

## AMENDMENT TO HUNGARIAN FOOD DISTRIBUTION REGULATIONS

The second quarter of 2020 will be remembered for the Covid-19 epidemic but while that has dominated attention several interesting Hungarian consumer protection law measures have been adopted which will have long term effects.

### CONTEXT

The so-called “Omnibus Directive” (EU Directive 2019/2161 of 27 November 2019) introduces better enforcement and modernisation of EU consumer protection rules by amending several pieces of EU consumer legislation. Amongst many new provisions, the Omnibus Directive amends Directive 2005/29/EC on unfair business to consumer practices. It defines as a misleading commercial practice the marketing of a good, in one Member State, as being identical to a good marketed in other Member States, while that good has significantly different composition or characteristics, unless justified by legitimate and objective factors.

The Omnibus Directive requires EU Member States to transpose those rules by 21 November 2021, and apply those measures by 28 May 2022.

**Well ahead of those dates, the above provisions of the Omnibus Directive have been transposed into Hungarian food law to apply from 1 August 2020.**

## THE NEW QUALITY REQUIREMENTS FOR FOODS DISTRIBUTED IN HUNGARY

The Hungarian Food Chain Act requires that from 1 August 2020 identical food products marketed in Hungary and in other EU Member States shall not have significantly different composition or characteristics, unless such difference is necessary because of legitimate and objective reasons. Such legitimate and objective reasons justifying different composition or characteristic include, for example, a variation in the recipe of the products, if such variation is the result of:

- compliance with mandatory Hungarian food law requirements;
- an alternative origin of an ingredient if displayed on the packaging;
- the seasonality of an ingredient; or
- enabling better access of Hungarian consumers to healthy and nutritious food.

### WHO IS RESPONSIBLE FOR COMPLIANCE?

In case of food produced in Hungary the producer is responsible for compliance, while in case of food products produced outside Hungary the distributor who first markets the food product in Hungary is responsible. The Consumer Protection Authority will sanction non-compliance with a fine, on a mandatory basis. The amount of the fine ranges between HUF 15,000 (approximately €45/\$50) and (the lower of) 10% of the company's turnover of the preceding year or HUF 500 million (approximately €1.45m/\$1.63m).

### KEY TAKE-AWAY

**Food producers who offer their products across the EU and distribute in Hungary are advised to carry out a compliance check of those products (e.g. reviewing whether there are any variations in ingredients for different territories). Following the review remedial actions may need to include changes to production processes, packaging and branding, and any necessary measures must be implemented to ensure compliance by 1 August 2020.**



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