

Purchasing groups: further fines imposed by the GVH

The Hungarian Competition Authority (GVH) has imposed a total fine of about HUF 45 million (approx. EUR 160 thousand) on four undertakings since they pursued unfair commercial practices against consumers by means of advertisements published in the printed media in connection with purchasing groups between 1 September 2008 and 1 September 2009.

Based on the decision made by the GVH on 25 May 2010, Euro Correct Consulting Kft that was registered in 2003 is to pay a fine of HUF 9.3 million (approx. EUR 33 thousand), Group Saving Kft. that was established in 2009 with the membership of the ex chief-executive of Euro Correct HUF 8.9 million (approx. EUR 32 thousand), Group Center Kft. that was also established in 2009 by one of the members and a senior manager of Euro Correct HUF 21 million (approx. HUF 75 thousand) and New Face Média Kft. is obliged to pay a fine of HUF 5 million (approx. 18 thousand).

Between 1 September 2008 and 1 March 2009, *Euro Correct* was responsible for organising and managing purchasing groups, then between 1 March 2009 and 1 June 2009 – entrusted by Group Saving–, it went on organising purchasing groups. Since 1 March 2009 *Group Saving* has taken the membership contracts of Euro Correct and has been running the purchasing groups. Since 1 June 2009 – within the framework of an agency contract signed with Group Saving – *Group Center* has been organising purchasing groups, which includes activities in connection with recruiting clients such as advertising, informing clients, client management and contracting. Between 1 September 2008 and 1 June 2009 *New Face Média* – based on a frame contract signed with Euro Correct for managing advertisement activities – prepared the advertisements to be published in the printed media and managed the orders of Euro Correct. After 1 June 2009 – based on a frame contract concluded with Group Center Kft. for managing advertisements – it prepared the advertisements to be published in the printed media and managed the orders of Group Center Kft. Moreover it also received further bonus after each contract signed by Group Center.

Similarly to the proceedings conducted against the undertakings organising purchasing groups in the recent years, the GVH has initiated proceedings against the undertakings mentioned since they failed to provide information or did not provide unequivocal information in their advertisement targeting consumers about the essential features of the purchasing groups based on which it could have been clear for the consumers what service it was about: among others about the content of the exercise of the purchasing right and its indefinite length of time, the risk factors related to it and about the nature of the obtainable products. Influenced by the advertisements, the consumers had good reasons to believe that by entering into a contract with the organiser of the purchasing group they were going to obtain money very shortly, however it did not correspond to reality.

In its proceeding the GVH investigates among others whether the people who have come across the advertisements and information targeting mostly those people who are more defenceless than the average, typically in a very bad financial situation, excluded from the banking services of the financial institutions (those who are on the black list of banks, on the so-called BAR-list and pensioners) were aware of the essential features of the service of the purchasing group: namely that the services are financed by means of internal loan transactions within the group (from the pre-payments of the members), that fortune plays a decisive role (occasionally they chose by lot the lucky person who obtains the purchasing right in a given month) and the fact that the consumer cannot obtain the purchasing right and the product desired at the time of entering into contract, but later, maybe even years after.

In connection with the organisation, management and popularization activities of the above mentioned undertakings relating to purchasing groups, the GVH has investigated their statements published in the **printed media**, in the form of leaflets or on the websites of EuroCorrect and Group Saving. The GVH has again stated that the fact itself that the consumer – misled by the unfair practice – enters into contact with the undertaking can be objected since in the course of this practice the undertaking may persuade the consumer to make a decision which actually serves the interests of the undertaking. The advertisements published in the printed media – mostly for free or in entertaining daily papers distributed in large numbers, local magazines, next to the ads of numerous products and services, among the advertisements of the credit brokers or other financial products – and investigated in the present proceeding were without doubt able to influence consumer decision-making. This is also supported by the fact that the undertakings continuously deemed it important to advertise since the advertisements constituted the basis of the contact between the undertakings and their future clients. It is also to be highlighted that the slogans used in ads such as “also for those on the black list of the banks and for pensioners” have an attention-attracting effect by catching the attention of those defenceless consumers who constitute the main target group of the services.

In connection with the advertisements published in the printed media, the GVH has established that the consumer when reading the advertisements referring to the amount of the sum offered, duration of the contract and the monthly payments might have come to the conclusion – based on the generally accepted meaning of the expressions used – (as a result of the global effect of the advertisements) that by using the advertised service he or she can right away obtain the sum required that is to be paid back afterwards by monthly payments. Based on the advertisements, the consumers could not even guess that they would obtain the product required by lot or by undertaking to pay prepayments (that means being exposed to fortune), may be after 5-10-15 years later and that it requires the other members' prepayments (a kind of internal loan system).

However since the undertakings provided information in the **leaflets and websites** investigated by the GVH about the essential features of the real content of the service, certain specialities about the functioning of the purchasing groups, the GVH did not establish an infringement in connection with these facts mentioned.

Endeavours of the GVH to solve the problems perceived in connection with the functioning of the purchasing groups and the information provided about them

In the recent five years, the GVH has altogether conducted eleven proceedings against different undertakings that organise purchasing groups. Almost all the proceedings were closed by the establishment of the infringement and a total fine of HUF 141 million (approx.

EUR 500 thousand) has been imposed. In the course of the proceeding the GVH may not and does not assess the content of the service, but it rather investigates the content of the advertisements, statements recruiting members. In its proceedings the GVH established one by one that the practices of the undertakings organising the purchasing groups were each eligible to mislead consumers and violated the Act on the Prohibition of Unfair Commercial Practices. However in vain did the GVH establish the infringement, impose a fine and oblige the undertakings for a commitment in most of the cases; the undertakings – though modifying a bit their advertisement practices – went on pursuing them. It is not rare either that this kind of undertakings cease to operate from one day to another, and then under a new name but with the same commercial practice they go on functioning. Based on all these mentioned it is not surprising that the GVH is currently conducting investigations against five purchasing groups. In two of the cases – for the first time in its practice – the GVH by means of an interim measure in the course of the ongoing competition supervision proceeding, before its closing, prohibited the undertakings from applying advertisements with a certain content. Both the GVH and the courts in their judgements made for the review of the decisions of the GVH made clear and univocal statements in connection with the commercial communication of the undertakings organising and managing purchasing groups, they have hereby set clear requirements for the undertakings organising purchasing groups for years.

Besides the competition supervision tools mentioned above, the GVH tries to use other means as well to handle the problems perceived in connection with the purchasing groups and the communication practice of the undertakings organising them. The GVH has made its observations or recommendations in its annual parliamentary report for the lawmakers in several instances in connection with the handling of the regulatory problems and deficiencies in the functioning of the purchasing groups. The GVH had already raised its voice in 1999 that it would be necessary to regulate the functioning of the purchasing groups. Then the framing of a referring government decree got launched, however its entering into force is still pending.

The GVH believes that the other, maybe a more effective instrument in the fight against the purchasing groups is to call the attention to the possible risks of those consumers who are thinking of joining these groups because of their living conditions. In order to increase the consumer awareness desired, the GVH, the Hungarian Financial Supervisory Authority (PSZÁF) and the Hungarian Consumer Protection Authority (NFH) have published in the daily paper Metropol an information material in an unambiguous, everyday language (in the form of questions and answers, without using any legal or financial technical terms), and also an attention raising series of information, which have hopefully reached a large number of people concerned.

In case the GVH identifies in the course of its proceedings new conditions and tools – compared to those already known and objected by the GVH – the aim of which is to further persuade consumers (for instance with the help of credit brokers), it strives for attracting a more targeted attention.

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