

The GVH impels small and medium sized enterprises towards law-abiding behaviour by issuing warnings for the first time

The Gazdasági Versenyhivatal (GVH – the Hungarian Competition Authority) made decisions in two cases, one related to a medicine and one concerning the advertisement of a food supplement. In these two cases the GVH warned, for the first time, the small and medium sized enterprises involved in the proceedings.

According to a recent amendment of the Competition Act, the GVH may issue **warnings** to steer small and medium enterprises (SMEs) – which constitute the backbone of the Hungarian economy – in the direction of compliance with competition law. This sanction may only be used when an SME commits an infringement for the first time, and only if the infringement has not been committed in a public procurement cartel, in violation of European Union law or at the expense of vulnerable consumers.

In one of the concerned cases, the case of Aramis Pharma Kft., the GVH established that the undertaking had unlawfully advertised its Fluimucil product family as the non-prescription medicines were not presented based on the Summary of Product Characteristics.

In its second decision, which involved Kőrös-Net Szolgáltató és Kereskedő Kft., the GVH also established that the undertaking had committed an infringement by making unsubstantiated claims and claims not in line with the provisions of advertising set in the sectoral rules in relation to its distributed food products.

Within the framework of the warning, the GVH also obliged each undertaking to adopt a competition law compliance mechanism which is able to prevent infringements in the future (compliance programme). Each undertaking shall record the compliance programme in its internal procedures, and shall ensure that its future advertisements are checked before their publication by an internal colleague who has the adequate competence and an external independent expert (for example a lawyer or law firm, a consultancy firm or an independent non-governmental organisation possessing the necessary expertise) to ensure that its campaign is in line with the provisions of fair trade practices.

The warned undertakings shall report to the Competition Authority on the implementation of their compliance programmes. In the event of not doing so, the GVH shall immediately initiate enforcement, and may also impose an enforcement fine.

Case numbers:

- **Vj/97/2015** – Aramis Pharma Kft.
- **Vj/130/2015** – Kőrös-Net Szolgáltató és Kereskedő Kft.

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Hungarian Competition Authority

Further information for press:

dr. Andrea BASA
Spokesperson
Alkotmány u. 5., H-1054 Budapest,
Tel: +36 1 4728902
Mobile: +36 30 6186618
Email: basa.andrea@gvh.hu;
press@gvh.hu
<http://www.gvh.hu>

Further information:

Customer Service, GVH
Tel: +36 1 4728851
Email: ugyfelszolgalat@gvh.hu
<http://www.gvh.hu>