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Three supermarket chains fined by the GVH

Three retailers were fined altogether HUF 14 million (about EUR 50 thousand) by the Hungarian Competition Authority (GVH). Information published in Tesco and Spar promotional leaflets was capable of deceiving consumers, and Cora failed to comply with the commitments it previously offered to the GVH.

The GVH launched an investigation against the retailer Tesco to clarify whether the information published in its promotional leaflets between 3 January and 6 March 2008 was likely to deceive consumers. It turned out that certain discounted products were not available for consumers and the advertised discounted prices were essentially non-existent as far as some other products were concerned. All these mentioned were likely to deceive consumers, thus Tesco was fined HUF 10 million. It was a mitigating factor in the course of the proceeding that the retailer remedied the first stock shortages and shrinkages in several instances by delivering the missing goods afterwards or by providing replacement products. It proved to be an important mitigating factor that Tesco made significant efforts to avoid stock shortages.

The GVH also examined the practices of Spar in connection to sales. The undertaking offered discount prices in several campaigns between 3 and 23 January 2008 in its Interspar hypermarkets. However, it turned out that some goods were not available in the course of the campaigns, and relating to a mixer with a bowl the retailer did not provide accurate information about discount rates available for consumers. Therefore, Spar was fined HUF 1 million. It proved to be a mitigating factor that Spar placed an order for the missing discount products, but these products did not arrive at the supermarkets for default of the supplier. As far as Spar is concerned, it is less likely that the misleading advertisements would have been capable of attracting consumers, since the Interspar hypermarkets were located inside the settlements, close to consumers; thus consumers who were in vain looking for the discounted products could have easily chosen another supermarket. Therefore, the fine imposed concerns the discount rate that was disclosed. In this case there was only one product about which deceiving information had been provided by Spar concerning the rate of the discount available.

According to the opinion of the GVH, not depending on the identity of the undertaking offering discounts, it may be expected that based on the information provided about the discount, consumers get proper knowledge of the offer, the conditions of participation and the promoted products. Campaigns are unlawful if the product in question is not at all available in the course of the campaigns or the undertaking is only prepared with an unrealistically small opening stock of the discounted products. In this case using the phrase "until stock lasts" does not exempt the advertiser from being accused of deceiving consumers, since this phrase motivates consumers to time their shopping at the beginning of

the sales period. According to the GVH, the expected minimum quantity of the opening stock must reach the quantity necessary to meet the average turnover attained during the previous period without any discount.

In the course of a post-investigation, the GVH verified whether the Hungarian Hipermarket running Cora hypermarkets complied with the commitments previously offered by it. The proceeding was launched since the undertaking had failed to provide information in its advertisement that warranty was only given concerning the bicycles distributed by the undertaking if they were put into operation – for extra payment – in service stations designated by the Hungarian Hipermarket. The proceeding was terminated since the undertaking offered the commitment to inform consumers about the condition mentioned on the spot and at the service department as well. The post-investigation, that was initiated in last October, established that the supermarket chain provided the information in question relating to bicycles in its leaflets, however it failed to inform consumers on the spot and at the service department. Furthermore it also failed to inform consumers in connection with other products that also may have been, during their operation in need of being serviced (gas-oven, air-conditioners, car hi-fi). Since the undertaking failed to fully comply with the commitments, it was fined HUF 3 million by the GVH. At the same time the Hungarian Hipermarket took measures to avoid similar infringements; in its December leaflet it marked those products with an asterisk * the warranty of which was subjected to the fulfilment of some conditions. On bottom of the pages the following note figured with smaller, but legible letters: “ *For the products marked with an asterisk, the producer prescribes as conditions for the warranty that setting in operation must be carried out by an expert or official service centre, at a price which is usually HUF 4.000-25.000, which can be different from those values in individual cases. Such differences are beyond the reach of our supermarkets.*” Furthermore, during the first half of December 2008, it placed information boards – with the same phrase – in its outlets selling bicycles and other products.

Case number: **Vj-64/2007, Vj-70/2008, Vj-71/2008.**

Budapest, 19 January 2009

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