



GAZDASÁGI
VERSENYHIVATAL

Store chains deceiving consumers

The GVH imposed a total fine of HUF 80 million (approx. EUR 320 thousand) on three hypermarket chains. Auchan, Cora and Metro deceived consumers by advertising articles in their promotion catalogue, which were available in the stores either at a higher price than advertised or not at all. A further proceeding was initiated against Cora in connection with another case, but it was finally terminated by the competition authority. The hypermarket chain accepted commitments suggested by the GVH, that are eligible to repair the injury caused to consumers.

Metro deceived consumers several times in December 2006 by its promotion catalogue, leaflets and website. On the one hand, it advertised articles that were not available in certain stores at the beginning of the promotion period or for which the starting stock was not large enough. On the other hand, it advertised some articles as price-reduced, although their original price was the same as advertised or even lower. In addition to that, in case of the outdoor mini lightweb, the original price indicated was actually higher than the real original price just before the discount campaign. Therefore, Metro was fined HUF 35 million (approx. EUR 140 thousand).

Case number: Vj-67/2007.

The information on certain articles provided by Auchan in November-December 2006 and January 2007 was suitable for the deceiving of consumers. The GVH discovered that 26,8% of the products examined of the sample chosen were not available in certain stores and in the case of 12% of them the starting stock ran out quickly. 24% of the products concerned were not on-hand for a longer period, however Auchan stopped the gap by replacements. 16,6% of the articles examined were not available at the beginning of the discount campaign. The starting stock ran out quickly related to 12% of the products, however the stock was replenished later. Concerning the rest of the examined articles, an exhaustion of the stocks was discovered in some cases for a while, although not at the beginning of the discount period. Auchan was fined HUF 30 million (approx. EUR 120 thousand) for the misleading ads.

Case number: Vj-46/2007

The Magyar Hypermarket Kft. operating the Cora stores was fined for a practice similar to that of its competitors, which was performed in January and February 2007. Either the

articles advertised in its promotion catalogue were not available in the stores of the undertaking, or the starting stock was unrealistic. Some of the advertised products were available at a price different from the advertised one. The undertaking was fined HUF 15 million (approx. EUR 60 thousand) for misleading consumers.

Case number: Vj-72/2007

Another competition supervision proceeding was initiated against Magyar Hypermarket Kft. suspecting another deception of consumers. Between January 2006 and March 2007 the hypermarket chain did not inform consumers in its ads, that there was an extra condition of warranty in the case of bikes and other products: the products in question had to be put in operation first, at the consumers' cost, by one of the professional service stations indicated in the warranty. Becoming aware of the investigation, the undertaking accepted, that in the future it would inform consumers about this condition in a noticeable way in the ads and in its stores. The protection of public interest can be assured by this commitment, thus the GVH terminated the proceeding.

Case number: Vj-64/2007

The ads on discount campaigns of a store do influence consumer choice. Reductions are suitable for the attraction of consumers; once the consumer enters the store, he will also purchase goods other than those advertised. Therefore, discount campaigns raise not only the demand for discounted products, they also have a favourable impact on the marketing of the other articles sold at the stores. The advertising of a reduction, the restriction of the amount of articles concerned, the determination of a certain time period for the reduction cannot be disapproved in itself. The indication of the original price and the discount price, i.e. the operation with different prices is not unlawful in itself either.

Pursuant to the practice of the GVH it is unlawful however, when the undertaking indicates both a higher and a discount price in its leaflets and

- the higher price indicated was though actually applied by the undertaking, but not just before the discount period, or the higher price was only exceptionally charged earlier,
- the undertaking applied the higher price just before the discount period, however in a fraudulent way, for example it applied the higher price only for a very short period
- the higher price was never valid actually,
- actually consumers have to pay a higher price than advertised.

The purpose of the indication of the higher price is, in all four cases, to give the impression, that the discount price is as favourable as possible compared to the original one.

According to the GVH, the undertakings violate the Competition Act by informing consumers about a product available in their stores, although it is not available there. Pursuant to the practice of the GVH, an attraction-impact may appear in these cases too, because consumers buy other products than intended. It is not against the competition law, if an article is not available during the whole discount period. Nevertheless, the GVH emphasizes, that indicating the phrase „while stocks last” in the promotion catalogue is not sufficient in all

cases. This information does not justify cases, in which the product is not available at all, or the starting stock backing a given product is unrealistic low.

It is not lawful either, if the advertised product is not available at a given store at the beginning of the discount period. 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. This is regarded as a deceptive practice of the undertaking, with regard to the conditions of the advertised discount, since the undertaking offers its sale products "while stocks last", without being prepared for the prospective consumption.