



GAZDASÁGI
VERSENYHIVATAL

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**OTP fined HUF 10 million for
unfair manipulation of consumer choice**

The Competition Council of the Hungarian Competition Authority (Gazdasági Versenyhivatal, hereinafter GVH) established in its decision today that the advertisements of the Hungarian Savings Bank (Országos Takarékpénztár, hereinafter OTP) fell under the provisions of the Hungarian Competition Act prohibiting the unfair manipulation of consumer choice. The Competition Council imposed a fine of HUF 10 million (ca. EUR 40.000) on OTP.

In the course of competing with other banks for the placing of loans, the OTP decided to offer preferential terms in respect of the loans it granted between 15 April and 15 May 2005. The action was linked with a wide advertisement campaign. To this end, the service was advertised in 9 dailies and weeklies disseminated countrywide, further by 15 national and regional radio stations.

The radio advertisement was as follows: "You get your money before drinking your coffee! You may get the OTP loan as fast as in 30 minutes! We give you HUF 400.000 on HUF 9.421 per month repayments. Moreover, in case of disbursement to an OTP current account, you will be released from the payment of the 1% commission attached to the disbursement during the validity of the special offer. Don't wait any longer!"

As it has been pointed out in several financial analysis, the primary risk of loans granted by financial institutions is the pass-through of interest rate and exchange rate risks by banks and financial enterprises onto the consumer, since households have no natural coverage for the interest rate and exchange rate risks borne by them. If the debtor maximises his credit decision on the basis of interest and exchange rate levels prevailing at the time of granting the credit, a rise in the repayment annuity due to unfavourable changes on the financial markets could lead to delays in repayment or even insolvency. This leads to the conclusion that upon considering the offers on the market it is of fundamental importance for the consumer to decide whether he or she is willing to run the risks associated with this credit product.

The Competition Council based its assessment of OTP's conduct on the provisions of the Act on Business Advertising Activity and of the Competition Act. According to the Act on Business Advertising Activity, the information conveyed in the advertisement, which pertains to the general characteristics of the goods, to the price of the goods or to the pricing method, and to other contractual terms and conditions of purchase, and to the disposition of the advertiser, such as its characteristics, the rights, wealth and/or endowments of or the awards received by, the advertiser must be taken into consideration when qualifying an advertisement as misleading. In the case of misleading advertising, the establishment of the infringement – based on the Act on Business Advertising Activity – partially belongs to the

competence of the GVH, whereas the proceedings in the case are solely governed by the provisions of the Competition Act.

According to the provisions of the Competition Act it must be prohibited to deceive consumers by making false declarations or declare facts in a manner, which is likely to deceive with respect to prices or essential features of the goods. Furthermore, deception of consumers shall be presumed if the designation of goods is likely to deceive, or if any other information, which is likely to deceive pertaining to the essential features of the goods is disseminated. The meaning of terms customarily accepted in daily life or in the respective trade must be taken as a guide when establishing whether the information is likely to deceive consumers.

In the course of the proceedings, the Competition Council had to establish whether the OTP had provided appropriate market information for the consumers so as to enable them to arrive at a valid product choice. According to the Competition Council, such kind of information was not provided in the marketing campaign, neither by its elements nor in general. The radio broadcast advertisement did not make mention of the CHF denominated loan and the repayment annuity, at the same time did communicate the conditions of transfer to current account. This gave the false impression that during the period of the rebate, the conditions of the HUF or EUR denominated credits are the same as those of the CHF denominated one. Although the press advertisement contained the information that the propagated personal credit is CHF denominated, the attachment of the 1% rebate typically remained covert for the consumers (not to mention the conditions of transfer to the current account). In turn, this gave the false impression that the 1% comes with every contract agreed upon within the rebate period, regardless the denomination of the credits.

Considering the above, the Competition Council established that OTP's conduct was suitable to unfairly manipulate consumer choice, and hence to infringe the Competition Act. The Competition Council imposed a fine of HUF 10 million (appr. EUR 40.000) on OTP.

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