



GAZDASÁGI
VERSENYHIVATAL

Invitel's information to attract customers capable of deceiving consumers

The Competition Council of the Hungarian Competition Authority (Gazdasági Versenyhivatal - GVH) established in its decision issued on a trial held on 20 June 2006, that Invitel Telecommunications Service Provider Plc. provided information capable of deceiving consumers during its action with the involvement of agents, the object of which was to attract customers. The information in question was about relevant aspects of how to choose service providers as about the forms of the selection of service providers providing carrier-services, the monthly fees to pay and about the legal due of consumers to terminate their contract. Invitel was fined HUF 30 million (ca. EUR 113,000) for its unlawful conduct.

The subject matter of the competition supervision proceeding of the Hungarian Competition Authority was the information of Invitel, by which Invitel tried in 2005, with the involvement of agents, to attract customers using Invitel's carrier services.

Pursuant to the regulation in force, telecommunications service providers may expand beyond the area of their fixed-line services by requesting (even if they do not have any fixed-line network) phone service providers to allow them to offer, by using against payment the phone service providers' networks, sound-services to consumers in a way, that consumers pay their monthly fees further on to their original service providers. One form of carrier-selection is carrier-preselection where the subscriber-contract generally allows the subscriber to make use of carrier services without the need for him to dial prefixes. The other form is call-by-call carrier preselection where the subscriber determine the providers of the carrier-services by dialing a four-digit prefix before each of his/her calls.

According to the Competition Act, it is prohibited to deceive consumers in economic competition. Deception of consumers is presumed, if false declarations are made or facts are declared in a manner which is likely to deceive with respect to prices or essential features of the goods, including, in particular, the composition, use, effects on health or the environment, as well as their handling, origin or place of origin, source or method of the procurement; if the designation of goods is likely to deceive, or if any other information which is likely to deceive pertaining to the essential features of the goods is disseminated. Deception is also presumed, if undertakings withhold information which may influence the decision of consumers. The meaning of terms customarily accepted in daily life or in the respective trade is to be taken as a guide when it is established whether the information provided by the undertakings is capable of deceiving consumers.

These provisions of the Competition Act protect the freedom of choice of the consumers buying goods. Therefore information, which is incapable of deceiving consumers in whatsoever way, infringes the Competition Act, if it persuades reasonable consumers to

make decisions, which they would not make should they be in possession of correct information.

Hungarian Competition Authority concluded that the information of Invitel about „no monthly fees to be paid” was capable of unfairly effecting consumers’ decisions, because it did not mention that consumers had to be in legal relations not just with Invitel, but also with the given access service provider, and consequently, they had to pay monthly fees to their respective original service providers.

The description of the two forms of carrier-selection was not clear either and qualified as such another infringement of the law which might result in consumers losing even those preferences, which they would have been given by their original service providers. Hence, against Invitel’s promise, phone-costs would be higher rather than lower.

It was also concluded, that Invitel did not notify in writing the consumers of their right to quit their contracts, which omission was also suitable to unfairly effect the decisions of consumers.

The Competition Council fined Invitel HUF 30 million (ca. EUR 113,000).