



GAZDASÁGI
VERSENYHIVATAL

Fiercer fight against the purchasing groups

The Hungarian Competition Authority has decided to conduct a fiercer fight against the undertakings organising purchasing groups.

The Hungarian Competition Authority (hereinafter GVH) has decided to conduct a fiercer fight concerning the communication practice of the undertakings organising purchasing groups. In the course of the competition supervision proceedings (even before their termination), the GVH has prohibited two undertakings via interim measures from applying advertisements with certain determined content. That means that even in the course of the competition supervision proceedings, before the respective decisions of the GVH establishing possible infringements, both SWISS INVEST 2009 Hungary Kft. and EUROMOBILIEN Hungary Kft. have to ensure that no advertisements will appear with a content prohibited by the GVH in its resolutions ordering interim measures.

In case the parties under investigation fail to meet their obligation, they may expect the GVH to order their enforcement and to impose enforcement fines.

Similarly to the proceedings conducted against the undertakings organising purchasing groups in the recent years, the GVH has initiated proceedings against the two undertakings mentioned since they failed to provide information or did not provide unequivocal information in their advertisements targeting consumers about the essential feature of the purchasing groups based on which it would be clear for the consumers what service it is about: i.e. about the content of the exercise of the purchasing right and its indefinite length of time, the risk factors related to it and about the nature of the obtainable products. Influenced by the advertisements, the consumers have good reasons to believe that by entering into a contract with the organiser of the purchasing group they are going to obtain money very soon, however it does not correspond to reality.

In its proceeding the GVH investigates among others whether those people who have come across the advertisements and information targeting mostly those people who are more defenceless than the average, typically in a very bad financial situation, excluded from the banking services of the financial institutions (those who are on the black list of banks, on the so-called BAR-list and pensioners) were aware of the essential features of the services of the purchasing group: that the services are financed by means of internal loan transactions within the group (from the pre-payments of the members), that fortune plays a decisive role (occasionally they chose by lot the lucky person who obtains the purchasing right in a given month) and the fact that the consumer cannot obtain the purchasing right and the product desired at the time of entering into contract, but later, maybe years after.

In the two proceedings mentioned, the Competition Council of the GVH has determined that the three conditions for ordering the interim measure are met: that is the practice concerned

a) violates the provisions of the Competition Act b) infringes the legal or economic interests of the parties concerned, and c) prohibiting its further continuation, ordering the elimination of the unlawful situation prove to be urgently necessary and practical for the protection of the legal or economic interests of the parties concerned.

The practice infringing the provisions of the Competition Act

The GVH has not simply substantiated the ordering of the interim measure on alleged facts, but based on the data provided by the parties under investigation, indirect information obtained by the GVH and other facts gathered from similar proceedings.

In the present phase of the proceeding, the Competition Council has deemed the statement of the facts firm and clear in order to be able to decide about the ordering of the interim measure, since it is aware of the content of the advertisements published in the printed media by the parties under investigation and adjudged in the course of earlier proceedings conducted against the undertakings organising and running purchasing groups, and also of the consequent practice of the judges and the Competition Council.

Based on the previous decisions of the GVH and the court, the undertakings organising the purchasing groups must be aware of the facts that a) the advertisements in connection with the purchasing groups have to cover the essential and unique features of the special purchasing relationship b) they have to publish the attractive advertisements while emphasizing that the service is based on prepayments and also the fact that the consumers' need is only satisfied in the future, not in a pre-determined time c) it violates the law if the service-providing activity featuring in the advertisements is identified – based on the everyday meaning of the expressions – with a service differing in its essential features, namely the credit providing.

The advertisements published in the printed media and under investigation were prepared without considering these requirements mentioned.

Harm to the consumers' interest

Advertisements that are capable of misleading consumers and published in high sales in nation-wide daily papers worsen the possibility of consumers to make decisions on transactions based on correct information. The high proportion of consumers excluded from the purchasing groups or cancelling the contracts confirm this latter fact and also refer to the problematic situation around the whole information-providing process.

Prohibition of further continuation of this practice is urgently necessary and practical

Advertisements that are published in the printed media and continuously appearing as part of an intensive communication practice and that are presumably able to mislead consumers have an important role in the commercial practice of the undertakings under investigation. These pieces of information allegedly infringe the interest of consumers who enter into a long-term (even 15-year-long) contract.

In the recent five years, the GVH has altogether conducted ten proceedings against different undertakings that organise purchasing groups, almost all the proceedings were closed by the establishment of the infringement and the imposition of the fine. In the course of the proceeding the GVH may not and does not assess the content of the service, but it even more investigates the content of the advertisements, statements recruiting members. In its proceedings the GVH established one by one that the practices of the undertakings organising the purchasing groups were each eligible to mislead consumers and violated the Act on the Prohibition of Unfair Commercial Practices. However in vain did the GVH establish

the infringement, impose a fine and oblige the undertakings for a commitment in most of the cases; the undertakings – though modifying a bit their advertisement practices – went on pursuing them. It is not rare either that this kind of undertakings cease to operate from one day to another, and then under a new name but with the same commercial practice they go on functioning. Based on all these mentioned it is not surprising that the GVH is currently conducting investigations against five purchasing groups.

Case number: **Vj-13/2010, Vj-18/2010**

Budapest, 29 April 2010

Hungarian Competition Authority
Communication Team

Further information:

Jozsef SARAI

Hungarian Competition Authority

Address: 1054 Budapest, V., Alkotmány u.5.

Postal address: 1245 Budapest, 5. POB. 1036

Tel: +36-1-472-8933

email: press@gvh.hu

<http://www.gvh.hu>