

Fine imposed by the GVH on purchasing group organiser Quantum Invest

The Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH) established that Quantum Invest Zrt misled consumers by publishing deceptive advertisements in the printed media. The GVH imposed a fine of HUF 4.7 million (Approx. EUR 17 thousand), which is near to the maximum that is possible under Hungarian competition law and also prohibited the undertaking from continuing to publish the investigated advertisements with the objected content.

The GVH launched a competition supervision proceeding against Quantum Invest, active in organising and managing purchasing groups since the 16th of June 2010 because the undertaking – similarly to those undertakings which were sanctioned by the GVH in previous years due to their advertising activity – failed to provide information or did not provide unequivocal information in its advertisements targeting consumers about the essential features of the purchasing groups. The advertisements failed to mention that a given service is financed by means of internal loan transactions (from the prepayments of the members), that fortune plays a decisive role (it is by lot or/and based on the prepayments that they choose the lucky member who obtains the purchasing right in a given month) and the fact that the consumer cannot obtain the purchasing right and thus the product desired at the time of entering into contract (this occurs later, maybe even years later).

Among others, the GVH investigated whether those indigent people who are in a difficult financial situation, who are not creditworthy in the eyes of banks (for instance those blacklisted, the so-called BAR-list, pensioners, or even those who are self employed and registered as low income earners) might have been aware of the essential features of the purchasing groups, based on the advertisements and the information targeting them.

After evaluating the advertisements published in newspapers with high sales like Blikk, Metropol, Bors and Nemzeti Sport, the GVH came to the conclusion that the advertisements about the amount offered, the determined time period and the monthly repayments of this service could have conveyed to the consumers the message that after concluding a contract they would be able to obtain the desired product immediately, which they would have to repay for in monthly instalments.

It is important to emphasise that the circumstance itself that due to the unfair manipulation the consumers contacted the undertaking, can be regarded as objectionable because during the consultation the undertaking would have had an opportunity to “convince” and “persuade” the consumers to conclude a contract that is only beneficial to the undertaking. According to the GVH, advertisements published in leaflets and newspapers were eligible to manipulate consumers’ choice. This is also supported by the fact that Quantum Invest continuously

deemed it important to advertise since the advertisements constituted the basis of the contact between the undertaking and its future clients.

In recent years several decisions of the GVH and the courts have concerned the advertising activity of purchasing groups. All of them have stressed that the advertisements in connection with the purchasing groups have to cover the essential and unique features of the special purchasing relationship, since an advertisement meets the requirements of being trustworthy and accurate information only if the unique feature of the system can be perceived. When publishing the advertisements, the undertakings have to emphasise that the service is based on prepayments and also the fact that the consumers' need is only satisfied in the future, not at a pre-determined time. Thus, it is considered to be an infringement if advertisements do not refer to the "fortune feature", and the fact that it could take a lot of years (possibly 15 years) to actually obtain the product. It also violates the law if based on the everyday meaning of the expressions, the advertised service can be regarded as identical with a service differing in its essential features, namely the credit providing.

Besides the competition supervision tools mentioned above, the GVH also tries to use other means to handle perceived problems in connection with the purchasing groups and the communication practice of the undertakings organising them. The GVH has made its observations or recommendations in its annual parliamentary report for the lawmakers in several instances in connection with the handling of the regulatory problems and deficiencies in the functioning of the purchasing groups.

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