



Fines for unordered parcel-sending

Three mail-order services were fined altogether EUR 41.200 by the GVH, because they misled consumers. The undertakings concerned also restricted the freedom of choice of consumers by their business practice. The clients, who did not wish to buy anything, could only stop the unordered sending of parcels by bearing the costs of their related measures.

The GVH has started an investigation based on an informal complaint of a consumer about two Swiss mail-order services, Editions Atlas SA and its subsidiary, Provea SA communicating misleading information via Directa Communications Kft. relating to the underwear and the card series distributed by them. In the course of the investigation it was found that the four-page-long flyer, about the ladies' underwear Miriale and the men's underwear Tono of Provea, put into large circulation newspapers, was capable of misleading consumers, when

- It made statements about the market leader position of Provea in respect of prices and quality, which statements could not be proved, so they could not be seen as correct
- Provea did not prove the correctness of the adjectives “high/excellent/extraordinary” and “unique/exceptionally low” it used relating to the quality and the price, respectively, of the products
- It compared its prices to such an “original/normal price”, at which it had never distributed them
- It gave the appearance that its prices were very favourable by comparing those prices to a “value” indicated in brackets
- It falsely promised a price reduction or rather it gave the appearance that the products were available at a promoted price
- It promised a full repurchase in the course of the distribution, but it did not keep this promise
- It informed consumers about a time limit within which they had the right to cancel their order that was shorter in comparison to the minimum of that granted by statute

Furthermore the GVH considered as infringements of the Competition Act, that Provea

- Also sends parcels to recipients who have not ordered them
- Creates circumstances under which addressees, who do not intend to purchase, need to make steps to stop the unwanted parcel sending. For the case they fail to do so they, if he/she did not act like this, they would receive requests for payment

- The following circumstances make it difficult to stop the parcel-sending actions:
 - = The misleading in connection with the identity of the obligated person
 - = The not clear indication of the addresses, Internet addresses and phone numbers
 - = The fact that the relation between Linea Directa and Provea is not appropriately described
 - = The not adequate functioning of the customer service

As the GVH also established, Editions Atlas SA, when it sent card series about computers, geography and crocheting, furthermore, about herbs and medicinal plants, restricted the freedom of choice of consumers, by not informing them

- Clearly about the number of card packages composing a complete collection, the number of topics covered by the complete collection and on whether each of its packages covers only one topic; and,
- When they make a fidelity declaration, about the length of the time-period, which they may need to obtain a complete collection, and about the costs of obtaining it.

In addition, the GVH found that Editions Atlas also sends goods to recipients who have not ordered them and it creates circumstances under which addressees, who do not intend to purchase, need to take measures to stop the unwanted parcel-sending. The GVH found Linea Directa guilty, too, because the undertaking supplies, through its telemarketing activities, information about underwear which is capable of misleading consumers, it supplies information about card packages, which restrict consumers' choice and it supports Provea and Editions Atlas in following a practice, which infringes the fundamental rules of the mail order business.

The GVH considered as an aggravating circumstance, that the two Swiss undertakings practised deceptive advertising as a part of their commercial policy for several years, which reached many consumers via large circulation daily and weekly newspapers. Apart from these advertisements, consumers had no other sources to gain more complete information about the products offered. It were further aggravating circumstances that the owner and the representative of Provea and of Editions Atlas was the same person and the advertising practice of the subsidiary of Edison Atlas had already been examined by the GVH. The investigation of the GVH shed light on the fact, that the General Inspectorate of Consumer Protection examined, in 2006, the written information provided about Miriale underwear and found their Swiss distributor not too inform consumers about their rights and it also warned Provea. The GVH did not find any mitigating circumstance in respect of the behaviour of Provea and Editions Atlas. As far as Linea Directa is concerned, the GVH took into consideration, however, that the undertaking was seemingly not aware of the false and misleading nature of the information provided by it.

Due to the infringement of the law, Linea Directa and Provea were jointly and severally fined HUF 7.5 million (approx. EUR 29.400), Linea Directa and Editions Atlas were jointly and severally fined HUF 3 million (approx. EUR 11.800). In addition to this, the undertakings were prohibited from the continuation of their advertising and offering practice.

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