



Apple was fined for withholding significant information

The Gazdasági Versenyhivatal (GVH – the Hungarian Competition Authority) deemed it unlawful that Apple Inc. (Apple) did not inform customers about certain significant features of its Wi-Fi-Assistant service. As a result of the ‘Wi-Fi-Assistant’ function, mobile phones automatically connected to mobile Internet networks when the Wi-Fi signal was weak, which resulted in an increase of mobile data traffic and the appearance of additional costs. The GVH imposed a fine of HUF 100 million for the infringement and it also prohibited Apple from the continuation of its unlawful behaviour.

The GVH investigated Apple’s consumer information that appeared from 2015 in connection with the ‘Wi-Fi-Assistant’ when iOS 9 was installed or updated on phones, and the same information in relation to online platforms.

The undertaking introduced, as a default setting, the iOS operating system’s new ‘Wi-Fi-Assistant’ function, which automatically became active when downloading the operating system or updating to it. The main feature of this function is that the device – in order to improve user experience – automatically switches to a mobile data network when the Wi-Fi signal is weak or not sufficiently strong; when previously it only switched to a mobile network – without the direct action of the user – when it did not find a Wi-Fi signal at all. The option for turning off the ‘Wi-Fi-Assistant’ function has to be found by the users, i.e. it requires active action on their part.

The GVH established that Apple had pursued an unfair commercial practice, as it did not sufficiently bring the automatic activation of the ‘Wi-Fi-Assistant’ feature to the attention of consumers when they were installing the operating system or updating to the operating system, despite the fact that taking into account the properties of the platform this would not have been cumbersome. This might have resulted in unexpected excess mobile traffic and consumers unexpectedly exceeding their monthly data quotas prematurely, thereby causing their services to be slowed down or requiring the purchase of additional data in order to allow them to retain their former usage habits.

According to the GVH, the ‘Wi-Fi-Assistant’ constitutes a function of the operation systems of Apple devices (and of Apple devices). Consumers do not have prior knowledge and experience of this 'by default' function, and this might have an unfavourable effect on user-experience (relating to the general positive impression and advantages expected from the trademark). There might have been an expectation that Apple would inform its consumers about the function and its characteristics directly when the operation system was put into practice and updated.

The GVH calculated the fine taking into consideration all of the aspects of the case, in particular the gravity and duration of the infringement, the gains obtained as a result of the infringement, and the market position of the infringer; furthermore, the imputability, the cooperative behaviour of the infringer, recidivism, and the frequency of the violation were also taken into account.

The GVH concluded that Apple must provide information to its consumers, in a manner that is unequivocally clear, that due to certain features of the ‘WiFi-Assistant’ they might be exposed to unforeseen data traffic and even to extra costs. Apple has to inform its consumers about all this information when Apple devices are put into operation, when iOS updates are being made, or when issuing any kind of online information connected to the ‘WiFi-Assistant’ service.

Case number: **Vj/32/2016.**

Budapest, 18 April 2018.

Hungarian Competition Authority

Information for the press

Andrea BASA, Spokesperson
H-1054 Budapest, Alkotmány u. 5.
Tel.: (+36-1) 472-8902
Fax: (+36-1) 472-8898
Mobile: +3630 618-6618
Email: basa.andrea@gvh.hu
sajto@gvh.hu
<http://www.gvh.hu>

Further information:

GVH Customer Service
Tel: (+36-1) 472-8851
Email: ugyfelszolgalat@gvh.hu
<http://www.gvh.hu>