

The GVH stepped up against the restriction of the online distribution of contact lenses and care products

The Hungarian Competition Authority (GVH) established in its decision that by creating and operating a rebate system to the detriment of the online retailers of CIBA contact lenses and care products the Hungarian Branch of Alcon Services AG (formerly: CIBA Services AG) (hereinafter: CIBA/Alcon) and Alcon Hungária Gyógyszerkereskedelmi Kft. had restricted competition. The GVH obliged the Hungarian Branch of Alcon Services AG to pay a fine of HUF 51,356,000 (EUR 165,670), and Alcon Hungária Gyógyszerkereskedelmi Kft. (Alcon Hungária) to pay a fine of HUF 52,343,000 (EUR 168,850) for the infringement. By setting a 60 day time limit the GVH prohibited the continued operation of the rebate system containing unlawful conditions.

The GVH is paying greater attention to maintaining the unrestricted competition conditions of webshops due to the increasing significance of online trading (this is shown for example by the sector inquiry initiated by the GVH relating to online hotel booking). The GVH – in harmony with the practice of the competition authorities of the European Union – considers it as a black-listed competition restriction which cannot be exempted if a manufacturer prohibits a distributor in any way (explicitly or by creating less favourable conditions than for offline sales) from selling products online.

The GVH established that in autumn 2012, CIBA/Alcon changed its business policy on the basis of which it applied different contractual terms in respect of undertakings which were considered by it to be online traders in comparison to traditional retailers, i.e. optical shops. The new rebate system for online traders is less favourable, more austere and difficult to meet than the rebate system for traditional traders and is disadvantageous for online traders in terms of competition on the market. The GVH rejected the argument put forward by the undertakings that the online trading of contact lenses should be restricted for health reasons and confirmed that it is not for the manufacturer to ensure that third parties (distributors) comply with the sector specific legal regulations.