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## **UPC misleading ads fined**

**According to the GVH some ads of UPC Magyarország Telekommunikációs Kft. (UPC Hungary Telecommunications Ltd.) published in 2006 and 2007 were suitable for the deception of consumers. The communication company ensured a download speed to its Internet subscribers which was lower than promised in its ads. Furthermore, it does not inform its customers that the conclusion of a contract at the price advertised is only possible in the case of signing a loyalty rebate. UPC was fined HUF 10 million (approx. EUR 40 thousand). UPC also undertook commitments improving the awareness of consumers in connection with the Internet.**

In the summer of 2007 the GVH started to investigate whether UPC advertised its broadband Internet services in 2006 and 2007 in a deceiving way. The proceeding revealed that several ads were suitable for the deception of consumers. The ads of UPC stated that the download speed of the chello extreme package was 10240 kbits per second and that of chello professional was 20480 kbits per second. However, as it turned out from the results of measurements carried out for the GVH, since 1 March 2007 the download speed has never reached the speed promised in the ads.

Therefore, it can be established that the promises in the ads with respect to the download speed were not correct. The most essential features of an Internet service are the bandwidth and the price. This statement is also proved by the fact, that market players also highlight these two circumstances in their communication practice.

Besides the bandwidth UPC did not provide proper information on the price of the Internet service either. The undertaking did not mention in several ads that contracting at the prices advertised in 2006 and 2007 is only possible in the case of the customer's signing a loyalty rebate. Signing a loyalty rebate was also a condition of gaining the presents advertised (telephones, portable DVD player, Nintendo, etc.). According to the GVH it is to be considered as an essential feature of a service, if a loyalty rebate has to be signed in order to resort to it. It can only happen under unfavourable conditions that consumers terminate a contract concluded with a loyalty rebate prior to the deadline of the loyalty period. Thus the loyalty rebate is able to "capture" consumers for a while and it restrict consumers in switching to a rival service provider.

Pursuant to the provisions of the Competition Act it is prohibited to provide misleading information on the essential features of a product. The conduct of UPC qualifies as the deception of consumers. The undertaking has to pay a fine of HUF 10 million (approx. EUR 40 thousand). By calculating the amount of the fine the GVH took into account the costs relating to the publishing of the misleading ads. Furthermore, the number of consumers

reached by the ads and the period of the unlawful conduct was considered. It was regarded as an aggravating circumstance that the GVH had already two times found UPC guilty for the deception of consumers.

It was considered as a mitigating circumstance that during the proceeding UPC made efforts to compensate the consumers reporting errors to it. The undertaking has changed its communication practice relating to the loyalty rebate and after getting to know the position of the GVH it modified the speed set in the configuration. In the case of the chello professional service for example the speed was set at 22 mbits, thus the 20 mbits bandwidth advertised got available for consumers. Furthermore, the communication company undertook commitments in order to improve consumer awareness, which was also considered as a mitigating circumstance by defining the amount of the fine. It published a brochure titled "Kisokos" ("Crib") available on its homepage, in its own magazine and in the product manuals. UPC intends to inform children about the secure surfing on the Internet and adults about the technical parameters of the Internet. Within the scope of the "Netrekész" ("Ready for the Internet") a program organised together with the Ministry of Economy by September of this year UPC, just like the founder companies, will also publish users features and will provide consumers with manifold other information.