

**Agreement on co-operation on competition policy between
the Gazdasági Versenyhivatal
(the Competition Authority of the Republic of Hungary) and
the Antimonopoly Committee of Ukraine**

Preamble

The Gazdasági Versenyhivatal, (the Competition Authority of the Republic of Hungary – GVH), and the Antimonopoly Committee of Ukraine hereinafter called "the Parties",

having regard to the Agreement between the Republic of Hungary and Ukraine on Good Neighbourhood, Friendly Relations and Co-operation, which was signed on December 6, 1991 and entered into force on June 16, 1993,

having regard to the Memorandum on co-operation between the Parties concluded at Kyiv on November 5, 1996,

realizing that actions of undertakings in one state can have a negative impact on competition on product markets in the other state,

considering the extension of co-operation between the Parties to the prevention and termination of the actions of undertakings having a negative impact on competition in the Republic of Hungary and Ukraine to be necessary,

considering that such co-operation between the Parties should be maintained on a fully voluntary basis, and in the case of mutual interest, being understood that such co-operation should not, in any way, affect the legal positions of the Parties with regard to questions of independence,

taking into account the legitimate interests of undertakings in respect of keeping commercial and other secrets, which are guarded by the national laws of the Republic of Hungary or Ukraine,

recognizing the Parties' independence in adopting decisions in the sphere of competition

HEREBY AGREE AS FOLLOWS:

Article 1. Objectives of the Agreement

The goal of the Agreement shall be to strengthen co-operation between the Parties in the field of competition law and policy both at the level of general policy matters and of individual cases.

Article 2. Co-operation in general matters

In order to secure legal and organizational mechanism for interaction focused on the prevention and termination of actions that may negatively affect competition in the Republic of Hungary and Ukraine the Parties agree to:

- exchange experience in conducting investigations of monopoly activities and violations of the antimonopoly legislation,
- make available annual reports, case descriptions, studies on competition policy and other relevant materials on the development of the antimonopoly legislation,
- provide assistance to each other in establishing necessary relations with legislative, executive and judicial bodies of their states,
- provide opportunities to receive specialists of the other Party with the aim of exchanging experience,
- inform each other about professional forums organized by each of the Parties and to ensure participation in those events, if requested,
- provide assistance in the determination of strategic and tactical aspects of the competition policy, if requested.

Article 3. Cooperation in individual cases

1. The provisions of the Agreement shall be applicable in the course of the consideration of actions, which have or could have a negative impact on competition in the Republic of Hungary and Ukraine, if these actions are performed by undertakings in the Republic of Hungary and/or in Ukraine.

2. For the purposes of the Agreement the notion "the actions, which have or could have a negative impact on competition" shall mean:

- abuse of dominant position;
- the agreements or concerted practices between undertakings which result or can result in the restriction of competition;
- concentration of undertakings subject to notification both in the Republic of Hungary and in Ukraine.

3. The Agreement shall not be applicable by the GVH when the application would affect the compliance of the GVH with the competition law of the European Union.

Article 4. Notification

1. If one of the Parties establishes that actions of undertakings on the territory of its state can have a negative impact on competition in the territory of the other Party's state, the former shall notify the other Party about that.

2. If one of the Parties establishes that competition in its state can be negatively affected by the actions of undertakings, which take place on the territory of the other Party's state, the former shall notify the other Party about that.

3. Notification shall be sent in written form and shall contain a brief account of the essence of the case, references to national legal norms, and other pieces of information, which the sending Party considers to be necessary for submission.

4. The Party, which received the notification, shall consider the possibility of taking the appropriate measures pursuant to requirements of national laws and shall inform the other Party about the results.

Article 5. Request of information

1. In the course of consideration of actions affecting competition, each Party shall have the right to send a request for information on activities of undertakings to the other Party. The other Party shall have the right to refuse to provide the requested information if such information was or could be submitted by the undertaking in question pursuant to national laws. A request can also be refused on the basis of confidentiality.

2. The requesting Party shall state the purpose of its request and the basic circumstances of the case.

3. The requested information shall be provided not later than three months after the receipt of the request.

Article 6. Consultations

1. If requested the Parties shall hold consultations on matters covered by the present Agreement in order to avoid conflicting decisions in the case of the same infringement.

2. A request for holding the consultation shall contain the grounds for its necessity.

3. The Parties shall hold the consultation in the terms not later than three months after the receipt of the request unless otherwise agreed.

4. In the case of disagreement, the result of the consultations shall not preclude the Parties from adopting final decisions.

Article 7. Procedural assistance

Each Party shall have the right to request procedural assistance in the form of investigation conducted by the other Party if parts of an infringement covered by the present Agreement were committed in the territory of the other state or if it is likely that evidence is kept there.

Article 8. Protection of information

Information received as a result of the application of this Agreement shall not be disclosed unless the Parties agree otherwise.

The Parties may refuse co-operation within the framework of the Agreement on the grounds of their states' interests concerning the safeguard of commercial and other secrets according to national law.

Article 9. Settlement of disputes

Disputes about the interpretation and application of provisions of the Agreement shall be settled by holding consultations and talks.

Article 10. Concluding provisions

1. The participating Party shall bear all the costs related to its participation in any events organized by the other Party in the framework of cooperation under this Agreement.

2. This Agreement shall come into force in accordance with the national legal procedures of the Parties to the Agreement.

3. This Agreement shall be concluded for a period of five years and shall be prolonged automatically for further five-year periods until one of the Parties, not later than 60 days before the end of the current period, informs the other Party in writing about its intention to terminate the validity of the Agreement.

4. The implementation of the provisions of this Agreement shall not affect the rights and duties, which ensue from other international agreements of the Parties.

5. With the entry into force of the present Agreement, the Parties consider the Memorandum concluded at Kyiv on 5 November 1996 to be repealed.

Done at Budapest in duplicate, on 27 January 2006 in Hungarian, Ukrainian and English languages, each text being equally authentic. In case of divergence in interpretation, the English text shall be considered as final.

For the Gazdasági Versenyhivatal

For the Antimonopoly Committee
of Ukraine



Zoltán Nagy
President



Yurii G. Kravchenko
First Deputy Head