Association of Hungarian Content Providers), under an administrative agreement, to perform self-management tasks (Article 15/J, paragraph 3, of the E-commerce Act).

4.15.7.1.2. Stakeholders involved

As part of the objective of Article 15/J of the E-commerce Act to facilitate voluntary compliance with the law, the various stakeholders involved in such cooperation would be the NMHH, the self-regulatory bodies of VSPs and the Hungarian Advertising Self-Regulatory Board (Önszabályozó Reklám Testület, ÖRT).³¹⁷

³¹⁶ <https://english.nmhh.hu/>.

³¹⁷ <https://www.ort.hu/>.



As mentioned previously, at present, the two Hungarian VSP services are members of the Association of Hungarian Content Providers, signatories to the Co-regulatory Code of the Association of Hungarian Content Providers and the Advertising Ethics Code.

4.15.7.1.3. Scope and objectives

Apart from other objectives stated under Articles 15/K (paragraph 2) and 15/D (paragraph 1, letter d, and paragraphs 2-3) of the E-commerce Act, the main objective is the control of measures taken by VSP providers regarding commercial communications organised, marketed by the platform providers and disseminated by users.

The scope of the regulatory instruments includes ACCs for HFSS foods and beverages and ACCs which encourage behaviours grossly prejudicial to the protection of the environment.

4.15.7.1.4. Code(s) of conduct

The Hungarian Advertising Ethics Code has been drawn up with the purpose of providing professional and ethical norms for those engaged in advertising activities in Hungary. It was first established in 1981 as a collection of norms based on the International Chamber of Commerce (ICC) Advertising and Marketing Communication Practice and on the social and economic structure of that time and its resulting circumstances. It was further revised to fulfil the co-regulatory requirements of the Media Act.

It is envisaged that self-regulation is recognised by the Hungarian Parliament in the preamble to the Act on fundamental conditions of economic advertising activities and the Act on prohibiting unfair commercial practices towards consumers:

Having regard to the protection of the health of citizens, with particular attention to minors, to the suppression of incidents that may be detrimental to public policy, and – with a view to sustaining market competition which serves economic efficiency and social welfare – protecting the interests of enterprises which honour the requirements of fair business practices, recognising the weight of self-governance and – for this purpose – fostering the enforcement of codes of conduct established within the framework of self-governance, Parliament has adopted the following Act.

4.15.7.1.5. Role of the (self-)regulatory bodies

According to the different provisions of Article 15/J (paragraphs 1-3), Article 15/K (paragraph 3, letters a-c), and Article 15/M (paragraphs 1-2 and 5) of the E-commerce Act, the self-regulatory bodies of VSPs will have the following responsibilities:

- cooperate with the NMHH;
- conclude administrative agreements with the NMHH;
- carry out self-management tasks beyond the scope of administrative competences;



- prepare a professional code of conduct (Code) defining the autonomous execution of self-management tasks, and manage the affairs of the business entities covered by this Code;
- settle disagreements and disputes between the companies covered by the Code within the scope of authorisation;
- supervise the operation and conduct of business entities covered by the Code in relation to the licence;
- encourage their members to introduce appropriate measures through codes of conduct aimed at effectively reducing children's exposure to electronic and commercial communications for foods and beverages whose excessive consumption in the overall diet is not recommended.

4.15.7.1.6. Period of activity (if limited)

There is no time-limited period of activity; administrative agreements can be concluded in an indefinite period and can be terminated by either party with thirty days' notice, as specified under section 15/O paragraph 2 of the E-commerce Act.

4.15.7.1.7. Role of the regulatory authority in a co-regulatory system

The NMHH shall oversee the self-regulatory bodies' activities.

4.15.7.1.7.1. Regulatory body

According to the different provisions of Articles 15/J (paragraph 3), 15/K (paragraph 1), 15/L (paragraph 3), 15/N (paragraph 3), and 15/S (paragraph 1) of the E-commerce Act, the NMHH will have the following responsibilities:

- to cooperate with self-regulatory bodies by providing them with support and incentives to carry out their tasks;
- to authorise the self-regulatory bodies to perform self-management tasks (in the scope of the authorisation granted in the administrative contract) towards its registered members and VSP providers;
- to conclude administrative agreements with the self-regulatory bodies;
- to provide financial support to the self-regulatory bodies for the performance of their tasks;
- to access – after the conclusion of the administrative agreement – the register kept by the self-regulatory bodies on the commercial entities covered by the Code with the option of requesting information in relation to the data in the register in order to be able to carry out its functions regarding the self-regulatory body.

The NMHH is planning to cooperate with the Association of Hungarian Content Providers, with a view to extending the co-regulatory Code to include the regulations pertaining to VSPs; this is expected in the autumn of 2022.



In terms of monitoring, the responsibilities of the NMHH are set out in Articles 15/R (paragraph 1), 15/T (paragraphs 1-2) and 15/U (paragraph 1) of the E-commerce Act, and include:

- reviewing some of the self-regulator's decisions that contain obligations - when the self-regulator acts as a litigation body - (and where such a review is requested by the petitioner or the party on whom the decision has been imposed, the NMHH must review it within 30 days);
- supervising the activities of the self-regulatory organisation under the administrative agreement, including regular monitoring of the self-regulatory organisation's compliance with the provisions of the administrative agreement with the NMHH, as well as their implementation in accordance with the agreement;
- subjecting the procedures and decisions of the self-regulatory body in carrying out the tasks under the administrative agreement to a full audit. Accordingly, it assesses the decisions of the self-regulatory body – in terms of compliance with the provisions of the administrative agreement and the code of conduct which forms an integral part of it – on a case-by-case basis and as a whole.

4.15.7.1.7.2. Co-regulatory scheme

See under 4.15.7.1.7.

4.15.7.1.7.3. Relationship and roles of stakeholders

As for the self-regulatory body, it should be responsible for preparing a report to the NMHH on its activities and the tasks carried out within the framework of the administrative agreement on a regular or at least annual basis, and every six months in writing regarding its procedures, content, subjects, types, and the implementation of its decisions within the framework of its self-regulation procedure.

4.15.7.2. Monitoring/evaluation, compliance and sanctioning powers

With regard to compliance and sanctioning powers, the NMHH, while having an obligation to maintain a list of registered VSPs under its jurisdiction (according to Article 15/C paragraph 1), may withdraw the registration of a VSP service in the case of a violation of the requirements set out in Articles 15/D to 15/G of the E-commerce Act. Additional compliance and sanctioning powers of the NMHH are detailed in Articles 15/I, 15/O (paragraph 1), 15/R (paragraph 2) and 15/T (paragraphs 3-5), which include, *inter alia*:

- Prohibiting unlawful conduct and ordering the VSP provider to cease the infringement by possibly imposing a fine of up to one hundred million forints on the VSP or suspending its services for a period of up to one week (Article 15/I (paragraph 2)).
- Terminating the administrative agreement with immediate effect, if the self-regulatory organisation seriously and/or repeatedly violates the provisions of the administrative agreement or has performed its tasks as defined in the administrative



agreement in a way that does not comply with the terms and conditions of the agreement or the terms of the code of conduct (Article 15/O (paragraph 1)).

- If the decision of the self-regulatory body is not in accordance with the provisions of the administrative agreement concluded, including the provisions of the code of conduct, or if, in the opinion of the NMHH, the decision violates the provisions of the relevant legislation or the NMHH finds that the self-regulatory body is not able to execute its decision, it shall initiate an administrative procedure in the case referred to in the petition (Article 15/R (paragraph 2)).
- In the event of irregularities on the part of the self-regulatory body in cases to which the authorisations granted under the administrative agreement pertain, the NMHH may request the self-regulatory body to proceed in accordance with the provisions of the administrative agreement within the prescribed period. If it does not comply with this request within the prescribed period, the NMHH may terminate the administrative agreement under the conditions laid down in the E-commerce Act (Article 15/T (paragraphs 3-4)).
- If, on the basis of the audit, the NMHH finds procedures or decisions of the self-regulatory organisation which are contrary to the relevant legislation or to the provisions of the administrative agreement or the code of conduct, it may open an administrative procedure in the area covered by the decision (section 15/T (paragraph 5)).

4.15.8. Cross-sector and cross-border collaboration

N/A.

4.15.9. Update on plans and practices related to new obligations of VSPs

There are no plans to update plans and practices regarding the tools and mechanisms in place in relation to the new VSP obligations.

4.15.10. Studies, reports and research

N/A.



4.15.11. Data compilation

This factsheet is based on data compiled by Zsuzsa Detrekői, Fellow at the Centre for Media, Data and Society.