

# Recent legislative developments of the Hungarian competition law

Tamás SZÁMADÓ

Head of Legal Section  
GVH (Hungarian Competition Authority)

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# Latest amendments of Competition Act

- ***Act no. CCI of 2013 on the amendment of Hungarian Competition Act and of other acts concerning the proceedings of the Hungarian Competition Authority***

*Takes effect: from 01.01.2014 (partly); from 01.07.2014  
thorough amendment of Hungarian Competition Act  
mainly procedural rules;  
convergence to European practice as far as possible*

- **Act no. CXCI of 2013 on the amendment of Act no. LVII of 1996 on Prohibition of unfair and restrictive market practices (Hungarian Competition Act)**

Effect from 22.11.2013

# Other important legislative changes

- **Act no. CLXXVI of 2012 on amendment of Act CXXVIII of 2012 on inter-branch organisations and on certain aspects of agricultural markets**

Effect from 28.11.2012

*special exemption for agreements and concerted practices regarding agricultural products – decided by minister of agriculture*

*prohibition of fining such conducts – obligatory suspension of fine*

*[on-going infringement procedure]*

- **Act C of 2012 on Hungarian Criminal Code**

Effect from 01.07.2013

*Bid rigging – exemptions for successful leniency applicants (consistency with Competition Act)*

# Main fields of amendments of Competition Act

- 1 GVH-s status, financial bases, provisions on officials' public service relationship
- 2 integration of rules on comparative advertisement and on B2B advertisement into Competition Act
- 3 new rules on the control of concentration of undertakings
- 4 new rules on access to file, processing of confidential data, leniency documents
- 5 other amendments (including market study, settlement, fine tuning of leniency rules)

# integration of rules on comparative advertisement and on B2B advertisement into Competition Act

- Originally these rules were in Act on general rules of Advertisement
- Integrated into
  - chapter II (general rules on the prohibition of unfair competition) and
  - chapter III (unfair manipulation of business decisions) of Competition Act,
- B2B business practices regulated analogously to B2C commercial practises
- more coherent rules

# new rules on the control of concentration of undertakings

- Amendments by Act no. CXCI of 2013  
Government by decree may exempt concentrations „of strategic importance for national economy” from the obligation to notify/to require authorization
- major changes by Act no. CCI of 2013
  - explicit stand still clause (Competition Council may authorise derogation);
  - no time limit for request for authorisation
  - net turnover – only sales within the same group of undertakings not taken into account
  - shorter time limit for phase I. – 30 days
  - general rules of prenotification talks with GVH
  - several small further modifications (fine tuning of the system)

# new rules on access to file, processing of confidential data, leniency documents

- coherent and thorough regulation within the Competition Act itself of
  - access to file,
  - treatment of confidential information (more detailed provisions)
- new rules on
  - taking copies of electronic data during dawn raids and
  - treatment of electronic evidence (also regarding LPP)

# Access to file, treatment of confidential data

- Differentiated rules on access to file according to
  - person (client, witness, 3rd person)
  - time of access (different rules at different phases of procedure)
  - type of data concerned (business secret, leniency statement, settlement declaration)
- Business secrets can be made available only to clients under strict conditions if inevitable for exercising right of defence (possibility for restricting of making copies, data room procedure)
- Leniency corporate statement and settlement declaration defended



# Access to file

Proce dure	Person	During the procedure	After final decision
Prcedure for request (control of concentration)	client	✓	✓
	Witness – with regard to minutes of his/her hearing	✓	✓
	third person	If it is necessary for for the enforcement of his right, or for the fulfilment of his obligation conferred upon him by the relevant legislation or an official ruling  BUT: In special cases access may be denied even in these cases (if it would undermine the GVH's decision-making process, defence of leniency documents)	✓



# Access to file

Procedure	Person	Before sending the case handler's report/SO to clients	After sending the case handler's report/SO to clients	After final decision
Procedure ex officio (antitrust procedures)	client	<ul style="list-style-type: none"> <li>- if it is necessary for review procedure against a decision during the procedure</li> <li>- if Competition Council so decides (discretion)</li> </ul>	✓	✓
	Witness – with regard to minutes of his/her hearing	- if it is necessary for review procedure against a decision during the procedure	✓	✓
	third person	–	<p>If it is necessary for for the enforcement of his right, or for the fulfilment of his obligation conferred upon him by the relevant legislation or an official ruling</p> <p>BUT:</p> <p>In special cases access may be denied even in these cases (if it would undermine the GVH's decision-making process, defence of leniency documents)</p>	✓

# Other important amendments

- introduction of settlement procedure
- Fine tuning of leniency rules (revised Modell Programme)
- new instrument for getting information: market study
- Formal rules for 'market test' of proposed commitments / conditions and obligations attached to authorization of concentrations
- Several minor modifications on procedural rules

THANK YOU FOR YOUR ATTENTION