



GAZDASÁGI  
VERSENYHIVATAL

## **KIK is not Nr.1 in prices**

**The Hungarian Competition Authority (hereinafter the GVH) has imposed a fine of HUF 1 million (approx. EUR 3700) on KIK who failed to prove his allegations claiming that he was number one in prices on the market.**

Due to the perception that KIK had been promoting itself in leaflets with the slogan “Number one in prices\*” and also with the slogan “They all buy here at the Number one\*” the GVH has launched an investigation. Additionally, the following allegation appeared under the sign \* in the leaflets concerning the period from 25 February 2009: “According to TNS Infratest led by KIK in December 2007, KIK was chosen by 76% of the consumers in Germany and 85% of the consumers in Austria”. Furthermore, the following allegation appeared in the leaflets concerning the period from 4 March 2009: “According to the TNS Infratest led by KIK in December 2008, KIK was chosen by 80,5% of the consumers in Germany and 83% of the consumers in Austria”.

KIK Textile- and Non-Food Ltd. is interested in retail trade of textile and manufactured goods. It is controlled by KIK Textilien und Non-Food GmbH that possesses a widespread network of stores in many European countries. After its entry to the market in 2008, it opened a huge number of stores in Hungary; their number reached 32 in September 2009. Between the period of 25 February 2009 and 2 June 2009, usually in every two weeks, KIK promoted its products and stores in its own leaflets and in flyers and in the case of opening new stores in newspaper advertisements too. Its own leaflets were distributed in hundred thousands of copies in the surroundings of the stores.

According to the GVH, the allegation “Number one in prices\* in Hungary too” can be interpreted in multiple ways. On the one hand, it conveys primarily the message that the products of KIK being number one in prices in Austria and Germany are now available to Hungarian consumers too. On the other hand, the allegation can also indicate that KIK is number one in prices in Hungary too. This latter information was directly indicated in the flyers and in the newspapers too. Considering the fact that the information appeared in papers targeting Hungarian consumers, an average Hungarian consumer could obviously have come to the conclusion that KIK’s prices are the lowest in Hungary.

The burden of proof that the information is real and reasonable is on the undertaking. KIK failed to prove that. The party to the case under investigation didn’t supply satisfactory evidences in order to certify that its prices were the lowest in Hungary.

According to the GVH, the content of the (supplementary) information written in minuscule cannot be considered as adequate to specify or modify KIK’s primary message. The survey that was referred but not proved by KIK is not capable of certifying the challenged

allegations. Applied prices and leading position are facts that can be unequivocally established in comparison with the other competitors' products and prices.

Regarding the unproved allegations announced in the leaflets the party to the case pursued unfair commercial practices, because its false allegations were eligible to mislead the consumers concerning the prices of KIK's products. KIK hereby compelled the consumers to come to a decision the consumers would have not come to otherwise. Therefore, the GVH has imposed a fine of HUF 1 million (approx. EUR 3700) on KIK. During the determination of the amount of the fine the GVH has regarded as mitigating factors that the unfair information only reached a limited number of consumers through a limited type of media, the achieved benefit is probably not significant, and KIK does not have a considerably high market share.