



GAZDASÁGI
VERSENYHIVATAL

Tesco fined HUF 100 million

The GVH established that Tesco Global Stores Co. Ltd. deceived consumers by the advertising of one of its discount campaigns last year. A fine of HUF 100 million was imposed on the store chain.

Tesco made a discount campaign between 19 January and 1 February in 2007. It advertised the discount in its promotion catalogue. The investigation of the GVH found, however, that:

- the 512 MB MP3/WMA player and the Kodak Easyshare C533 digital camera advertised in the promotion catalogue were not purchasable in some of its stores at the beginning of the promotion period;
- as parts of the final sale of clothes some products advertised in the promotion catalogue as top sales, were not available at all at the beginning of the promotion period and on the whole, Tesco had an unrealistic low starting stock for the campaign; furthermore, one of the articles of clothing was available at a higher price in the stores that which was advertised.

A 100 million forint (approximately EUR 380 000) fine was imposed on Tesco for the deception of consumers. In calculating the fine, the GVH considered as an aggravating circumstance, that the store chain committed several similar infringements in the last five years. At the same time, the fact, that Tesco took serious measures in order to eliminate the infringement, was considered as a mitigating circumstance.

Competition law does not prohibit discount campaigns and the advertising of them. Nevertheless, with respect of the discount campaign and the promotion catalogue informing about that campaign it is required, that consumers get exact information about the essence of the discount, the potential conditions of taking part in the discount action, the products involved in the campaign or advertised in the promotion catalogue.

According to GVH, it is not justifiable, that a certain product is not available during the period of the promotion in a given store. The shortage of supply cannot be deemed lawful either, if a certain product is not available in certain stores at the beginning of the period of the discount. It is predictable, that consumers – motivated by the phrase "while stocks last" – time their shopping for the beginning of the period of the promotion counting with the possibility of getting the sale product later at a higher price than advertised or getting it not at all.

Reason for an exhaustion of the stocks during the discount period can also be, that a certain store has not collected a sufficiently large stock for the promotion. The GVH considers the keeping of an unrealistic, not sufficiently large starting stock as a deceptive practice of the

undertaking, with regard to the conditions of the advertised discount, since it offers its sale products “while stocks last”, without being prepared for the prospective consumption. It is not questioned that in case of different products different quantities of stocks can be reasonable, but in extreme cases – where only a few products are available - not sufficiently large stocks may qualify as an infringement. The GVH considered practices, through which undertakings did not sell certain products under the favourable conditions advertised in the promotion catalogue, a deceptive practice with respect to essential features of the goods or a practice deceiving consumers by creating the false impression of especially advantageous purchase. Hence, if the undertaking does not sell the product at the price that has been advertised in the promotion catalogue, or with the advertised reduction compared to the former price, that is deemed to be a deception of consumers.