



GAZDASÁGI
VERSENYHIVATAL

No sword included in the ninja costume set

The Hungarian Competition Authority (the GVH) found that Aldi had been engaged in an unfair commercial practice when advertising its carnival costumes for children, therefore the undertaking was fined HUF one million (approx. EUR 3500).

The GVH initiated a competition supervision proceeding against Aldi Magyarország Élelmiszer Kereskedelmi Bt. in July 2009 upon observing that since 1 February 2009 Aldi had been advertising in leaflets and through other media the discount offer of its product 'Kidz Alive carnival costume for children'. The advertisements claimed that the costumes 'included all the necessary accessories', however customers did not get a sword to the ninja costume, no magic wand in the case of the princess costume and the tomahawk was not part of the Indian girl costume either, although all three accessories were clearly visible in the ads.

The authority established that the sword in the case of the ninja costume, the tomahawk in the case of the Indian girl costume and the magic wand in the case of the princess costume all appeared in the ads in a clear and distinctly visible way. At the same time, the attention of consumers was not drawn to the fact that these accessories did not actually constitute part of the costumes. Aldi definitely advertised each costume as a 'set' while also indicating the price of the product.

In consonance with Aldi's statement, the ads did contain a * indication, but this note only pointed out that the products in question were not part of the permanent stock of Aldi, thus in case of high demand it may happen, even within a short period of time following the initiation of the discount, that the stock becomes exhausted. It is true that at the bottom of the advertisements, above the note indicated with *, tiny written information announced that the products are sold without decoration. The only thing is that this announcement was indicated among the general information, therefore it was not eligible for drawing the attention of consumers to the products with respect of which the announcement applied. In addition to this, the information did not specify what qualified as decoration in the case of each product.

According to the GVH, even a rationally informed consumer, acting in a careful and prudent manner that can be expected in this case, cannot be expected to know whether the parts of the costumes appearing in the pictures of the ads are deemed to be accessories or decoration in the view of Aldi. Consumers had reasons to believe that the sword, the tomahawk and the magic wand appearing in the ads constituted parts of the ninja-, the Indian girl- and the princess costume, respectively. Both the leaflets and the Internet homepage of Aldi distinctly indicated in the ads that the costumes were sold together with all necessary

accessories. In this case 'all necessary accessories' means to consumers the sword, tomahawk and magic wand appearing in the pictures of the ads included.

Based on all the above-mentioned the GVH established that Aldi was engaged in an unfair commercial practice, thus it imposed a fine of HUF one million (approx. EUR 3500) on the undertaking. When determining the amount of the fine the GVH considered as a significant mitigating circumstance that in the case of the product under investigation consumer demand targeted the buying of the costume at first place, the accessories applied as decoration by Aldi did not or just slightly reduced the use of the costumes or their suitability for use. However, the media investigated were able to reach a wide range of consumers, which was considered an aggravating circumstance by the GVH.