

Reduction of fine of more than 60% was granted to an SME as a result of its compliance actions and cooperative efforts

The fine notices of The Hungarian Competition Authority (Gazdasági Versenyhivatal, hereinafter GVH) applicable from 1 January 2018 provide for significant reductions of the amounts of the fines imposed on undertakings which acknowledge their infringement, carry out proactive reparation or prepare a leniency programme plan. In the course of a competition supervision procedure where the GVH investigated the promotion of a food supplement known as ‘CalcioTrio’, the GVH granted the concerned undertaking a significant reduction of the fine to be imposed as a result of its acknowledgement of the infringement and compliance efforts.

In its final decision the GVH held that the statements included in the promotional campaign of CalcioTrio, which promised that the food supplement would be effectively absorbed and claimed that the product held a leading market position resulting in it being ‘the favourite product of women over 40’, were deceptive.

Due to the fact that the undertaking had infringed the applicable EU law relating to the provision of information concerning food products, the Competition Act did not enable the GVH to issue a warning to Innovelle Pharma Kft, the undertaking responsible for distributing the product. However, having regard to

- the nature of the infringing conduct;
- the fact that no previous competition supervision procedures had been launched against the distributor;
- the fact that the undertaking acknowledged its failures and immediately modified its communication;
- that it additionally took measures which demonstrated its serious, significant commitment to rectifying the infringing conduct (it modified its contracting practice, and also drew its partners’ attention to what is considered as desirable behaviour);

the GVH, in order to prevent future infringements, without imposing a fine, obliged the undertaking to create a comprehensive leniency programme and to disclose a remedial notice.

The authority also found it unlawful that it had not been indicated in any of the five articles published in ‘Patika’ magazine that the publisher had received remuneration for publishing the articles. According to the established case-law relating to advertisements cloaked as editorial content, both the advertiser and publisher are equally responsible and therefore the GVH imposed a fine on GALENUS Gyógyszerészeti Lap- és Könyvkiadó Kft., which publishes the magazine.

As a competition supervision procedure had already been initiated and concluded against the above-mentioned publisher, a warning was also unable to be issued against it. However, according to the new [fine notice](#) of the GVH, the GVH has taken into account the corrective measures of the undertaking, namely:

- the remedial notice published before the decision was taken;
- the modification of its model contracts and job description;
- the acknowledgement of the infringement;
- furthermore the commitment to work out a compliance programme

As a result the fine imposed on the undertaking was less than one third of the initial amount.

Number of the case: **VJ/64/2016.**

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Hungarian Competition Authority

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