

**HUNGARIAN CONTRIBUTION PREPARED FOR THE ROUNDTABLE ON  
"COUNTRY EXPERIENCES WITH SEPARATION/INTEGRATION IN  
REGULATED INDUSTRIES"  
13-OCT-2000**

In the following document the answers given to the questionnaire may be found sorted by the order of questions and, within the subject of each question, sorted by subject area. As regards Question 1., answers may be found with respect to all branches of industry mentioned in the questionnaire (with the exception of marine transport, which in the case of Hungary is not relevant as Hungary has no sea). With regard to Questions 2-4., only those branches are mentioned in connection to which we could provide useful information.

**Question 1.**

***Telecommunications Sector***

At present there is no competition on the market of public telephone service within the sector of telecommunications. The exclusive right granted to service providers until 2002 covers local, distance and international service. The Government granted the concession for international and distance telephone services as well as the concession pertaining to 29 out of the 54 primary (local) regions of the country to one company (MATÁV - the former monopoly), what is meant by the so called national concession. At the same time in the remaining primary regions the Government granted the local service providing concession by way of tendering procedures organised in each region. In 7 out of these remaining primary regions MATÁV again is the service provider – this company has at the same time the concession for distance and international services – while in 3 regions companies partly owned by MATÁV are the service providers. Altogether there are 15 regions owned by local service providers independent from MATÁV. (This corresponds to about 20 per cent of the lines). A concession is necessary for providing mobile cellular telephone services too, but in this area there is competition with presently four market actors. One of these provides its service on a frequency of 450 MHz and the remaining three companies on 900/1800 MHz. MATÁV owns out of these market actors two which provide service on 450 MHz and one which provides on 900/1800 MHz.

The Concession Agreement concluded with the individual companies contains rules for the separation for accounting purposes of activities requiring a concession and those which do not, however the duties deriving from these clauses of the agreement are not always entirely fulfilled by the companies. The enforcement of contractual duties has proven to be a very difficult procedure in the past years.

The companies owning the concession rights are privately owned, usually by large foreign strategic investors. The state participation has reduced to the golden shares (shares carrying veto rights) in MATÁV, however these shares do not represent an actual share of ownership.

A price-cap-type regulation of prices is applied to services provided with an exclusive right to subscribers. The interconnection and leased-line services carried out for the provision of services requiring

a concession also fall under price regulation. The interconnection fees should be based on costs in accordance with statutory provisions, still the Minister establishes the prices through a system of dividing income received from subscriber fees. (revenue sharing)

### ***Broadcasting And Broadcast Transfer***

The Act on Radio and Television Broadcasting contains provisions about programs transferred through the broadcast-distribution network, however this primarily means the obligatory transfer of public broadcasters' programs. (There are separate provisions in the act on national public broadcasters' programs which must be transferred under all circumstances by the broadcast-transferring company and also on local public broadcasters' programs which must be transferred by program distributors to a given proportion of their capacity. The act contains no such provisions regarding other types of broadcasters' programs, therefore the provisions of the Competition Act apply to them.

As regards broadcasters, the Act on Radio and Television Broadcasting requires a minimal ratio of votes for companies seated in Hungary, which does not necessarily mean state ownership. Apart from public broadcasters there are mostly privately-owned actors on the market. There are no limitations for broadcast transferring companies, these too are all privately-owned enterprises.

There is no price regulation in effect with respect to broadcast transfer. Presently the Parliament is working on the bill on broadcast transfer, which contains provisions on accounting structures, and the Government does not plan to introduce price regulation.

### ***Railways***

Railway transport is regulated by an act, according to which from the aspect of activity the system of public railways is divided into two parts: the task of line-railways is the construction, development, modernisation, maintenance and operation of railway lines and their accessories; while the entrepreneurial railways carries out passenger transport and transport of goods, so it does the actual transporting.

The two activities may be performed within one organisation – the railway company. The rules of separation are established in a decree by the Minister on Transport in agreement with the Minister of Finance.

The same decree prescribes that the line-railways (or the railway company) shall allow the use of the railway line and its accessories in return for a specified fee to entrepreneurial railway companies with a seat in Hungary. This obligation is relevant with regard to railway companies with a seat abroad only in case of an existing international agreement or reciprocity.

The national public railway line and its accessories are in the exclusive ownership of the state, while a railway coach may be owned by any natural or legal person or other organisation without legal personality.

A permit from the authority is necessary for any transport activity carried out on a railway line, such as passenger transport or transport of goods by rail. This permit is issued by the Central Transport Authority (Központi Közlekedés Felügyelet). The conditions for granting an authorisation must be laid down in a ministerial decree.

Thus the act has created – within a vertically integrated organisation through the separation of activities for accounting purposes – the possibility for competition on the market of railway transport. However the decree of the Minister on Transport on authority permits, which is necessary for the

competition has not yet entered into force (it will be ready by 31. December 2001). The legal rules on the conditions for access and the fees payable for the railway-line use – that is for the infrastructure indispensable for the provision of service – have also not yet been issued.

The ministerial decree ordering the separation of line- and entrepreneurial railways was a very important first step in determining the fee payable for using the railway line, or in other words the price for accessing the railway line. This decree prescribes the assignment of assets to activities and the separation of revenues, costs and expenditures. The state railway company, MÁV at this point in time still has to prepare, in accordance with the Act on Accounting, as a unified company, a consolidated annual report with a consolidated balance-sheet. Still for internal, use the company prepares a separate balance-sheet for the line-railways and the entrepreneurial railways. To ensure a state of competition free from discrimination another organisation has to be created, which would be independent from railway companies and which would plan and distribute railway line capacity (perform schedule harmonisation), control traffic and quality of service, analyse disturbances and investigate accidents. The Government agencies responsible for transport prefer the solution that the separation be ordered and required not only in accounting terms but also on the organisational level.

With regard to the rules on railway transport the fact deserves mention that the fares on transport of goods are established freely by the railway company by taking into account the competition presented by road transport. At the same time the price for transporting persons by rail is kept under a maximum limit set by the authority. The state contributes significantly to the maintenance of transporting persons as a public service through the financing of discounts granted to certain strata of consumers. .

### ***Road Transport***

In the sector of road transport there is no vertically integrated organisation which would own or manage the public roads and the infrastructure closely connected to it (e.g. bridges, overpasses) while at the same time performing road transport too.

According to the Act on Public Road Transport the national roads are owned by the state, while the local public roads are owned by municipalities. The business entities managing the public roads (concession company, non-profit company managing public roads, etc.) may demand a fee for the use of motorways, (condition for access) the amount of which and the conditions of payment are determined by a ministerial decree.

The state or municipality owning the public road have for a long time had no ownership share in the transport activity carried out on public roads. Their only interest is in the regular passenger transport on public roads, because they kept the majority ownership share of companies responsible for bus transport on this market. This situation is being justified with the ensuring and guaranteeing of the public service. The state budget subsidises the domestic regular passenger transport on public roads, the companies with a majority share owned by the state have an exclusive right deriving from an act to provide this service. In return they have an obligation to transport and a maximum limit is set for the fares. In the event that they could not perform their public service duties, the minister (or in local terms the municipality) may put out to tender a concession for the carrying out of the unfulfilled duty. This procedure has been applied in few cases so far for the maintenance of bus lines operating on a given route. The (state-owned) bus companies performing regular passenger transport integrate into themselves the bus stations too.

### ***Postal Services***

The Act on Postal Services has classified the receiving, forwarding and delivery of postal packages and postal orders as basic service and declared that the state post has an exclusive right to operate

on the whole of the two service markets. Even though the act renders possible the conclusion of concession agreements for the provision of basic postal services– within a geographical area defined by the act – the competent Minister has not yet put out a tender on this issue. It is important to emphasise in this respect that a tender for granting a concession may be put out only for all basic services together and only for smaller settlements or for larger geographical units, counties and regions, so that the profitable markets (the densely populated towns) cannot be taken out and the rest left unserved.

The markets for sending parcels and unaddressed advertisements have - in their entirety – been liberalised. Accordingly, among others, the parcel delivery companies and catalogue stores may organise the forwarding of parcels to the addressees in a way which suits their needs best. Experience shows that the state-postal-service provider is used most often for forwarding parcels. The delivery of unaddressed advertisements is a free-market activity, the access to the mailboxes of consumers has been made possible. The express mail service is also characterised by free entry.

The provisions of the uniform telecommunications act, which is presently being prepared, have to be composed with a language to allow the direct access to the postal network both for large consumers and other service providers in return for a fair price. A precondition of this is the transparent demonstration of costs pertaining to services, which also must be dealt with in the act.

The Hungarian Post at the present stage is still 100 per cent state-owned. The fees for basic services provided with an exclusive right are kept below a maximum specified by the authority in a ministerial decree. All other liberalised services have a free price.

### ***Air Transport***

Within the sector of air transport the institution operating the airport for international passenger traffic, the Air Traffic And Transport Administration (Légiforgalmi és Repülőtéri Igazgatóság or LRI) has separated from the organisation of the company responsible for the air transport via international flights (MALÉV). According to the Act on Air Traffic, the minister is empowered to authorise the establishment of commercial state-owned and private airports. The authorisation for establishing other airports is issued by the air traffic authority responsible to the minister. The authority's task is the cataloguing of air traffic vehicles as well as the authorising and surveillance of the building and operation of establishments and on-ground installations connected to air transport.

The Air Traffic And Transport Administration operating the international passenger airport and MALÉV, which carries out the international air transport are in the majority ownership of the state, however there have been efforts for the privatisation of the company performing the transport.

The access to the airport, an indispensable tool for carrying out the service, is characterised by the sharing out of slot-times in accordance with a Government decree. According to this decree the co-ordinator distributing the airport slot-times is nominated by the minister after a discussion with air carriers. The co-ordinator is obliged to fulfil his duty neutrally, impartially and transparently. The co-ordinator takes part in the conferences on co-ordination of international timetables organised by IATA. The co-ordinator is assisted by a Co-ordination Committee (Koordinációs Bizottság) the members of which are: the operator of the airport, the air traffic administration, the air traffic authority, the air carriers, as well as organs for law and order. The distribution of slot-times has to be performed two times a year on the basis of a objective study of the airport's air traffic capacity.

The Government decree regulating the distribution of slot-times, lays down as a rule that in fulfilling requests for slot-time, a preference has to be granted to the commercial regular flights. If a request for slot-time cannot be fulfilled the co-ordinator has to provide reasons for his decision and must

indicate the closest available slot-time. A reserve of slot-times has to be created for the fulfilment of ad hoc requests. The slot-times are interchangeable and freely transferable. The complaints concerning the distribution of slot times is discussed by the Co-ordination Committee.

As of yet there is no competition with respect to the equal right of access to airport installations, the ground services provided to aircraft and passengers and the foreign aviation companies have no choice in this regard. The technical conditions are also missing for allowing the foreign air traffic companies to provide their own ground service to the aircraft belonging to them by using the equipment of the airport.

### ***Waste Management***

The Act on Waste Management in effect since January 2001 provides the rules of waste disposal (including the collection, transport, preliminary disposal, storage and elimination) as well as recycling. An authorisation from the environmental authority is required for the carrying out of these activities.

The act lays down as an obligatory duty of the municipalities of settlements the organisation and constant maintaining of the disposal of the local real-estate owners' municipal waste. The new Act on Waste Management – by emphasising environmental protection aspects – defines as a public service the whole service chain containing the collection of solid waste and the operating of collection sites, and orders the obligatory use of the organised public service. However the determining of the local public service's content and the delimitation of areas to which such service is provided is within the discretion of the municipalities. The settlement municipality may decide whether to put out a tender for the entire service-chain or separately for individual parts of the vertical chain. The municipality concludes a public service agreement with the winner(s) of the tendering procedure. The term of the agreement concluded with the company performing waste disposal is at least ten years, while the agreement on the waste disposal containing only waste transport may be concluded for a maximum of ten years. The act lays down the aspects which have to be considered when determining the fees of the public service and contains provisions on the detailed annual itemised expense accounting, which must be examined by the municipality of the settlement. In the event that the public service provider carries out other waste management activities too, the price of which can be determined freely, the costs and revenues from these activities must be shown separately from the relevant items of the public service.

The recent experience shows that municipalities prefer the assignment of the task to one public service provider because of the ease of supervision and the smaller amount of administrative tasks. It is often the case that the whole service chain is operated by one service provider. Moreover even when the different stages of this chain are separated for operating purposes into collecting and transport of waste and when the larger settlement could sustain more companies, which could be one another's competitors on the public service market, the municipality still selects only one provider. The final result is that in the majority of cases there is no competition on the market of waste transport.

A part of the companies providing these services is in private hands and another in the ownership of the municipalities.

### ***Water***

The Act on Water Management deals with the supply, distribution of water and the collection and disposal of waste-water. The act determines the waters and canals in the exclusive ownership of the state as well as the water installations and public utilities constituting the primary assets of municipalities. The regional water public utilities and canals are in state ownership, the operation of which is carried out by the companies with a majority share owned by the state, by governmental institutions, or by the holders of a state concession which have won a temporary right for operating. Municipalities also have a right to assign

the operation of the water public utilities in its property to an organisation under its control or to tender out a concession for this activity.

The act defines as public service activities the supply of water through a water public utility and the drainage, storage and cleaning of waste-water. The operators of water public utilities are bound by an agreement with regard to their public service duties of providing drinking water and draining dirty water.

The fee paid for the drinking water obtained from the state-owned regional water public utilities – in accordance with the general rules of the Act on Prices – is determined on an annual basis by the sectoral minister in a decree issued in agreement with the Minister of Finance. Since the conditions for obtaining water are rather different in different regions of the country, the differences between individual water fees are substantial.

In settlements or parts of settlements where the canalisation system has not yet been built, the liquid waste has to be directed to a drying place obligatorily built on the real estate. From there the specialised service provider, on request by the owner of the real estate, transports the waste-water to a place assigned for the collection of such water. On the market of collecting and transporting of liquid waste of settlements – on larger settlements or in connected geographical regions – theoretically there exists competition (or it could exist). The price for collecting transport and storage of waste-water is determined freely by the service provider by taking into account the fee payable for storage as a cost factor. However this market is characterised by the same situation mentioned with regard to the disposal of solid waste, according to which the municipality, when organising the service, is bound to put out a tender. The municipality of the settlement, with reference to environmental protection aspects and for the easier supervision of the service, usually selects only one service provider. This decision closes the market for a longer period – ten years – so in fact there is no competition on this market.

### ***Electric Power Sector***

One cannot at this moment in time speak of a real competition in the Hungarian electric power sector despite the fact that in very limited forms the competition is present with respect to carrying out certain activities. At the same time the sector is no longer represented by an fully integrated, state-owned giant company, as was the case a few years ago. In the near future the introduction of competition to certain areas of the sector is expected. Please look at the answer to Question 3 for more on this issue.

In the electric power sector the key elements of regulation and ownership structure are the following:

Each power plant is a separate business entity, some of them are privately-owned (by foreign investors) and others are owned by the successor of the market actor formerly in monopoly position, therefore they are in state property. Today's power plant companies have resulted from a partial break-up of the previous monopoly. A part of these has been sold to foreign strategic investors within as part of the Hungarian privatisation program.

The electric power supply companies (which at present integrate local distribution and retail trade too) were also created through the partial break-up of the former monopoly. Each such company is a regional monopoly not only de facto, but also de jure, by law as well, and moved into the hands of foreign strategic investors during the Hungarian privatisation program.

The operating, development of the high-voltage network, the system control, foreign trade and wholesale trade are still, as previously, under the control of the former monopoly (MVM) and, as we mentioned above, this company controls a part of power plant companies too. However it exerts no control over any of the electric-power-supplying companies.

Presently the competition exists only in a very limited form: MVM, which is responsible for system control and the meeting of the demand presented by power supplying companies must follow the principle of „minimal cost” when it decides which power plant it wants to buy electric power from, and when it concludes its agreement with the power plants. The establishment of power plants is regulated, the applicants must take part in a so-called capacity tender, where MVM concludes an agreement for the required electric capacity with the winners of the tendering procedure. The tender is put out by MVM and when it assesses the offers it must, here too, apply the „principle of least cost”.

Several activities within the sector are regulated:

Consumer prices (between the regional power suppliers and consumers) as well as wholesale prices (between MVM and regional power suppliers), as well as those prices at which the power plants supply to MVM are regulated, in accordance with a price formula. The entry to the market (system of authorisations), and the ownership in the companies (with authorisation) are also regulated (apart from the applicable concentration rules of the Competition Act). The system of regulation is based primarily on exclusive rights and obligation to supply.

### ***Gas Sector***

At this moment there is no competition in the gas sector. At the same time, similarly to the electricity sector, this sector is no longer represented by the former completely integrated state-owned monopoly, as it used to be. In the medium term the introduction of competition is expected to some parts of the sector. (Please look also at the answer to Question 3.) In fact the whole of the sector is privately controlled, only in the company supplying gas to the capital and surroundings is there a majority stake of the municipality (but there too a foreign strategic investor is present).

In the gas sector the basic elements of ownership and control are the following:

The only actor in gas exploitation is the former sectoral monopoly (MOL), because it is the only one having reasonably exploitable gas fields in Hungary.. Presently several other foreign private companies which have a concession are carrying out tests, but until now they have not found a gas field and therefore are not exploiting any gas.

The high-pressure pipeline network is in the hands of MOL. MOL must grant unfettered access to this network in the event that an exploiter of domestic gas intends to forward the gas produced and sold by it to the place of consumption. Since presently there are no market actors exploiting domestic gas apart from MOL, the granting of access is a theoretical issue.

The underground gas storage places are considered as part of the high-pressure network.

The import of gas is totally liberalised and free. At the same time MOL has no obligation with respect to foreign gas to grant free access to its high-pressure network. If any company imports gas from abroad, it may do so, but at the border it must sell this gas to MOL which subsequently transports and sells it as its own.

MOL is also the only market actor on the wholesale market. This position is ensured by a legal solution based on a sort of exclusive-right.

MOL is a company with majority private (foreign) ownership, while 25 per cent of the shares and a golden share are in state hands.

Gas supplying companies (which presently integrate local/regional distribution and retail trade too) are in the property of foreign strategic investors – in some of them MOL has a minority stake. These companies were created by separation from the monopoly and subsequent privatisation.

Several of the sector's activities are regulated:

Retail prices, the building of gas storage places and pipelines, the entry (system of licences) and the acquisition of ownership in the companies (licences) are regulated apart from the concentration rules of the Competition Act. The system of rules is based primarily on exclusive rights and obligation to supply.

## **Question 2.**

We only mention those areas, with regard to which we can provide useful information in connection with this question.

### ***Telecommunications Sector***

The obligation appearing in concession agreements for accounting separation was mentioned in our answer to Question 1. This duty presently applies jointly to activities carried out on the basis of an exclusive right. This means there is no obligation for separate accounting on the basis of the concession agreement with regard to local telephony, which foreseeable remains a non-competitive activity after the opening of the market, the long distance service provision and the mobile cellular telephone service.

The provision of distance services is not permitted to local companies independent from MATÁV, therefore the issue raised in the previous paragraph is not relevant to them. In the operation of these companies the greatest problem was presented by the provision of service in too small areas which do not guarantee sufficient economies of scale. This allowed them for a long time only a loss-making operation.

Domestic specific rules exist only with regard to the joint performance of public telephone service and broadcast transfer, the telephone companies owning concession rights may carry out other competing market services (such as internet services) without limitations. A public telephone company may carry out broadcast transfer only through a company with separate legal personality and only in an area where it does not have a local network. A public telephone service provider may own a maximum of 25 per cent of the voting rights in a broadcast transfer company providing service to a settlement with more than 30.000 inhabitants within its own area. This provision of the applicable legal norm is not effective, however, since the reduction of the voting right to a minimal level while leaving the ownership share unaffected allows the largest telecommunications service provider to be a very active participant in the broadcast transfer market.

### ***Broadcasting And Broadcast Transfer***

According to the Act On Radio and Television Broadcasting the company with a right to carry out nation-wide broadcasting and the company with an influencing stake in it may not acquire more than 25 per cent of the voting, ownership rights or other stake exceeding 25 per cent of a broadcast transfer company. This rule does not apply to specialised broadcasting companies.

### ***Railways***

The accounting separation of line- and entrepreneurial railways has taken place though for now only for internal use (please see the answer given to Question 1.), however this did not result in competition. The primary aims of the separation are the supervision of the fulfilment of duties contained in



a contract between the state and the railway company, the justification of the amount of state participation in the modernisation of the railway line and the rendering transparent and partial elimination of cross-financing. Hopefully after the fulfilment of legal and other conditions necessary for the entry and after the full development of the institutional system the separation for accounting purposes would result in undistorted competition. It would be considered as a development if the organisational separation takes place too (see the answer given to Question 1.).

### ***Postal Service***

The conclusion can be drawn from the answer provided to Question 1. that the liberalisation carried out until now has not affected the vertical integrity of the postal services, the liberalised markets have separated horizontally from the postal activity. The new entrants carrying out certain activities possess the whole vertical structure necessary for the provision of the given activity. This solution, which could be taken as the first step in liberalisation, had the advantage that the range of services was extended.

The appearance of schemes similar to vertical separation would create additional benefits primarily for large consumers because they would not have to obligatorily use services which they themselves could find a cheaper solution for. Such a scheme could be in the case of packages sent out simultaneously and in large amounts, the pre-addressed and packed handing-over to the postal operator, which would mean a simplified procedure and the omission of the selecting step. The direct access of large consumers to the postal network could be feasible in a similar way by allowing the „document exchange”, by which the companies with large and regular traffic of packages between them could directly exchange their packages at a place provided by the postal operator.

### ***Air transport***

The organisational separation of the airport and the carrier company has already taken place and the primary aim of this was the impartial distribution of slot-times and the ensuring of equal access to the airport. The carrier company is however not excluded completely from the operating of the airport (ground services) because after the formal separation, the Air Traffic And Transport Administration leased to MALÉV the right of carrying out of ground services on one of the two airport terminals.

### ***Electric Power Sector***

It follows from the answer provided to Question 1. that no competition exists at present in the electricity sector. Therefore the question of separation and integration of competing and not competing activities is not relevant in its original form.

MVM integrates into itself the operation and development of the high-voltage network, the system control, wholesale (buying of electricity from the power plants and selling it to power supply companies) and import. It is also the owner of certain power plants (a significant part of the total capacity) which are at the same time separate companies with a separate accounting and expense accounting, etc.

The power supply companies integrate into themselves retail trade activity (selling electricity to consumers) and local/regional distribution. The power supply companies are the owners of certain power plants, which are themselves separate companies with a separate accounting etc.

There is no specific regulation on the separation of activities.

### ***Gas Sector***

As appears from the answer to Question 1., presently there is no competition in the gas sector. Therefore the question of separation and integration of competing and not competing activities is not relevant in its original form.

MOL integrates into itself wholesale trade, the exploitation of gas, the operation and development of the high-pressure network and import. It is also the owner of certain smaller and less-significant gas supplying companies.

The gas supply companies integrate into themselves retail trade activity (selling gas to consumers) and local/regional distribution.

There is no specific regulation on the separation of activities.

### **Question 3.**

We only mention those areas, with regard to which we can provide useful information in connection with this question.

### ***Telecommunications Sector***

The structure created during 1993-94 through concession agreements has remained mostly unchanged. The decisions significantly affecting the structure may be classified in the following three groups:

- Due to the insufficient economies of scale of local companies with a concession, a concentration process started in 1998. In the course of this MATÁV tried to obtain the local service provision in primary areas not controlled by it until then. Following from the decision of the Competition Office (Gazdasági Versenyhivatal, GVH) prohibiting an acquisition, this concentration process continues with the leadership of the largest local service provider not controlled by MATÁV. Consequently this company could become a strong competitor of MATÁV in the future;
- The Parliament adopted in 1999 the act regulating the relationship between the activities of public service telephony and broadcast transfer following the initiation of the Competition Office. We referred to details and consequences of this act in the answer to the previous Question. The Competition Office within its concentration control activity keeps a continuous and close watch on the growth of MATÁV's share on the broadcast transfer market. In the event that it is necessary, the office prohibits a concentration (until now it interfered once);
- In 1999 MATÁV acquired an exclusive controlling position in Westel, its subsidiary company operating on the mobile cellular telephone market after the previous co-owner MediaOne left the Hungarian market and sold its stake to Deutsche Telekom AG, the mother company of MATÁV. This acquisition was authorised by the Competition Office with conditions which had to be fulfilled by MATÁV. The Competition Office prescribed that until the entering into effect of appropriate accounting rules, MATÁV must not join its mobile subsidiary with the mother company while MATÁV undertook to provide its services provided to Westel without discrimination to the competitors of Westel too. No detailed analysis of this decision's effects can be made yet.

### ***Electric Power Sector***

Previously, when transforming the electricity sector and separating certain activities from the totally integrated state-owned company and subsequently privatising them, decisions were made on separation (vertical separation) too. These separations did not mean the dividing of competing and non-competing activities, and were only partially at the same place as the dividing line between the potentially competing and non-competing areas.

Presently the new reform and liberalisation of the sector is being prepared, but this time the aim proclaimed (in the Government decree) was the promotion of competition. In this reform the separation of competing and non-competing activities is more emphasised. Such a separation – the breaking off of the high-voltage network and system control activity from MVM (trade) is under way. The ideas are not yet clear-cut and understandably there is no experience in the sphere of the planned measures. According to the plans, basically the power plant activity and wholesale trade (including import) will potentially be regarded as competing activities. Non-competing activities will be system control and the operation and development of networks.

### ***Gas Sector***

Previously, similarly to the electricity sector, when transforming the gas sector and separating certain activities from the totally integrated state-owned company and subsequently privatising them, decisions were made on separation (vertical separation) too. These separations did not mean the dividing of competing and non-competing activities, and were only partially at the same place as the dividing line between the potentially competing and non-competing areas.

Presently the new reform and liberalisation of the sector is being prepared, but this time the aim proclaimed (in the Government decree) was the promotion of competition. In this reform the separation of competing and non-competing activities could get a larger role. However, the ideas are not yet clear-cut and of course there is no experience in the sphere of the planned measures.

### **Question 4.**

In the following part the competition advocacy and competition proceedings will be mentioned separately. Generally the case is that in the sectors at hand the Competition Office has not brought any decision which would order the separation of competing and non-competing activities as a remedy for the problems. No (negative) decision was made either where the Competition Office had to decide on the integration of such activities. If the above does not refer to a sector we will indicate it. As of yet, no guidelines or other similar internal or public documents have been issued by the Competition Office in connection with this issue. The Competition Office has not commissioned studies elaborating on this issue but it strives to utilise the knowledge gathered from materials available to it and containing theoretical conclusions and international experience.

### ***Telecommunications Sector***

#### ***Competition Proceedings***

With regard to the decisions mentioned in the answer to the previous question, the Competition Office has tried to take measures for the protection of competition.

### *Competition Advocacy*

The Competition Office in this sector generally supports vertical integration but by all means considers necessary the ensuring of access for companies on competing markets to the assets and services of non-competing companies. In order to achieve this, we hold it for necessary that the competing and non-competing activities be separated at least for accounting purposes and in some cases by the creation of two separate legal persons. The ordering of the total separation, that is the prohibiting of further operation to the company, is necessary, in our opinion only in cases where it is particularly justified (see the case of broadcast transfer and local telephony). The study of the Competition Office concerning the main aspects of the telecommunications market regulation contains among others the assessment of vertically integrated companies.

### ***Electric Power Sector***

#### *Competition Advocacy*

In its competition advocacy activity the Competition Office has for several years supported the separation of competing and non-competing activities. In this regard the Competition Office issued a booklet containing its competition policy principles in 1999. With respect to the electric power sector the Competition Office considers as most important the system control and the separation of the high-voltage network from other activities. In a longer term the Competition Office considers as preferable the separation of regional / local distribution from other activities. The Competition Office prefers usually the total separation (ownership separation), and the occasional support/acceptance of more lenient or transitional forms is usually the result of compromises and tactical considerations. This is caused by the fact that the Competition Office considers this to be the most satisfying and clearest solution, moreover efficiency advantages deriving from partial or full integration which would go against this solution were not raised by the parties concerned at co-ordination sessions.

### ***Gas Sector***

#### *Competition Advocacy*

In applying competition advocacy the Competition Office uses a similar approach as seen with regard to the electricity sector, but the new regulation concepts regarding this sector are far less elaborate. The Competition Office's task in this respect is more difficult because here the liberalisation plans are less radical as well, following from the fact that the „relatively integrated” former monopoly is no longer in state ownership and the taking of measures for changing the structure incur more conflicts. In the present preparatory phase and in the past too, the Competition Office has not once raised the necessity of certain separations (for example with respect to gas storage places).

### ***Railways***

#### *Competition Advocacy*

In this industry the Competition Office has supported the organisational separation of line- and carrier railways. It is clear, however that this is not the only precondition for competition.