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**HUNGARIAN ADVERTISEMENT RULES REGARDING
COSMETICS AND RELEVANT REGULATORY PRACTICE**

1. Legislative background

Since Hungary is part of the European Union, the main piece of legislation applicable regarding the advertisement of cosmetic products is Regulation 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, which generally prohibits to imply that the advertised cosmetic products have characteristics or functions which they do not have (e.g. prohibition of reference to or implication of therapeutic effect).

It is also necessary to mention Commission Regulation 655/2013 of 10 July 2013 on laying down common criteria for the justification of claims used in relation to cosmetic products, which details the common criteria regarding product claims (e.g. legal compliance, truthfulness, evidential support, etc.).

Under Hungarian law, the above European legislation is supplemented by Government Decree 246/2013. (VII. 2.) on cosmetic products which mainly governs regulatory matters such as market supervision and other administrative issues.

The Hungarian Self-Regulatory Advertising Board also aims to introduce specific rules in connection with the advertisement of cosmetics into the Hungarian Code of Advertising Ethics as of June 30, 2015, including the use of digital techniques for enhancing the beauty of images to convey brand personality, the use of pre- and post-production techniques (such as styling, re-touching, lash inserts, hair extensions, etc.) or the use of testimonials and specialist recommendations in advertisements. As a general rule, such visual techniques shall not result in an unrealistic and misleading result regarding the performance achievable by the product and the testimonials and specialist recommendations shall not replace material substantiation of a claim.

2. Brief summary of relevant regulatory practice

In Hungary, the competent regulatory bodies for supervision of advertisement of cosmetics are the National Consumer Protection Authority and the Hungarian Competition Office ("HCO"), the latter being competent if the commercial practice is able to materially affect the competition (e.g. if the advertisement was made available on a national level or in at least 3 counties). Due to the above, the HCO has an extensive practice regarding the advertisement of cosmetic products including criteria to substantiate claims regarding effects.

In the course of a procedure, the HCO - *inter alia* - considers the following questions in this regard:

- as a general rule, if an undertaking claims that its product has certain effects or properties, then it shall prove it;
- scientific evidence means experiences and notions about the objective laws of the nature, verified by the renowned experts who are professionals in that area of science, in a way which fulfills the requirements of science;
- positive experience and feedback in connection with the product cannot be considered as scientific evidence and if the claim is based on a subjective study, then it shall be indicated, since there is a difference between claims based on an objective or on a subjective study;
- if in the promotion of a cosmetic product, an undertaking wants to demonstrate the effects of its product by using percentages (or other similar methods), it shall comply with - *inter alia* - the following additional requirements:
 - (i) the range of the people participating in the test shall be wide, representative and relevant also the sampling should be sufficient and the criteria to participate in the testing should not result in the distortion of results;
 - (ii) the test shall be conducted during conditions not different than the usual daily circumstances of the usage of the product, and reasons of the drop-out of the subjects during the test shall be available, and furthermore descriptive statistics shall be available regarding the people participating in the test;
 - (iii) if the subjects of the test differ from the people targeted by the advertisement (e.g. the advertisement is used in Hungary but the underlying tests were performed in France) the undertaking shall be able to prove that the test is relevant for the Hungarian market, meaning that from a scientific point of view the subjects (i.e. Hungarian and French people) are comparable (e.g. comparable skin or hair type, eating habits, climatic conditions, etc.).

3. Conclusions

To sum up the above, while the Hungarian legislative background is quite similar (if not identical) to the EU rules on advertisement of cosmetic products, the Hungarian authorities have a quite developed and extensive relevant practice, which sometimes might prove more strict compared to those of other jurisdictions, thus it is highly recommended to analyse the advertisements or claims so that they comply with such particularities as well.

This summary is a publication of Szecskay Attorneys at Law intended for guidance purposes only. It should not be regarded as legal advice or a legal opinion. Should you have any legal questions on a specific matter or require more information, please contact our colleagues on the contact details below:

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