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The GVH's viewpoint about the Code on foreign currency loans

During the last few days there have been several news in the Hungarian press about the ideas how self-regulation of banks ought to be made concerning foreign currency loans. Some of these articles misinterpreted the GVH's standpoint by stating that the competition authority would assess self-regulative steps of the banks as a restriction of competition. Consequently the GVH deems it essential to make its related viewpoint public.

On 1 July 2009 the GVH was informed by the Hungarian National Bank (MNB) about the self-regulation to be prepared on restriction of foreign currency loans and about the actual version of the draft Code. The rules are expected to serve the manifestation of the higher risks and to make the HUF-based loans more competitive, as they aim at decreasing of the indebtedness in foreign currency of households and moderating prudential risks.

In its reply of 10 July 2009 the GVH explained that agreements of market players could fall under the prohibition of the Competition Act provided that those are capable of restriction of competition. Nevertheless if those agreements meet the conditions listed in Article 17 of the Competition Act they may enjoy an exemption from the prohibition. According to the law an agreement is exempt from the prohibition if:

- a) it contributes to a more reasonable organisation of production or distribution, the promotion of technical or economic progress, or the improvement of competitiveness or of the protection of the environment;
- b) it allows consumers or trading parties a fair share of the resulting benefit;
- c) the concomitant restriction or exclusion of competition does not exceed the extent necessary to attain economically justified common goals;
- d) it does not create the possibility of excluding competition in respect of a substantial part of the products concerned.

As regards the draft agreement sent by the MNB, the GVH renders it probable that the agreement does not fall under the prohibition on anticompetitive agreements, since neither in its object nor in its effect it is suitable for restriction of competition, or, even if there are such restrictive effects it could be exempt under the relevant provisions of the law.

The GVH has investigated more self-regulations where the possibility of restriction of competition emerged. The means available for the GVH do not allow preliminary exemption of agreements; consequently market effects of these agreements have to be assessed by the market players themselves. Nevertheless in this given situation the GVH does not make it probable that the draft self-regulation at stake would be unlawful.

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