



Three decisions relating to hypermarket chains

In the last month the Hungarian Competition Authority (GVH) reached three decisions relating to hypermarket chains. Two proceedings were initiated against Tesco and one against Auchan. In two of these proceedings fines amounting to HUF 80 million as a total were imposed.

Misleading actions

The GVH established by its decision that Auchan Magyarország Kereskedelmi és Szolgáltató Kft. (Auchan Hungary Trade and Service Ltd.) deceived consumers since some of the products it advertised in sales campaigns were not available in some of its hypermarkets, and for some others, consumers had to pay more than indicated in the advertisements. Auchan was fined HUF 30 million for its unlawful behaviour. When determining the fine, the GVH found it as an aggravating circumstance that Auchan had already been “condemned” because of the unfair manipulation of consumer choice.

(Case: Vj-143/2006)

Tesco Globál Áruházak Zrt was fined for the same reasons. The GVH established by its decision that the retail company deceived consumers by selling products in sales campaigns at higher prices than indicated in the advertising papers between May and September 2006. Moreover, it turned out that some of the products advertised were not available at the beginning of, or during, the period of sale. For its unlawful behaviour, Tesco was fined HUF 50 million. When determining the fine, the GVH found it as an aggravating circumstance that Tesco had already been fined nine times because of the unfair manipulation of consumer choice.

(Case: Vj-145/2006)

The information given about the sales campaigns of a hypermarket (hypermarket-chain) is a factor that has a bearing on consumer choice. Moreover, this behaviour definitely has an effect on economic competition, and this effect is increased by the fact that such campaigns are capable of attracting consumers to do their shopping in that particular hypermarket, where they buy not only the products which are advertised in the campaign. The dissemination of information about sales campaigns to a wide range of consumers has a turnover increasing effect.

For a sales campaign to be considered fair the goods advertised as subjects of the campaign are required to be available in the hypermarkets from the first day indicated in the advertising paper. As a further requirement, stocks backing the campaign must not be extremely low. It is not an infringement in itself, when some of the goods advertised in the campaign are not available all through the time period of it, it may qualify, however, as an infringement if a given product is not available at all or the starting stock of it within the campaign is extremely low.

An undertaking popularizing a product in its advertising paper informs consumers about that product’s availability in its hypermarkets from the very beginning of its campaign on and

about each of its hypermarkets having a stock of the product, which is large enough to carry out a campaign. The GVH established that Auchan and Tesco performed a practice, which was capable of misleading consumers when they also advertised products, which in contrary to the information published in the advertising paper were not available at the beginning of, or even all through, the time period of their respective campaigns in some of their hypermarkets.

Proceeding terminated against Tesco

The GVH terminated the competition supervision proceeding against Tesco-Global Áruházak Zrt. (Tesco-Global Hypermarkets Co.) since the retail company altered its advertising practice. There was not enough information provided about bicycles in the advertising papers, i. e. warranty was given only on condition if bicycles were put into operation first in a professional service (indicated in the guarantee) at the buyer's charge. Tesco took commitments to inform consumers about this condition in the advertisements, at the department stores and at the service-department desk from 2 March 2007 on.

(Registration number of the case: Vj-148/2006)

Without the declaration of a prohibition, the unsatisfactory communication of information was eliminated from the market in a positive way. The GVH accepted Tesco's commitment, which resulted in altering the entire practice of communicating the information. This was extended to other types of goods. The decision about the acceptance of commitment conveys a message about what would be the optimal behaviour the undertakings are expected to display. The GVH will supervise the compliance with the commitments established by a post-investigation. If Tesco does not fulfil the commitments it will have to face legal consequences. The Competition Council of the GVH had the opinion that the effective safeguarding of public interest could be ensured by accepting this commitment.

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