

The GVH's first case concerning an influencer is closed by the acceptance of commitments

The Hungarian Competition Authority (GVH) has accepted the commitments offered by GoldenEye Kreatív Kft and Magyar Telekom Nyrt. (Telekom), according to which the communication practice of the influencer, and the contracting practice relating to marketing cooperation with influencers have changed. Additionally, the commitments also include communication activities with educational purposes. The GVH did not establish an infringement in the case and therefore did not impose a fine. According the GVH, beside the targeted circle of consumers, the commitments are also capable of reaching and guiding advertisers, business partners, and other influencers.

The GVH investigated whether the contents and posts which had been appearing on the [Facebook page of Kasza Tibor](#) from the 1st of August 2016 promoting Telekom products, services, and the brand in general, could be regarded as unfair commercial practices, given the fact that Telekom paid for these contents. However, in the case of certain posts it was presumed that this fact was not obvious to the consumers reading the posts.

As regards to promotion through the use of influencers on social media, in general the GVH established that

- consumers widely follow popular well-known persons, influencers, bloggers, vloggers, youtubers etc. on social media for the purposes of entertainment and obtaining information;
- the business practices carried by the contribution of influencers and also the order and support of those are becoming increasingly popular among market participants and advertisers;
- it cannot be qualified as an independent opinion or neutral content if the publisher of the post has an economic interest in the publication, irrespective of whether this interest is a paid sum, framework contract, gift product or service, dividend, premium or any other form of income etc.;
- given that social media posts take many different styles/forms, contain different contents, and may be paid or supported in a variety of different manners, non-independent contents often appear in such a way that there is no, or no obvious reference to the fact that they are of a commercial nature.

The GVH was of the opinion that while a number of competition supervision procedures could be launched on different markets, that given its stance in these types of cases, the public interest could be protected more efficiently – at least in the short term – through the acceptance of commitments which would provide guidance for different market participants. The GVH also took into account international

recommendations and guidance, but also taking into account differences relating to language and consumer habits, it found that the fact of the accepted commitments could act as an efficient and effective warning for the market participants.

The undertakings also have to follow *mutatis mutandis* the advertising and other regulations and prescriptions of the used platform, which – according to the currently available information – are not contrary with the expectations formulated by the GVH; however, these regulations serve not only consumers but also the rational economic interests of the given platform.

Although with regard to the commitments the GVH did not qualify the posts investigated in the given case, a paid content which appears among the posts of an individual (regardless as to whether this person is a public figure, influencer, underage youtuber, blogger, vlogger) can be considered as lawful if

- it appears simply, unequivocally, in an understandable way, furthermore
- it is clearly pointed out to consumers that it is not an independent neutral opinion or recommendation as there is a reward or other direct economic interest behind it. This includes such cases where
 - o the maintainer of the page receives some kind of benefit, present or service for the post, in return for the recommendation, or where
 - o someone promotes his/her own undertaking or the product of his/her own undertaking (but this relation is not evident from the commercial practice and it is also not well known).

Moreover, it is important to note that in cases where there is no obvious sign that the posts of influencers and other private person with a significant number of followers contain a promotion, not only the editor of the given page may be held responsible, but also the advertiser and the undertaking which contributes to the publishing and formation of the post.

Case number: **Vj/110/2016.**

In connection with the present case, the GVH has published a guideline entitled #GVH#Megfeleles#Velemenyevezer, which is available [here](#) on its website.

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Hungarian Competition Authority

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