



GAZDASÁGI
VERSENYHIVATAL

Misleading pledges by Hild

The advertisements provided by Hild Zrt. in 2008 contained several misleading statements, thus the Hungarian Competition Authority (GVH) imposed a fine of HUF 30 million (approx. EUR 106 thousand) on the undertaking.

The main profile of Hild Zrt. is sale and purchase of real estates (life annuity contracts, real estate portfolio management). The owner of Hild Zrt. is the Cyprus-based Hild Asset Ltd. Hild Kft. – also interested in the case – is mostly engaged in business and other management consulting services. It has only one member: the Cyprus-based Hild Asset Ltd. Hild Kft. is responsible for managing the marketing of the Hild Group, organises various PR events, club programmes and social services.

In Hungary there are three businesses that are interested in life annuity contracts (Hild Zrt., OTP Életjárdék Zrt., FHB Életjárdék Zrt.). The essence of one of the life annuity programmes provided by them, the so-called home reversion plan (life annuity in exchange of a real estate) is that a financially strong undertaking purchases the real estate of an elderly citizen, but does not pay the whole purchase price in one sum, but every month transfers a steady income (annuity) for the rest of the life of the seller. According to the contract the original homeowner continues to live in the real estate; though selling the proprietary rights of the estate, he/she retains the right to use and enjoy the real estate until his/her death. Besides receiving a regular monthly income (annuity), after entering into contract the homeowner gets a one-time payment of a bigger sum (lump sum) the value of which varies over time. However, the bigger the lump sum, the smaller the monthly annuity.

The other type is lifetime/reverse mortgage in which the homeowner retains ownership of the property. Upon death of the homeowner the heirs have to account to the income-provider for the earlier lump sum and/or the regular annuity provided for the homeowner. The income-provider registers a mortgage on the real estate. The debt of the homeowner is continuously increasing by various costs depending on the amount of the annuity received, the interest payments and the contract itself. The beneficiary does not have to repay the debt in his/her life. Upon death of the last beneficiary the provider agrees with the heirs.

- The heirs repay the accumulated debt and become proprietors of the estate,
- The heirs change the accumulated debt into a normal mortgage and by paying it off over time the mortgage becomes discharged from the title once the whole sum is paid back, finally they become proprietors,
- The annuity provider sells the property in accordance with the heirs, and the sum decreased by the accumulated debt is given to the heirs.

In Hungary the home reversion plan (life annuity in exchange for a real estate) is more common: all of the three providers mentioned above provide this service, while lifetime/reverse mortgage is only provided by FHB Életjárdék Zrt.

The two kinds of life annuity programmes of Hild (Hild Zrt. Örökjárdék and Családi Örökjárdék) are both considered life annuity contracts as for their content. Based on the contracts the parties agree that Hild Zrt. as annuity provider undertakes to make life annuity payments for the homeowner - in return of the latter's propriety rights over his/her real estate - until his/her death under the provisions and conditions set in the contract. The life annuity programme (Örökjárdék konstrukció) consists of two phases as for the payments (one-time lump sum and monthly annuity), the so-called family life annuity programme (Családi Örökjárdék) consists of three (a one-time lump sum, monthly annuity and the remaining sum for the heirs). In both cases, upon signing the contract, the real estate gets into the property of the annuity provider on condition that the homeowner has the legal right to stay in his/her home throughout the term of the contract.

The Mega Programme of Hild Zrt. is a real estate contract. In the Mega contract the parties agree that the seller sells and the buyer purchases the real estate in question for a determined purchase price, but the buyer may only take possession of the real estate upon death of the seller or termination of the contract. The Mega Programme consists of two parts (a lump sum and regular payments of the collective maintenance fee).

Mega programme was intensively advertised in 2008 by Hild Zrt. through Hild Kft. for a wide public by means of brochures, TV- and radio ads and press advertisements. Among others, it was included in the communication materials that following the contract the consumer can continue to live in his/her own home and the annuity provider takes over the costs of maintenance work and collective maintenance fees of the real estate. In some advertisements more than a thousand lawyers were said to have accepted the contracts of Hild Zrt. and considered them very safe.

The investigation of the GVH revealed that the above statements were not accurate. It is misleading – for instance – that the original homeowner can stay in his/her own home, since as a main feature of the Hild programme the ownership of the real estate gets into the hands of the undertaking. According to the GVH the advertisement may falsely make consumers believe that by entering into the real estate contract the seller does not have to vest his/her ownership over the real estate for the services promised.

It is also inaccurate that after signing the contract Hild Zrt. will provide maintenance work and take care of the technical conditions. It is written in the contracts that Hild Zrt. is only responsible for maintenance work that is in charge of the owner prescribed by law statutes. However, this does not cover breakdowns caused by guests, damages caused by pets, inner facing and flooring, repair work of low current electrical equipments like entry phones. It was also stated in the ads that Hild Zrt. would pay the collective maintenance fees of the real estate, but according to the annuity contract the costs of cleaning, snow sweeping or aesthetic painting are to be covered by the consumer even if they were normally part of the collective maintenance fees

In the course of the proceeding Hild Zrt. did not submit any evidence that could have proved that the advertisement slogan "more than a thousand lawyers have accepted and recommended these contracts by these days" corresponds to reality. The undertaking could not prove either that the lawyers considered these contracts very safe.

Based on all the above mentioned the GVH established that the practice of Hild Zrt. up to 31 August 2008 was likely to deceive consumers, and then it pursued unfair commercial

practices. (It is very important to make a distinction between the practices, since the Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices, the Competition Act applies for unlawful practices conducted before 1 September 2008 and the GVH has to proceed according to the Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers against infringements committed after that time). As a consequence the GVH imposed a fine of HUF 30 million (approx. EUR 106 thousand) on Hild Zrt.

When determining the fine the GVH considered as an aggravating circumstance that the undertaking advertised contracts of confidential nature for a long period of time in an unlawful way and the consumer group concerned was vulnerable as a consequence of their age; furthermore Hild has already been found guilty in a similar case. It proved to be a mitigating factor though that the consumers had the possibility to get familiar with the exact details of the programme when signing the contracts.

The GVH also conducted an investigation in order to reveal whether the advertisements promising even 50 percent or bigger one-time payments were lawful, but this investigation was closed. The GVH also investigated whether Hild Kft. was responsible in the case, but since the undertaking could not influence the wording of the advertisements, it only published them, hereby the GVH closed the proceeding against it.