



GAZDASÁGI  
VERSENYHIVATAL

## Food products cannot cure

**Some information relating to the curative effects of teas and mixtures of teas given by Oriental Herbs Kft. as distributor between 2005-2007 were eligible for deceiving consumers – established the Hungarian Competition Authority (GVH). The undertaking has to pay a fine of HUF 7 million (approx. EUR 26 200).**

Based on the investigation of the GVH launched in June 2007, in the course of popularizing its products, Oriental Herbs claimed that they were able to preserve and restore health, and had a curative effect. The National Institute of Pharmacy (Országos Gyógyszerészeti Intézet, hereinafter OGYI) upholds the standpoint of the GVH: “Although OGYI does not have any documents concerning the exact compound, effectiveness, safeness of the tea mixtures, it can be stated even in lack of these documents, that based on the statements relating to their effects these products would belong to the category of medicinal products.”

The overall message of the statements made in the advertisements of the different compounds and mixtures of teas concerned in the proceeding is that by buying the products, consumers may favourably influence their indisposition, restore physical malfunctions, and certain products are able to treat diseases. Nevertheless, the products of Oriental Herbs were put into circulation as food products.

The GVH has to analyse in the course of the competition supervision proceeding whether the statements appearing in different information sources provided for consumers are misleading with respect to curative effects or positive physiological effects. The GVH is not required to repeat the tests carried out by different authorising agencies or to collect experimental evidence instead of them in order to find out about the curative- and physiological effects, as essential features of a certain product. An infringement of the competition law provisions can be established – without testing the actual effects of the product in question - in case the information contains statements relating to health, the reduced risks of illnesses, curative effect or positive physiological effects, however the product in question has never gone through the obligatory authorisation and notification processes, and the information concealed this fact.

The products investigated in the present proceeding cannot be deemed as medicinal products or a therapeutic preparations not classified as medicinal products either, because they have not gone through any appropriate authorization or registration procedures. Therefore, attributing curative effects to the products in question or claiming that they reduce the risks of illnesses is unlawful.

Based on all the above mentioned, the advertisements of Oriental Herbs were eligible for deceiving consumers, thus the undertaking has to pay HUF 7 million (approx. EUR 26 200). When determining the amount of the fine, the GVH considered as aggravating circumstances that the advertisements concerned by the infringement popularized products of confidential nature, the consumer group concerned is highly vulnerable and the deceiving advertisements were available for many years and reached a wide range of consumers. It proved to be a mitigating circumstance that when being informed about the objection of the GVH, the undertaking removed the deceiving advertisements from its webpage.