

Act CLXIV of 2005 on trade

The National Assembly, considering that trade is a branch of the national economy of decisive importance and it provides the services necessary for daily life, deems it important to regulate the fundamental principles and conditions of pursuing commercial activities, while safeguarding its freedom and placing an emphasis on the survival and development of micro, small and medium-sized undertakings that are capable of functioning effectively, with respect in particular to the interests of the business environment, traders and buyers. It considers maintaining the principle of freedom of enterprise to be important; therefore, while limiting the scope of interference to the minimum, it recognises the importance of professional self-regulation and the significance of codes of conduct, established by groups of traders accepting these as mandatory, and which determine the conduct of traders in important areas such as fair trading, conduct towards consumers and restricting the practice of selling below the purchase price. Hence, the National Assembly adopts the following Act:

Scope of the Act

Section 1 This Act shall apply to the fundamental requirements and to the monitoring of commercial activities and service activities for commercial purposes, trade and tourist service activities for commercial purposes, as well as the distribution of products, with the exception of healthcare services specified in a separate Act, metal trading activities subject to authorisation and specified in a separate Act, the retail sale of tobacco products subject to authorisation and specified in a separate Act and the related commercial activity aiming at the sale of other products in tobacco shops, specified in a separate Act.

Section 2 For the purpose of this Act:

1. *sales area* means the area within the store serving the purpose of displaying and selling the product to buyers;

1a. *supplier* means the person selling the product or service with the aim of distribution to a person pursuing commercial activity;

2. *purchasing association* means an agreement concluded by two or more undertakings to implement their purchasing or sales strategy, conduct their purchasing or sales activity and the coordination thereof in part or in full;

3. *shopping centre* means a building with an integrated design that serves multiple purposes, in which several traders carry out commercial activities of various types on a permanent basis, predominantly in stores, and where additional, predominantly leisure-time service activities are also carried out;

4. *mail-order trade* means the commercial activity in the course of which the trader provides the buyer with commercial communication, including the features and price of the product, which makes it possible for the buyer to take the decision whether he wishes to enter into a transaction to buy the product, and delivers the product (has it delivered) to the address provided, as ordered on the basis of such commercial communication;

5. *distribution* means the sale of a certain product in the framework of commercial activity for the purpose of consumption or use, or making it available for use for consideration;

5a. *local farmers' market* means a market where the small farmer sells his agricultural or food product originating in the county where the market is located, or within a distance of 40 kilometres from the market or, in the case of a market in Budapest, the small farmer sells products originating from his farm located anywhere in Hungary.

6. *tour guide activity* means the provision of detailed, on the spot descriptions of major tourist assets and other sites of significance to visitors, from the perspective of tourism and in the framework of a businesslike economic activity, and in addition, the provision of general information to facilitate the orientation of visitors in a location unknown to them, and providing assistance if necessary;

7. *significant market power* means a market situation, as a result of which the trader becomes or has become a reasonably indispensable contractual partner for the supplier in the course of delivering products and services to buyers and, due to its share in trade, it is able to influence the market entry of a product or product group at national or regional scale;

8. *tourist service activity for commercial purposes* means tour guide activity, equestrian service activity, accommodation service activity and long-term accommodation service activity, as well as travel organising and travel retail activity;

9. *commercial activity* means retail and wholesale activity, as well as commercial agent activity;

10. *commercial agent activity* means activity in the course of which the trader conducts negotiations to sell products or services, or to buy them in favour of another party on the basis of an agency contract concluded for that purpose;

11. *trader* means the person that carries out commercial activities;

12. *service activity for commercial purposes* means the operation of a shopping centre, market or fair in the framework of a businesslike economic activity, including the provision of services related to the warehousing or transport of products distributed there, or other services aimed at facilitating commercial activities;

13. *retail activity* means distribution of products in the context of businesslike economic activity, the sale of rights with pecuniary value and the provision of directly related services to the end user, including catering and hospitality;

13a. *sales activities conducted on a transport vehicle* mean retail activity carried out in a railway dining car and bar, on a bus service, in the restaurant and bar on board of a passenger vessel and on passenger flights,

14. *sales activities conducted in public spaces* mean retail activity conducted in public spaces and places open to public traffic;

15. *direct sale* means distribution of products at the place of manufacture, in the context of retail activity;

16. *equestrian service activity* means service provided with the use of horses in the framework of businesslike economic activity for the purpose of leisure activities, therapeutic purposes or for purposes of education;

17. *mobile shop* means a vehicle or equipment installed on or towed by a vehicle established for the purpose of retail activity;

18. *wholesale activity* means in the framework of businesslike economic activity, the further distribution of products without transformation (processing), and the directly related warehousing, transport and other services provided for traders, processors, including wholesale market activity and purchasing activity;

18a. *everyday consumer item* means food, toiletries, drugstore products, household detergents and chemical products and sanitary paper products to meet the daily needs of the population, which the consumer typically consumes, uses or replaces within a maximum period of one year, with the exception of products sold in the context of catering and hospitality activity;

18b. *store selling everyday consumer products* means a store, the turnover of which predominantly originates from the sale of everyday consumer products;

19. *market* means a building, a group of buildings or area where several entities permanently or regularly carry out retail activities usually on a daily, occasionally on a weekly basis;

20. *self-made product* means a product manufactured and put on the retail market by the trader, excluding a product not made by the trader but distributed under its brand name, trademark or other distinctive sign;

21. *product* means all marketable tangible assets, with the exclusion of money, securities, financial assets and natural forces usable as things;

22. *accommodation* means a building established or used for the purpose of accommodation services, part of a building or area constituting an independent unit usable for such a purpose;

23. *accommodation service* means in the context of businesslike economic activity, the provision of accommodation typically not for the long-term, including overnight stay and rest, and the provision of directly related services;

23a. *alcoholic drink* means every drink with alcoholic content, with the exception of the alcoholic essences of herbs made for therapeutic purposes and products made with the use of such, as well as with the exception of soft drinks with an alcoholic content of less than 1.2%;

24. *long-term accommodation service activity* means in the framework of businesslike economic activity, the granting of the right to use an accommodation facility at regular intervals for a purpose that includes overnight stay and rest repeatedly for a fixed, but not long period of time (timeshare);

25. *travel organisation activity* means a commercial activity provided to travellers whereby the performer of the travel organisation activity, within the framework of businesslike economic activity, either directly or through another trader, combines and sells, or offers for sale carriage of passengers, accommodation and other tourist services (in particular catering, tour guide activity, entertainment or cultural programme), and transmits data to another trader in accordance with the Government Decree on contracts relating to travel services, in particular on contracts relating to package travel and linked travel arrangements;

26. *travel retail activity* means a businesslike economic activity within the framework of which the travel retailer, on the basis of a mandate from the performer of the travel organisation activity, offers travel services to the traveller and enters into contracts on behalf of the travel organiser;

27. *store* means a building or an independent building unit or premises usable for a purpose and established or used for commercial activities, including a building or part of a building with the primary purpose of warehousing or storage, and where commercial activities are also carried out;

28. *non-store retailing* means retail activity carried out by the trader or by the person acting on behalf of or in favour of the trader, for the purpose of distributing the product to the buyer in the absence of the buyer's explicit request, by visiting the buyer in his home, workplace or other place of residence, or retail activity in the course of a trip or event organised for this purpose;

28a. *combined presentation and sale of products* means retail activity carried out by the trader or a person acting on behalf or in favour of the trader on the occasion of a trip or event organised for the purpose of the presentation and sale of products;

29. *fair* means a building, a group of buildings or area where several entities carry out seasonal or occasional retail activity linked to certain events or calendar days;

30. *catering* means the distribution of ready-made or locally made food and drinks, predominantly to be consumed locally, including related entertainment and other service activities.

31. *unlawful activity carried out in connection with the operation of the store* means criminal offence or infraction directly related to the operation of the store, committed on the premises of the store or within 5 metres from the entrance of the store,

a) which is committed with the operator or an employed person who is aware of or participating in it, or

b) which is made possible by the failure of the operator or the employed person to take the measure necessary to guarantee the normal course of business, with the proviso that the operator is aware of, or could reasonably be expected to have known about the omission of the employed person.

32. *hypermarket* means a store carrying out retail activity or retail and wholesale activity selling everyday consumer products on the same premises and at the same time, on premises with a gross floor space of over 5,000 square metres;

33. *large supermarket* means a store carrying out retail activity or retail and wholesale activity selling everyday consumer products on the same premises and at the same time, on premises with a gross floor space of between 2,500 and 5,000 square metres;

34. *supermarket* means a store carrying out retail activity or retail and wholesale activity selling everyday consumer products on the same premises and at the same time, on premises with a gross floor space of between 400 and 2,500 square metres;

35. *discount store* means a store carrying out retail activity or retail and wholesale activity selling everyday consumer products on the same premises and at the same time, on premises with a gross floor space of over 400 square metres which do not have counters to serve fresh meat, meat products and dairy products;

36. *consumer* means a consumer as defined in the Act on consumer protection;

37. *traveller* means, with regard to travel organisation or travel retail commercial activities, or commercial activities facilitating linked travel arrangements, any person who is seeking to conclude a contract relating to travel services or the combination of travel services, or is entitled to travel on the basis of such a contract.

38. *commercial activity facilitating linked travel arrangements* means an activity within the framework of which the trader facilitating linked travel arrangements offers or sells a travel service as defined in the Government Decree on contracts relating to travel services, in particular on contracts relating to package travel and linked travel arrangements.

The general conditions of pursuing commercial activities

Section 3 (1) With the exception of commercial activities subject to authorisation on the basis of paragraph (3) or a directly applicable legal act of the European Union with general application, a person who wishes to pursue commercial activities in the territory of Hungary shall notify the trade authority of his intention.

(2) The trader may choose the form of commercial activity (hereinafter “form of trade”) in accordance with the provisions set out in this Act and the provisions of paragraph (4).

(3) To protect public order, public safety, the health and life of human beings, flora and fauna and the environment, and to comply with public health requirements, a separate Act or a government decree issued under original legislative powers may make the commercial activity aiming to distribute products defined therein conditional upon an official licence as specified therein.

(4) To protect public order, public safety, the health and life of human beings, flora and fauna and the environment, and to comply with public health requirements, a separate Act or a government decree issued under original legislative powers or, by way of derogation from the Act on the general rules of the commencement and continuation of service activity, a government decree issued under the authorisation of this Act may prescribe that the

commercial activity aiming to distribute products defined therein shall exclusively be limited to any of the following forms of trade, or may limit or prohibit such activity to be carried out in certain forms of trade:

- a) commercial activity pursued in a store,
- b) commercial activity pursued via mobile shops,
- c) commercial activity pursued in a shopping centre,
- d) commercial activity pursued in a fair or at a market,
- e) sales activities conducted in public spaces,
- f) direct sale,
- g) out-of-store trade,
- h) mail-order trade,
- i) sale from a vending machine,
- j) sales activities conducted on a transport vehicle.

(5) In the case of a commercial activity subject to authorisation, the authority granting authorisation, simultaneously with granting the licence, shall notify the trade authority keeping the register of traders that pursue commercial activities subject to notification.

(6) A store may be operated

a) with an operating licence issued by the trade authority in accordance with paragraph (7), if the distribution of the product specified in paragraph (4) or in a directly applicable legal act of the European Union with general application is allowed in stores only; or in other cases

b) following a notification to the trade authority of the intention to operate a store.

(7) The trade authority shall issue an operating licence covering certain specified groups of store-only products. Of store-only products, only the products that are indicated in the operating licence may be marketed in the store.

(8) In the operating licence, the trade authority may restrict or prohibit the distribution of products or the conduct of activities in the store which jeopardise compliance with the requirements specified with respect to the distribution of store-only products.

Section 4 (1) Notwithstanding section 3 (4), the undertaking shall notify the trade authority of its intention to distribute jewellery, ornaments and other objects made of precious metal.

(2) Only the following shall be entitled to carry out commercial activity specified in paragraph (1):

a) undertakings where the executive officer or employee in a senior position, or the private entrepreneur has a clean criminal record and is not subject to disqualification from a profession, excluding him from pursuing commercial activities aimed at the distribution of jewellery, ornaments and other objects made of precious metal,

b) undertakings which have no tax arrears in accordance with the Act on taxation.

Other conditions of commercial activities

Section 5 (1) The trader shall be in possession of a certificate that credibly proves the origin of the product distributed and, in the case of self-made products, credibly proves the origin of the non-self-made product used to create the self-made product. If called upon by the monitoring authority, the trader shall present the original certificates and documents within five days.

(2) The trader shall ensure that the buyer, depending on the nature of the product to be purchased, is able to inspect the size, weight and usability of the product in the store or, in the case of other forms of trade, when both the trader or his representative and the buyer are present.

(3) In the case of selling certain products within the framework of retail activity, the person carrying out that activity shall possess the vocational qualification specified in the decree issued by the minister responsible for commerce.

(4) A complaints book containing consecutively numbered pages and certified by the trade authority shall be made available in the store in a visible and easily accessible place. Buyers may enter their complaints and recommendations into the complaints book in respect of the operation of the store and the commercial activity carried out therein. It shall be prohibited to prevent or influence the buyer in exercising this right.

(4a) In order to exclude the possibility of gaining knowledge of personal data recorded in the complaints book by other buyers, the trader shall, immediately after their being recorded, remove the page containing the complaint or recommendation under paragraph (4) from the complaints book, retain it in accordance with the order of consecutive numbering, and make it available to the authorities upon request.

(5) Prior to being put into use, the complaints book shall be certified by the trade authority, by indicating the date when it was opened.

Section 5/A A new store that sells everyday consumer products may commence its operation if it provides a waiting area for passenger cars, the number of which is specified on the basis of the size of the sales area and in the Government Decree on the national requirements regarding town planning and construction, and which complies with the regulations on vehicle parking.

Section 5/B No discount store, large supermarket or hypermarket shall be established or operated in the urban residential area of a heritage site as specified in Act LXXVII of 2011 on World Heritage.

Section 5/C (1) A trader carrying out the combined presentation and sale of products shall provide customer service in order to administer the notifications, and examine and remedy the complaints of customers, as well as to inform them

- a)* at its seat or establishment, or branch;
- b)* in the county seat of the location of the combined presentation and sale of products;
- c)* in all county seats of the points of departure available for consumers to join to the organised tour;
- d)* at the place of the combined presentation and sale of products, during the presentation and sale of products;

by providing an opportunity for administering matters personally, in writing, over the phone and electronically, in accordance with section 17/B (3) of the Act CLV of 1997 on consumer protection (hereinafter the “Act on consumer protection”).

(2) The trader shall determine the rules of operation and service hours of the customer service, and shall ensure that the conditions of its operation make the appropriate exercise of consumer rights possible. By virtue of this obligation, the trader shall

- a)* ensure that its customer service offices defined in paragraph (1) *a)* to *c)* operate with opening hours of at least 6 hours on all workdays of the week, and for at least 36 hours per week with respect to weeks with 5 working days; moreover, they shall be open until 8 p.m. at least on one day of the week,
- b)* make it possible for consumers to make an appointment for personal administration electronically and over the phone.

Section 5/D The trader carrying out the combined presentation and sale of products shall ensure re-transport from the location of sale to the same location and under the same conditions, especially with respect to personal scope and remuneration, as the transport to the venue of the presentation and sale of the product.

Section 5/E Package travels specified by law may not be sold to consumers in form of separate components.

The operation and the opening hours of stores

Section 6 (1) The opening hours of a store shall be determined by the trader, taking shopping habits and the interests of the staff employed and the residents in the neighbourhood into account.

(1a) to (1b)

(2) The trader shall

a) notify the trade authority of the opening hours of the store in its notification concerning the establishment of the store, or in its application for an operating license; furthermore, the trader shall notify the trade authority of the changes to them within eight days preceding the changes;

b) inform shoppers of the opening hours of the store and the changes to them.

(3) On 24 December, stores may be open until 2 p.m., with the exception of catering facilities, accommodation facilities, flower and sweetshops and fuel stations, as well as stores operating in public railway and bus stations, airports and inside fuel stations.

(4) The local government (in Budapest the district local government), taking local specificities into account, may regulate in a decree

a) the opening hours of stores at night (between 10 p.m. and 6 a.m.), as well as

b) the supervisory fee adjusted to the additional tasks related to the maintenance of public safety and public hygiene in connection with the opening hours between midnight and 6 a.m. of commercial and catering establishments serving or selling alcoholic drinks on a World Heritage site.

(4a) The supervisory fee shall be determined in the local government decree at no more than HUF 20/person/day with night-time opening hours. The supervisory fee shall not exceed 0.5% of the adjusted annual business tax base of the store. In the case of catering facilities, the supervisory fee shall be based on the capacity defined in the operating licence or certificate; in the case of other stores it shall be 1 person per 3 square metres, calculated on the basis of the floor space. The supervisory fee shall be paid on a quarterly basis, by the 15th day of the following month, to the account established for this purpose by the local government with territorial competence.

(4b) The local government may only spend the supervisory fee on the additional tasks related to public safety and public hygiene, caused directly or indirectly by the stores obliged to pay the supervisory fee, which, according to the separate report of the local government, exceed the regular public safety and public hygiene-related tasks and are a result of night-time opening hours.

(5) Upon notification, or *ex officio*, and in order to ensure the right of residents to a healthy environment and rest, the trade authority may restrict the opening hours of stores at night (between 10 p.m. and 6 a.m.), if it is necessitated by the level of harmful noise, as specified in a separate Act. With the restriction, the trade authority may order a mandatory closing time until the unlawful situation ceases.

(6) In relation to commercial activities and for the purpose of advertising or attracting public attention, no audible warning device causing harmful environmental noise, as specified in a separate Act, shall be used.

(7) In catering facilities, the music, entertainment and dance shows, or other services for the entertainment of guests, shall be provided or organised in a manner which does not cause harmful environmental noise, as specified in a separate Act.

(8) The opening hours of commercial stores and catering facilities between midnight and 6 a.m. on World Heritage sites, serving or selling alcoholic drinks, shall be subject to the authorisation of the local government clerk. The local government clerk shall review the licence *ex officio* every three years. If, due to circumstances arising following the licence being granted, it may not be granted with the original content, the local government clerk shall amend or revoke it.

(9) With respect to the same venue, the licence issued pursuant to paragraph (8) may be requested not sooner than six months from the dismissal of the previous request.

(10) For commercial stores and catering facilities falling under the scope of paragraph (8) which, at the time of the entry into force of Act CXVII of 2013 amending Act CLXIV of 2005 on trade (hereinafter the “Amending Act”), possess an operating licence or certificate or an entitlement to be open between midnight and 6 a.m. and serve or sell alcoholic drinks, if the local government clerk either *ex officio* or based on the written report of the police establishes that the conditions for issuing the licence pursuant to paragraph (8) are not met, it may restrict the opening hours of the store between midnight and 6 a.m.

The general conditions of service activities for commercial purposes

Section 6/A (1) A person wishing to operate a shopping centre shall notify the trade authority of this intention.

(2) Fairs and markets, with the exception defined in paragraph (3), may be operated if in possession of a fair and market operating licence issued by the trade authority.

(3) A local farmers’ market may be operated through notification to the trade authority.

Section 6/B (1) Tour guide activities may be pursued by persons having the vocational qualification specified in a separate Act.

(2) A person who wishes to pursue tour guide activities shall notify the trade authority of this intention.

(3) In the case of an undertaking other than a natural person and pursuing tour guide activities, the person who actually carries out the tour guide activities on behalf of the undertaking shall comply with the requirements specified in paragraph (1). In this case, the undertaking shall make the notification pursuant to paragraph (1) with respect to its members and employees.

(4) Simultaneously with registration based on the notification, the trade authority shall issue an official verification card to the person carrying out tour guide activities.

Section 6/C (1) A person wishing to carry out equestrian service activities shall notify the trade authority of this intention.

(2) Apart from the person carrying out equestrian service activities, only the following shall be entitled to provide equestrian services, including the provision of riding opportunities for other people:

a) undertakings that has no tax arrears overdue for longer than sixty days and enforceable pursuant to the Act on taxation,

b) undertakings where the executive officer or employee in a senior position, or the private entrepreneur has not been the owner, member, executive officer or employee in a senior position of an undertaking which, during the year preceding the commencement of activities, was prohibited in a decision with administrative finality from providing equestrian services on the grounds of violating the provisions of law pertaining to veterinary and animal welfare conditions,

c) undertakings where at least one person employed by the undertaking as an employee or on the basis of another work-related legal relationship, or the private entrepreneur has the professional qualification specified in a separate Act.

Section 6/D Accommodation services may only be provided following the notification of the accommodation services to the trade authority.

Section 6/E (1) The entity wishing to carry out long-term accommodation service activities shall notify the trade authority of this intention.

(2) Only the following shall be entitled to perform long-term accommodation service activities:

a) undertakings where the executive officer or employee in a senior position, or the private entrepreneur has a clean criminal record and is not subject to disqualification from a profession, excluding him from performing long-term accommodation service activities,

b) undertakings where the executive officer or employee in a senior position, or the private entrepreneur has not been the owner, member, executive officer or employee in a senior position of an undertaking which, within five years preceding the commencement of activities, was prohibited from performing long-term accommodation service activities in a decision with administrative finality on the grounds of violating the provisions of law pertaining to long-term accommodation service activities, or on the grounds of pursuing such activities without a licence.

(3) The service provider having the freedom to provide services pursuant to the Act on the general rules on the commencement and pursuit of service activity shall notify the trade authority of its intention to pursue long-term accommodation service activities in the framework of providing cross-border services.

(4) The trade authority, in the framework of an administrative audit carried out during the pursuit of the activities, shall also check whether the service provider providing long-term accommodation service activities has a clean criminal record and whether he is subject to a prohibition from the profession, excluding him from the provision of long-term accommodation service activities. For the purpose of the administrative audit, the trade authority may request data from the criminal record system. The request for data may only relate to data that is relevant to assess whether the service provider providing long-term accommodation service activities has a clean criminal record and whether he is prohibited from the profession of providing long-term accommodation service activities.

(5) The trade authority shall manage the personal data pursuant to paragraph (4) pertaining to the long-term accommodation service activities during the administrative audit, or until the decision on the deletion of the long-term accommodation service activity from the register reaches administrative finality.

Section 6/F (1) The intention to carry out travel organisation or travel retail activities shall be notified to the trade authority.

(2) Only the following shall be entitled to perform travel organisation and travel retail activity:

a) undertakings where at least one person employed by the undertaking as an employee or on the basis of another work-related legal relationship, or the private entrepreneur or the person personally involved in the travel organisation and travel retail activities and employed by the private entrepreneur for an indefinite period of time, has the vocational qualification and professional experience as specified in the Government Decree on travel organisation and travel retail activities, as well as language proficiency (hereinafter “the person in charge of the activities”),

b) undertakings where the executive officer, employee in a senior position and the person in charge of the activities, or the private entrepreneur has a clean criminal record and is not subject to disqualification from a profession, excluding him from performing travel organisation and travel retail activities,

c) undertakings where the executive officer, employee in a senior position and the person in charge of the activities of the undertaking, or the private entrepreneur has not been the owner, member, executive officer or employee in a senior position of an undertaking which, within the five years preceding the commencement activities, was prohibited from performing travel organisation or travel retail activities in a decision with administrative finality on the grounds of violating the provisions of law pertaining to travel organisation or travel retail activities,

d) undertakings, with the exception of the travel retailer, possessing the financial security specified in a separate Act.

(3) The service provider having the freedom to provide services pursuant to the Act on the general rules on the commencement and pursuit of service activities shall notify the trade authorities of its intention to pursue travel organisation and travel retail activities in the context of providing cross-border services.

(4) If the combination of travel services also includes carriage of passengers, the performer of the travel organisation activity shall be required to take out insurance, in compliance with the conditions specified in the Government Decree on travel organisation and travel retail activities, with an insurance company for the benefit of the traveller.

(5) Traders facilitating linked travel arrangements shall have financial security as defined in the Government Decree on travel organisation and travel retail activities.

(6)

Trade registers

Section 6/G The trade authority shall operate a register of

- a) traders,
- b) stores with operating licences and notified stores, the opening hours of stores,
- c) notified shopping centres and local farmers' markets and authorised fairs and markets,
- d) those pursuing tour guide activities,
- e) those pursuing equestrian service activities,
- f) those providing accommodation services,
- g) those providing long-term accommodation services,
- h) notified travel organisers and travel retailers.

Section 6/H The data managed in the register shall be handed over to the Hungarian Central Statistical Office in accordance with section 28 of Act CLV of 2016 on official statistics (hereinafter the "Stt."), free of charge, on the basis of the preliminary certification of the statistical purpose and to the extent necessary, in a manner allowing for individual identification for statistical purposes, and those may be used for statistical purposes by the Hungarian Central Statistical Office. The scope of the data received and the rules on the details of handing over and receiving statistics shall be set forth in a cooperation agreement as specified in section 28 of the Stt.

Regulations pertaining to undertakings having significant market power

Section 7 (1) The abuse of significant market power against a supplier shall be prohibited.

(2) Abuse as set out in paragraph (1) means in particular

- a) unreasonable discrimination against the supplier;
- b) unreasonable limitation of access to sales opportunities for a supplier;
- c) prescribing unfair terms for the supplier resulting in risk sharing which unilaterally favours the trader, especially the disproportionate imposition of costs on the supplier,

including warehousing, advertising, marketing and other costs also serving the business interests of the trader;

d) the unreasonable subsequent amendment of contract terms to the detriment of the supplier, or the stipulation of such a possibility by the trader;

e) prescribing unreasonable conditions with respect to the business relationships to be established between the supplier and the trader or other traders, especially setting forth the application of most favourable conditions, or the retroactive enforcement of such, as well as the stipulation of the condition that, for a given period of time and in respect of a given product, a discount shall only be granted to a specific trader; furthermore, setting forth that supplier shall manufacture the product to be sold with the trademark or brand name of the trader in return for the distribution of any product of the supplier;

f) unilateral charging of various fees for the supplier, especially for being included in the trader's list of suppliers or in the product range, and for other services not requested by the supplier;

g) threatening to cancel the contract in order to force unilaterally favourable terms with respect to the conclusion of the contract;

h) unreasonably forcing suppliers to use third party suppliers or the trader's own service provider;

i) if the product is not owned by the trader, the application of a sales price determined below the invoiced transfer price stipulated in the contract, excluding the price applied in the sale of products of unsuitable quality or clearance sale prices seven days before the expiry of the time limit for quality preservation, as well as the application of an introductory price for no longer than fifteen days and the clearance sale price applied for no longer than fifteen days at the end of the season, or related to a change of type or profile, or to the final closure of the store.

(3) Significant market power against the supplier exists if the consolidated net income of the given corporate group, including the parent companies and subsidiaries as specified in Act C of 2000 on accounting and, in the case of joint purchase, the companies constituting the purchasing association, from commercial activities in the previous year (hereinafter "consolidated net income") exceed 100 billion forints.

(4) In addition to paragraph (3), the significant market power of the trader also exists if, based on the structure of the market, the existence of barriers to market entry, the market share of the undertaking, its financial power and other resources, the extent of its commercial network, the size and location of its stores, the aggregate of its commercial and other activities, the trader undertaking, corporate group or purchasing association is or will be in a unilaterally favourable negotiating position *vis-a-vis* the supplier.

(5) The undertaking falling under paragraph (3) shall establish a self-regulatory code of conduct with respect to fair market conduct shown in its relationships with suppliers, as well as establish the procedural rules to be followed in the event of its violation.

(6) The provisions of this section shall not apply to cases falling under the scope of Act XCV of 2009 on the prohibition of unfair distribution practices against suppliers of agricultural and food products.

Section 7/A (1) In accordance with Act LVII of 1996 on the prohibition of unfair and restrictive market practices, dominant position exists in the retail market for everyday consumer products, as the relevant market, if the consolidated net income of the undertaking, or of the affiliated undertakings jointly as specified in point 23 of section 4 of the Act LXXXI of 1996 on corporate tax and dividend tax, exceeds 100 billion forints in the preceding year with respect to the retail sale of everyday consumer products.

(2) For the purpose of this section, everyday consumer product means the products defined in point 18a of section 2, excluding toiletry, drugstore products, household detergents and chemical products, as well as sanitary paper products.

The participation of interest-representing organisations

Section 8 (1) The association representing commercial undertakings, suppliers and providers of tourist service activities for commercial purposes shall be a party by virtue of this Act in an administrative procedure initiated for the violation of this Act, including competition supervision proceedings, affecting a wide range of traders, suppliers or tourist service providers for commercial purposes, or causing significant disadvantages to undertakings.

(2) The party status referred to in paragraph (1) shall not affect the right of the supplier and the undertaking to enforce their claims against the infringing party.

The monitoring of commercial activities, service activities for commercial purposes and tourist service activities for commercial purposes, and the legal consequences

Section 9 (1) Compliance with the provisions of law and mandatory provisions of an authority pertaining to commercial activities, service activities for commercial purposes and tourist service activities for commercial purposes shall be monitored by the trade authority, which, with the exceptions specified in paragraphs (2) and (3); furthermore, unless otherwise provided by a law or a government decree, shall proceed if these are violated.

(2) The consumer protection authority shall proceed, in line with the provisions of the Act on consumer protection, in the event of violating the provisions set out in section 5 (2) and (4), sections 5/C to 5/E and the provisions of section 6 (2) b). For the purpose of the Act on consumer protection, these provisions shall be considered as provisions related to consumer protection.

(3) If section 7 is violated, the Hungarian Competition Authority shall proceed with the procedural rules pursuant to section 21 of Act LVII of 1996 on the prohibition of unfair and restrictive market practices (hereinafter the "Tpvt."), in a manner that in its procedures it applies the provisions applicable in the case of violating section 21 of the Tpvt.

(4) In the event of violating the provisions of law and mandatory provisions of an authority pertaining to the activities, and pursuant to the provisions set out in a separate Act, the trade authority

- a) shall order the temporary closure of the store or accommodation,
- b) shall order the immediate closure of the store or accommodation,
- c) if the activity of the trader causes harmful environmental noise as specified in a separate Act, in order to guarantee the healthy living conditions and the right of residents to rest in the vicinity of the store and in the vicinity of the commercial activities,
 - ca) shall restrict the commercial activities between 10 p.m. and 6 a.m., or shall order the mandatory closure of the store during the night,
 - cb) shall restrict or prohibit the service or activities provided in the catering facility for the entertainment of guests,
 - cc) shall restrict or prohibit the use of the audible warning device for advertising or attracting public attention,
 - d) shall prohibit activities carried out without a licence and violating the regulations and the sale of a group of products,
 - e) shall withdraw the licence, if the given activity is subject to licensing,

f) shall impose a fine, with the exception of violating the rules of sales activities conducted in public spaces, and

g) shall apply other legal consequences specified in a separate Act.

(5) No appeal shall lie against the decisions adopted by the trade authority with regard to violations of the provisions of paragraph (4) a) and c) to g).

Section 9/A

Final provisions

Section 10 (1) This Act shall enter into force on the first day of the sixth month following its promulgation.

(2)

Section 11 (1) The requirement set out in section 6 (8) as established by the Amending Act shall not apply to commercial stores and catering facilities which, at the time of the entry into force of Act CXLIII of 2012 amending the Act LIII of 1995 on the general rules of the protection of the environment and the Act CLXIV of 2005 on trade, possess an operating licence or certificate or an entitlement to be open between midnight and 6 a.m. and serve or sell alcoholic drinks.

(2) Section 6 (8) to (10) shall not apply to proceedings pending at the time of the entry into force of the Amending Act

Section 11/A The requirements set out in section 5/A shall not apply to stores selling everyday consumer products, in the case of which the trade authority, prior to the entry into force of Section 19 of Act CLXXXIII of 2013 amending certain Acts for the purpose of consumer protection,

a) registered the store,

b) issued the operating licence.

Section 11/B (1) The stores operating at the time of the entry into force of Act CXII of 2014 amending Act CLXIV of 2005 on trade for the purpose of fair market conduct in respect of the operation of undertakings, or, if not yet operating, those having exemption on 31 December 2014 in accordance with section 53/F (2) of Act LXXVIII of 1997 on the shaping and protection of the built environment and falling under the scope of section 5/B, may operate until 1 January 2018.

(2) Following 1 January 2018, should the provisions of section 5/B be violated, the trade authority shall order the immediate closure of the store falling under the scope of paragraph (1) that commits such violation.

Section 11/C Section 7/A shall apply with respect to abuses of dominant position that occurred after 1 January 2016.

Section 11/D

Section 11/E The provisions of this Act as established by Act L of 2017 amending certain Acts in respect of the entry into force of the Act on the Code of General Administrative Procedure and the Act on the Code of Administrative Court Procedure (hereinafter the "Ákr.-Kp. Amending Act") shall apply to procedures commenced or repeated after the entry into force of the Ákr.-Kp. Amending Act.

Section 11/F Monitoring procedures launched under section 9/A (3) of this Act shall terminate by virtue of this Act.

Section 12 (1) The Government shall be authorised to determine in a decree

a) the detailed conditions of pursuing commercial activities, the detailed procedural rules on the notification of these activities and the data content of the register of traders not containing any personal data, the detailed procedural rules on the administration of the register, as well as

the legal consequences to be applied in the event of not fulfilling the obligations prescribed by provisions of law or authority decisions,

b) the rules and conditions of the notification of stores and the issue of operating licences, the register of stores not containing any personal data, and the detailed procedural rules on the administration of the register, as well as the detailed conditions of the distribution of certain products in individual forms of trade, as well as the rules on applying legal consequences if obligations that are prescribed in provisions of law or authority decisions and related to commercial activities pursued in certain forms of trade, are not fulfilled,

c) the rules on the certification of the complaints book,

d) the detailed rules of holding fairs and markets, the detailed rules of operating shopping centres, markets and fairs, as well as the detailed rules of the notification of shopping centres and local farmers' markets, the issue of licences for fairs and market operations, the data content of the register of those providing service activities for commercial purposes and not containing personal data, the detailed procedural rules of administering the register, as well as the legal consequences to be applied in the event of not fulfilling the obligations prescribed by provisions of law or authority decisions,

e) the detailed conditions of long-term accommodation service activities, the data content of the notification of long-term accommodation service activities and those pursuing this activity, and not containing any personal data, and the procedural rules of the administration of the register, as well as the legal consequences to be applied in the event of not fulfilling the obligations prescribed by the provisions of law or authority decisions,

f) the detailed rules of accommodation service activities and the rules and conditions of the notification of accommodation service activities, as well as the data content of the register of accommodation not containing any personal data, the detailed procedural rules of the administration of the register, the information and data provision obligations of accommodation service providers, the order of data provision; furthermore, the legal consequences to be applied in the event of not fulfilling the obligations prescribed by the provisions of law or authority decisions,

g) the rules and conditions of the notification of travel organisation and travel retail activities, the conditions of carrying out travel organisation and travel retail activities, as well as the data content of the register of travel organisers and travel retailers not containing any personal data, and the detailed procedural rules of the administration of the register, as well as the legal consequences to be applied in the event of not fulfilling the obligations prescribed by the provisions of law or authority decisions, and the detailed rules on compulsory insurance,

h) the designation of the trade authority or the trade authorities,

i) detailed rules of the extent and establishing of the fine that may be imposed by the trade authority,

j) the conditions of carrying out commercial activities to distribute jewellery, ornaments and other objects made of precious metal, the rules and conditions of the notification of such activities, the data content of the register of those pursuing such activities not containing personal data, and the detailed procedural rules of the administration of the registry, as well as the legal consequences to be applied in the event of not fulfilling the obligations prescribed by provisions of law or authority decisions,

k) the rules of the regular technical examination of machinery and structures used in theme parks, funfairs and for similar entertainment purposes,

l) the rules of the participation of a specialist authority in the licensing procedure falling under the material competence of the local government clerk, as specified in section 6 (8), and the related professional issues.

(2) The minister responsible for commerce shall be authorised to determine in a decree
a) the vocational qualifications required for the pursuit of certain industrial and commercial activities,

b)

c)

d)

e)

f) in agreement with the minister responsible for tax policy, the amount of fees to be paid for the trade authority, falling under his control and for its procedures, including fees for legal remedies, as well as the rules of the collection, management, registration and reimbursement of such fees.

(3) The minister responsible for energy policy shall be authorised to determine in a decree

a) the conditions of distributing motor fuels and certain petroleum products in Hungary,

b) the quality requirements of motor fuels.

(4) The minister responsible for tourism shall be authorised to determine in a decree

a)

b) the detailed rules of the pursuit of tour guide activities, the data content of the notification of tour guide activities and the register of tour guides not containing any personal data and the procedural rules of the administration of the register as well as the legal consequences to be applied in the event of not fulfilling the obligations prescribed in the provisions of law or authority decisions,

c) the detailed rules of the pursuit of equestrian service activities and the data content of the notification of equestrian service activities and the register not containing any personal data and the detailed procedural rules of the administration of the register, as well as the legal consequences to be applied in the event of not fulfilling the obligations prescribed in provisions of law or authority decisions,

d) to f)

(5) The representative body of the local government (in Budapest the district local government), and in respect of the area under the direct administration of the local government of the capital, the general assembly of the Municipality of the City of Budapest shall be authorised to determine in a decree the night-time opening hours of stores (between 10 p.m. and 6 a.m.), the detailed rules of the supervisory fee, the manner of accounting for the use of collected amounts, and the monitoring of compliance with point 31 of section 2.

(6) The minister responsible for catering and hospitality shall be authorised to determine in a decree, in agreement with the minister responsible for commerce, the professional requirements for catering and hospitality.

(7) The minister responsible for industry affairs shall be authorised to determine in a decree, in agreement with the minister responsible for tax policy, the amount and the detailed rules of the collection, administration, registration and reimbursement of the procedural fee to be paid to the technical safety authority for its technical safety procedure, including fees for legal remedies.

(8)

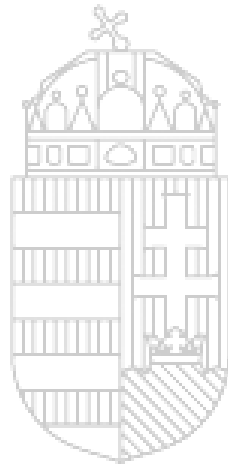
Section 13 (1) This Act serves the purpose of compliance with Articles 5 and 9 of Directive 2006/123/EC (12 December 2006) of the European Parliament and of the Council on services in the internal market.

(2) This Act contains provisions to implement Regulation (EC) No. 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC. Euratom) No. 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical

Office of the European Communities, Council Regulation (EC) No. 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities.

(3) This Act serves the purpose of compliance with Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC.

Section 14 The prior notification of the draft of sections 5/C and 5/D of this Act was performed in accordance with Articles 15 (7) and 39 (5) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.



MINISTRY OF JUSTICE
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