



GAZDASÁGI
VERSENYHIVATAL

Hungarotel unlawfully restricted consumers in using the services of its competitors

The Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH) established in its decision of 5 December 2006 that Hungarotel Távközlési (Telecommunications) Zrt. abused its dominant position by restricting consumers in selecting an alternative telephone service provider in its network with respect to voice services. Hungarotel is obliged to pay a HUF 150 million (approx. EUR 566.000) fine for its unlawful behaviour.

Due to the opening of telecommunications market urged by the European Union legislation, consumers who have fixed line telephone subscription can use not only the service of the service provider which possesses the network for making a call, but an alternative service provider as well. The alternative service provider is an undertaking, which makes it possible for subscribers of the service provider owning the network, via the infrastructure of the latter, to use its service by means of a prefix number. When using an alternative service provider, the consumer pays the fixed monthly subscription fee to the service provider owning the network (i.e. to Hungarotel in this case), while he pays for the individual calls to the alternative service provider.

Hungarotel's tariff packages created and introduced in 2001, followed by ones effective from 1 October 2005, – although in a different manner and means, but both tariff package structures – were found to be restrictive because they restrained the alternative service providers which are competitors of Hungarotel, in entering the market.

The tariff packages introduced in 2001 were found to be restrictive, because Hungarotel permitted the use of an alternative service provider only within the basic tariff package, which had the highest fixed monthly subscription fee respectively the lowest price of calls. The selection of Alapcsomag (Basic package) was not reasonable to the majority of subscribers, because only a small saving could be made, compared to the relatively low fees of Hungarotel, by using an alternative service provider, while the monthly fee had to be paid in any case.

By its „Otthon” (Home) tariff packages, which followed the earlier tariff packages and were introduced on 1 October 2005, Hungarotel made it possible for its subscribers to use an alternative service provider. The restrictive effect could be attributed to the fact that all of the tariff packages included so called free minutes. The purpose of this solution was to induce Hungarotel subscribers to think about using an alternative service provider only with respect of calls over the free minutes included in the packages. Hungarotel knew the calling habits of consumers and it formed its monthly subscription fees and the included free minutes, based on that information, in the certain tariff packages. This method aimed to get the majority of

subscribers to intend to pay a sum equal to the monthly fee for using the fixed line telephone and to use exactly the number of free minutes which was included in the package.

If it is not worth to the subscribers of Hungarotel to use an alternative telephone service provider, then it is not remunerative for the alternative service provider to enter the market in Hungarotel's network. Thus the behaviour of Hungarotel, by which it made its own subscribers to have an "adverse interest" in selecting an alternative service provider, deterred its competitors from bearing the non-insignificant extra costs of the entering the market. If in spite of the above mentioned, the alternative service providers had still entered the market it made their economic situation much more difficult. Before 1 October 2005 Matáv of that time, and later Tele2 undertook the entering of the market. The unlawful situation was abolished by the introduction of a tariff package (Otthon Direkt – Home Direct) of Hungarotel effective from 1 May 2006, which did not include free minutes any more but it made possible for consumers to select an alternative service provider.

The behaviour of Hungarotel concerning the selection of an alternative telephone service provider was also examined by the National Communications Authority of Hungary (NCAH) in respect of the period between 5 June 2004 and 1 October 2005, and in its decision which is not final yet the NCAH established an infringement and imposed a fine. For this reason the GVH did not take into consideration this period at imposing the sanction.

On the above grounds, Hungarotel has been fined HUF 150 million.

The other behaviour of Hungarotel, which was examined in this proceeding as well, namely the restriction of the entering into the market of dial-up internet service providers, the GVH terminated the proceeding because there no infringement could be established.