

GVH imposed a fine of EUR 3.6 M on Facebook

The GVH found that Facebook Ireland Ltd. had infringed competition law when it advertised its services as being free of charge on its home page and Help Centre. While it was true that users did not have to pay for the concerned services, Facebook benefited economically from the users' data and activities, with users in this way paying for the services provided by the undertaking. The GVH imposed a fine amounting to a total of EUR 3.6 M, which is the highest fine that the Authority has ever imposed in a consumer protection case.

The essence of the (so-called zero price) model of Facebook is that it attracts users with its online platform's content and it collects detailed information about its users' interests, behaviour and purchasing habits. The undertaking then uses this information to sell targeted advertising to its clients, with these paid for advertisements then appearing among the posts of targeted users.

According to the Authority, the slogans *'It's free and anyone can join'* and *'Free and always will be'* used by Facebook distract its users' attention from the fact that they are indirectly paying for the use of its services in the form of the transmission of their data, the extent of the data collected, and all of the resulting consequences. The above-mentioned statements, which were found to have been deceptive, appeared on Facebook's homepage from January 2010 until August 2019 and on its Help Centre until 23 October 2019.

The GVH found that the slogans suggesting that Facebook's services were provided free of charge might have confused users both in terms of the responsibility relating to the use and in terms of the contractual obligations, as the slogans implied the absence of risks and obligations while there was actually a multi-level user commitment in the background which, in addition, were not fully transparent due of the complexity of the processed data. Furthermore, the GVH noted numerous users are not aware of the extent and value of the transferred data and do not generally read the general terms and conditions of online platforms. Consequently, the GVH was of the opinion that it is harmful to both short term and long term business decisions, and therefore also to some real economic processes, if users believe that they are able to use a service without any cost or without any risk.

When determining the amount of the fine to be imposed, the GVH only took into account a part of the advertising income of Facebook Ireland Ltd. realised in Hungary; furthermore, the GVH took into consideration the fact that the undertaking had globally modified the slogans that its services were provided for free which appeared on its homepage and the content in the Help centre that gave rise to concerns.

It has to be noted that similar decisions had been made in both the United States and Europe in relation to the conduct of Facebook. In April 2019 Facebook updated its conditions of use and services due to the pressure that was being exerted by the European Commission and Consumer Protection Authorities of Member States. The new conditions explain how Facebook uses its users' data for profiling activities and targeted advertisements in order to finance itself.

'We can get a lot of valuable online services free of charge. But there's no such as a free lunch. We still pay for these services – not in cash, perhaps, but with our data. But the expectation that things on the Internet should naturally be free has helped to dull our suspicions. And so we've accepted a sort of Faustian bargain – and to save a few kroner

today, we've accepted an uncertain, unlimited risk for the future.' said Margrethe Vestager, Executive Vice President of the European Commission at the Internets of the World Conference in Copenhagen yesterday.

Official registration number of the case: **VJ/85/2016.**

Budapest, 6 December 2019

Hungarian Competition Authority

Press relations:

press@gvh.hu

<https://www.gvh.hu/en>

Further information:

GVH Customer Service

Phone: (+36-1) 472-8851

E-mail: ugyfelszolgalat@gvh.hu

<https://www.gvh.hu/en>