



GAZDASÁGI
VERSENYHIVATAL

HUNGARIAN COMPETITION AUTHORITY

REPORT

On the Sector Inquiry of Residential Mortgage Loans

Based on Article 36/A of Act LVII of 1996

on the Prohibition of Unfair and Restrictive Market Practices

Budapest, December 2005

EXECUTIVE SUMMARY

1. On the market of residential mortgage loans, the level of interest rates offered by banks, steadily growing profits and interest rate margins significantly exceeding EU-average indicated the fact that effective competition in the field of „price competition” may be limited. Several complaints, together with a letter from the Parliamentary Ombudsman for Civil Rights persuaded the GVH to launch an investigation in the field of home loans.
2. Based on Article 36/A of the Competition Act, the President of the Hungarian Competition Authority (Gazdasági Versenyhivatal, GVH) requested information from undertakings operating in the residential mortgage loan sector for the purpose of analysing market trends to determine whether fluctuations in prices or other market conditions indicated that competition in the given market was hindered, restricted or distorted by one or more undertakings or that those undertakings abused their dominant position(s). The sector inquiry covered the period between January 2002 and July 2004. The GVH contacted 41 credit institutions, of which 25 responded. Based on these responses, the GVH analysed the conditions for 250 different products, which were grouped by type. Unlike competition supervision proceedings, as a result of their aim and nature, sector inquiries did not include the examination of the profitability, cost and efficiency of credit institutions.
3. Financial services and the services offered on the market of credit institutions as a whole belong to the highly regulated sectors in the economy. The relevant market is very diversified from a product perspective. Loans granted by credit institutions, home savings and loan associations, on the one hand and government subsidized loans together with „normal” market-priced home loans, on the other, display significant and even fundamental differences in some aspects, and thus substitution is limited between them. The rules relating to them and the room available for credit institutions to shape terms and conditions bring about alternative fields and tools for competition, which results in a separate analysis for each credit type. For example when evaluating certain market practices or prices, a significant issue in deciding about the restriction of competition is whether similarities arise as a result of statutory or other legal provisions.

Findings of the investigation

4. The activity and a significant part of the conditions offered by market players in the home loan industry are limited by legal and other regulations¹. Act CXII of 1996 on Credit Institutions provides a general framework for the activity of credit institutions by setting general rules for their contracting practice vis-à-vis clients, as well as the establishment and publishing of general terms and conditions of business. Credit institutions must provide their existing and potential consumers with straightforward and readily intelligible information about the conditions of their services and the modifications of them. This

¹ The most important regulations are as follows:

Act CXII of 1996 on Credit Institutions (Hpt.)

Act XXX of 1997 on Mortgage Loan Companies and on Mortgage Bonds

The Act CXIII of 1996 on Home Savings and Loan Associations

Act LX of 2003 on Insurance Institutions and the Insurance Business

Government decree 12/2001 (I.31.) on government subsidization of home loans

Act XLI of 1991 on Public Notaries

information, and also standard service agreement containing the standard general terms and conditions², the terms and conditions of loans and credits offered for customers, together with rates of interest, service fees, and other costs charged to customers, default interests and the method of computation of interests must be published in the form of announcement in the customer area of the premises, and it must be made available upon a customer's request free of charge by credit institutions. Mortgage loan companies perform their activities in accordance with Act XXX of 1997 on Mortgage Loan Companies and on Mortgage Bonds. Mortgage loan companies have a specific objective of granting financial loans secured by mortgages on real estates located in the territory of the Republic of Hungary, and to provide „follow-up” loans in connection with a mortgage loan under government guarantees where the mortgage does not cover the follow-up loan. Mortgage loan companies also engage in appraisal services to determine the collateral value of real properties for credit institutions and insurance companies, corresponding to the regulations in the Act. Mortgage loan companies may purchase any mortgage loan and follow-up loan from credit institutions and insurance companies that is secured by mortgage on a real property located in the territory of Hungary with a restraint of alienation and encumbrance relating to mortgage loans, or - in connection with the mortgage or independent lien for additional security - a contractual clause that a restraint of alienation and encumbrance is registered on behalf of the mortgage loan company on the mortgaged property. The Act also regulates among others the value of the principle claims portfolio arising from mortgage loans, which may not exceed seventy per cent of the total value of the real estate serving as a security on which the loan was granted. Furthermore, the Act includes the obligation that mortgage loan contracts concluded by mortgage loan companies must be made in public documents (by public notary) and contains rules about the possible cooperation between mortgage loan companies and other credit situations. Act CXIII of 1996 on Home Savings and Loan Associations regulates the operation of this type of specialized credit institutions and it lays down provisions mainly about home savings agreements and related services. Government decree 12/2001. (I.31.) regulates the conditions of the obtaining and granting of government-subsidized credits under the new system of subsidization of home loans. According to this, there are two basic types of interest rate subsidization in the first 20 years of contract duration³, both having the objective of easing the burden debtors bear. Government subsidization is dependent on the maximum values of interest rates and other fees charged by credit institutions. Along with the interest rate subsidization the government's intent to promote the acquisition of new

² The standard service agreement containing the standard contract terms and conditions of bank credit operations must include information at least about

- a) the full name of the credit institution, number and date of its operating licence,
- b) whether the interest rate is fixed or variable and, if variable, how, and the method of computation of interests
- c) other fees and costs,
- d) additional obligations in security of the contract.

³Their main characteristics are as follows.

- Interest rate subsidization for mortgage bonds is a so-called „liability subsidization” where not directly interest rates are subsidized by the government, rather mortgage bonds, which are used for financing mortgage contracts corresponding to the conditions laid down in the government decree, including the conditions relating to the maximum of interest rates and handling costs, laid down in Article 12 (1) g).
- Direct interest rate subsidization is provided when the necessary personal and other conditions laid down in the government decree are fulfilled, thus for the repayment of a mortgage loan for a property whose value does not exceed HUF 30 million (without the LAND PRICE cost of ground, excluding VAT), has personal building or the purchase of a newly constructed dwelling as its subject, and a credit institution situated or represented by a branch Hungary as creditor.

homes also materialized in several other forms (as specific allowances for constructions, tax repayment), which as not being part of the credit contracts were not subject to this investigation.

5. In order to ensure compliance with contractual obligations, credit institutions may include certain ancillary obligations for the debtor in the contract in accordance with Act IV of 1959 on the Civil Code. These obligations may include mortgage and surety, or an option to buy. Mortgage and option rights must be registered in the real estate registry. To secure these rights, a prohibition of alienation or encumbrance could also be registered, subject to the parties agreement upon it in their contract. As a statutory obligation, the prohibition of alienation or encumbrance must be registered in the case of mortgage loan companies, and it must also be indicated in the mortgage contract.
6. Entering into a contract providing full insurance for the mortgaged property and the transfer of rights arising from this contract to the lending bank are general disbursement conditions for lending. This entirely corresponds to international tendencies. It is professionally entirely justified in this case to compensate potential damage in the mortgaged property (which could not be repaired by debtors themselves in the majority of cases) by insurance providing for „lack of collaterals”.
7. A modification in the regulation following the period examined in this investigation obliges credit institutions granting home loans to calculate and publish the a total cost of credit.⁴
8. Home loans can only be granted by financial institutions that have the necessary permission from the sector supervisory authority. The permission is granted on the basis of the institution having the necessary ground capital and professional expertise. For the ability of granting government subsidized loans an agreement with the Ministry of Finance is necessary. Since May 2004, financial institutions having an operating license in another EU Member State may also enter the Hungarian home loan market following a registration at the sector supervisory authority. Credit institutions have provided rather widely varying estimates on time and financial resources necessary for market entry in the course of the sector inquiry. Time estimates ranged from several weeks to 12 months, while cost estimates varied from a few million to above one billion HUF.
9. The home loan industry experienced a huge downturn in demand in the previous years as a result of reduction in construction activity and government subsidies, of unfavourable income situation and economic outlooks and high inflation and credit rates. It is no surprise that such a market situation did not attract new entrants to this segment, and it conserved the overwhelming market position of the former monopolist, OTP Bank, in the field of both existing and new credits. This market situation changed at the beginning of 2001 with the introduction of government subsidized home loans. These loans aimed to significantly reduce the interest rate of home loans thereby making them accessible for a wide range of consumers. (The significant role of government subsidization in home loans is illustrated by the fact that its proportion was 95% of all home loans in 2003.) The government achieved a reduction of the home credit interest rate by limiting the maximum value of interest rates and other fees charged to consumers, while banks were compensated

4. When calculating the total cost of credit (THM) the following cost elements must be taken into account: all costs paid by the consumer directly to the financial institution, and the costs paid to third parties, the assessment fee for the real estate offered as collateral, and the fees to be paid for on spot inspections of the residential construction. The regulation prescribes the publication of particular comparable figures.

for the resulted losses by government subsidies. The rules of government subsidization changed several times during the examined period. As a result of government subsidies and the refinancing by mortgage banks of home loans granted by commercial banks, and as a result of the interest rate subsidization of mortgage bonds numerous credit institutions entered the market, thereby eroding the former quasi-monopoly situation and providing room for competition on the market. By the middle of 2004, the stock of home loans multiplied nine times compared to that at the beginning of 2001.

10. Market actors on the supply side of the home loan market are credit institutions (commercial banks and mortgage loan companies, saving cooperatives and home savings and loans associations) and, rather theoretically, insurance companies. The examined time period was characterized by the increasing dominance of commercial banks in the stock of home loans, exceeding a 90% share. The market share of saving cooperatives declined from 10% in 2002 to 7% in the first half of 2004. Market shares held by the two home savings and loans associations are insignificant (around 1%). Insurance companies are active in the market only in cooperation with banks. Their ability of granting loans on their own is seen as a not reasonable alternative. The value of granting loans is limited to 5% of life insurance premium reserves.
11. Despite intensifying competition, market concentration increased during the examined period; the value of the Herfindahl-Hirschman Index calculated from home loans data increased from 1887 at the end of 2002 to 2268 and 2351 at the end of 2003 and at the end of the first half of 2004, respectively. Almost 83% of home loans are concentrated to nine banks. A change to the opposite direction and, of course, higher concentration is observable when groups of, rather than individual, banks are considered. In this case the value of the Herfindahl-Hirschman Index for home loans decreased from 3655 (2002) to 3371 (2004). Among the reasons of high concentration it has to be mentioned, that there was relatively limited time available for banks to build up the necessary capacities for providing government subsidized loans, and thus enter the market. Market entry to this field required capital and workforce regrouping and an adequate IT background. In addition, there was a constant need for adaptation to the frequently changing regulation. Banks unable to meet this challenge could easily find themselves in a competitive disadvantage. Furthermore, a general observation is that activity on the home loan market could only be very limited without a sufficient branch network: only to a very limited extent could alternative channels of distribution substitute local branches.
12. The participation of a mortgage loan company is indispensable in the offering of subsidized credits with mortgage bonds, therefore, commercial banks and savings cooperatives had to enter into a co-operation agreement with a mortgage loan company. Having an own mortgage loan company becomes a straightforward competitive advantage for a credit institution regarding this product. Alongside saving costs, intra-group co-operation could result in additional income and in time advantage over other commercial banks. A co-operation between banks and insurance companies is not indispensable on the home loan market, but it can enhance the variety of services for clients of both credit institutions and insurance companies. Furthermore, it can be a good tool to promote the (possibly mutual) sales of the two different services; especially banks with a narrow branch network can capitalize on co-operating with the agents of insurance companies. This co-operation is not only an additional source of income for these institutions, but it also facilitates the monitoring of consumer repayments, and mutually enforces compliance. Co-operation between banks and home savings and loans associations is also advantageous for both sides due to an increase in the sales, and it allows customers to optimally utilize government subsidization related to these different products.

13. Competition has clearly intensified on the home loan market during the last decade. Competition manifests in new market entries, better quality and time consumption of services, increased number of advertisements and several promotions. Competition in the field of interest rates and other service fees is rather limited, which has multiple causes. Due to the overwhelming dominance of government-subsidized loans in the field of home loans, pricing (and thus product profitability) was basically determined by the changes in government rules and subsidization policy.
14. As far as the lending practice of banks in respect of home loans is concerned, along with interest rates, handling costs constituted the major permanent cost factor for customers in the examined period (and afterwards as well). There are no significant differences between government subsidized products of the different banks in the compound rate of interest rate and handling cost, but the low variation is rather an indicator of government determination than competition here. Increased demand has not forced the banks to apply significant discounts to the limits determined by the government. In the case of market-priced loans, which are not subsidized by the government and have no strict regulation on their terms and conditions, interest rates (and possibly returns) are quite high in international comparison, and these credits are not financed by the State budget, but rather by consumers themselves. In the case of market-priced loans, banks tend to alter interest rates and handling costs less frequently. Averages and variations of interest rates are on the same level, showing little differences during the whole period. An important reason for this is the very low proportion of this kind of loans on the market compared to subsidized loans, thus conditions realized in this „niche market” were not considered as priorities to intensifying competition by banks.
15. The most striking feature of extra costs in connection with home loans is their great variety. The basis, number, introduction and cancellation of extra costs vary from institution to institution, depending on the product and the pricing policy of the bank. In comparison to handling costs, the most important common feature of extra costs is that they do not represent a permanent burden put on the debtor for the whole duration of the credit, although some of them may be recurring in time. Another feature is their variety: some of them are expressed in percentage, others in absolute figures, while some others form different combinations of both (minimum and maximum levels), which makes their comparability questionable.
16. Some credit institutions only accept repayment of home loans via bank transfer from a current account managed by the same credit institution. Given the fact that most credit institutions require the conclusion of a payment card contract for a current account contract to be concluded. This double tying result in regular extra costs for the client applying for home loan (service charge, annual fees for cards and transaction fees). Entering into a home loan contract creates a lock-in situation on other markets (since abolishing the current account results in the termination of the credit contract as well), which distorts competition on the market of current accounts and payment cards, thus being detrimental from a competition policy perspective.
17. The determination of the collateral value of the real estate securing the home loan is a cornerstone of granting home loans. The collateral value is the value of a real estate based on a conservative estimate. In the course of its determination, the mortgage loan company appraises risks arising from the long duration of the credit, and the characteristics and yields which will likely be due in future to any proprietor. The collateral value forms the basis for the magnitude of the loan and the obligations. Some credit institutions and all mortgage loan companies have an agreement with evaluators, but credit institutions in their capacity as principals of the evaluators normally control their activity and reserve

themselves the right not to accept or even modify the evaluators' assessments. The bank negotiates the price for assessments, but customers must pay for this activity. Some credit institutions do not allow evaluators to inform clients about the result of their assessment, and even credit institutions themselves do not hand over the assessment to clients paying for the assessment, the latter are informed at most about the final results. Not knowing the market value established by the evaluator of the real estate functioning as a collateral could be detrimental to consumers, since it sets clear limits to their orientation as far as the value of the real estate is concerned and to the freedom of their choice in respect of making use of the loan. A significant disadvantage could arise from the lack of information on market value at the determination of the option value of the real estate, or at the determination of the minimum value of the real estate secured by a mortgage to be set for selling the real estate outside of a judicial execution procedure. The sole aim of determining the collateral value is to help the calculation of the credit risk run by the creditor bank, and it is also clear, that the collateral value is determined in a unilateral and autonomous way by the creditor bank, which makes the collateral value only applicable in that very credit assessment procedure. It could be a serious harm to consumers' interests that credit institutions display the collateral value in their credit, mortgage and option contracts and contracts of other kind as a market value mutually accepted by the parties striking a bargain about it, and use this as a starting point for settlement issues in their contracts.

18. In addition to the documents prescribed by law, credit institutions use several techniques to different extents to inform consumers. At distribution points (branch offices, agents, insurance companies) there are written, often very detailed and even comprehensive documents (leaflets and flyers) at the customers' disposal. Along with this, banks publish more or less detailed information on their websites, and they also operate call centres. According to the opinion of the GVH, current legal provisions the aim of which is to inform consumers are not effective in promoting consumers' interest, since they are not part of the decision-making process of consumers. As for the information materials, it has to be pointed out that credit institutions take care of informing their customers, but these materials are commonly characterized by being lengthy and written in a very technical language, and contain, apart from what is obligatory to be published, only information that is important for the bank. Sometimes they contain consumer statements, where consumers admit to have become familiar with the terms and conditions, but problems arising tend to indicate that this is not always the case. Even a thorough and realistic knowledge of the general and special terms and conditions do not mean that a careful and prepared consumer could make the right choice. Certain parts of general terms and conditions like „the bank could impose other conditions to the conditions declared here” could not only undermine the correctness of a consumer decision, but could also result in distortion of competition.

Assessment

19. The home loan market was rapidly growing during the investigation period at both the demand and supply side of the market. The market expansion has been realised at a rather high concentration level (70% of the market is controlled by 5 market players, and 52% is in the hands of a single market player) albeit the HHI for banking groups has decreased in the investigation period. As a result of government subsidies, the market kept growing with the appearance of more and more players; as a consequence of this, the competition at the home loan segment has become more intensive. Compared to other areas of competition, in price competition this phenomenon could hardly be noticed during the investigation period, for which regulation is the main explanation. Competition has been

further strengthening since the initiation of the sector inquiry, which fact can be partially explained by the decreasing demand. However, the market is yet to reach the level of effective competition.

20. Based on the facts revealed in the investigation, no market players are likely to have a dominant position and this situation is not expected to change in the near future as credit institutions are competing against each other for acquiring or maintaining market shares. Even the 52 % market share of the OTP Group was not found to indicate a dominant position under the Hungarian Competition Act of the group, as its market share is continuously decreasing due to rapid changes on the market, which is the sign of competition becoming more intensive. Under these conditions OTP cannot pursue its market activities independently of its competitors. Other competitors are forced to recoup investments made when entering the market, thus to keep and further increase their market shares. In other words, they are forced to compete.
21. The credit institutions present in the Hungarian market are typically capitalised enough to establish and develop their branches (their business and IT background, branch network and electronic channels) to provide competitive threat on the market. It takes a relatively short time to acquire the expertise needed to enter the home loan market – as this has already been proven in practice, while other means of distribution can also serve as a temporary alternative to branch networks. Besides, credit institutions active in the EU Member States can any time freely enter the market.
22. As a result of regulation, the home loan market is rather transparent, residential conditions set by competitors are easily available, as general terms and conditions, interest rates and fees are published also in the premises open to clients. However, the data show such a variation, that a collusive behaviour prohibited by the Hungarian Competition Act cannot be assumed based on them.
23. No information is published about the different business solutions and co-operations with other institutions. However, credit institutions can easily discover those solutions and co-operations by monitoring the acts of competitors. Similarities existing in this field, which do not result from regulatory burdens can be considered as parallel conduct. Interest rate movements into the same direction result mainly from the specificities of the credit market.
24. Based on the facts gathered in the course of the investigation it can be stated that none of the market players has a dominant position, neither is collusion likely or presumable, furthermore, collective dominance is not established either. To establish the existence of collective dominance, first it needs to be proved that legally independent undertakings are connected to each other through special interest links, as a result of which competition on the merits between the two undertakings is excluded, while they pursue or are anticipated to pursue essentially the same market conduct. Based on the development in time of the number of home loan market clients, it cannot be concluded that such interest ties between banks would exist, especially with regard to the fact that during a relatively short time numerous banks became interested in being present on the market (due to changes in market conditions resulting from changes in subsidization). These entries had to be realized on the account of the currently dominant bank. Based on the above, there is no reason to initiate competition supervision proceedings against any of the market players at the moment. With regard to 1) fact that due to the long run attribute of home loans – most of which run even over 20 years – consumers are tied to the loan-providing bank, 2) as well as to that lacking the appropriate time horizon there is not enough experience related to the conduct of market participants it can not be excluded that the market behaviour of

these participants would later necessitate further investigations of the competition authority.

25. Based on the findings of the sector inquiry it can be laid down, however, that with regard to the number of market participants, the relationships between them and the related conditions, choosing the optimal bank and the optimal credit product is not a straightforward task. Given that the credit concerned is typically a long run credit it is reasonable that consumers give a thorough consideration broader in scope to the options before the final decision is made. However, conditions to this considered decision-making are only partially given, and help is also only available under limited terms. Taken into consideration the range as well as the actuality of the required (often original) documents for a loan application and the related totally or partially sunk costs (credit review fees, value evaluation), it is not a realistic assumption that a potential client would apply for a home loan to more than one bank simultaneously or one after the other. As consumer answers reflect, it often occurs that the bank states further claims that are not mentioned in the information brochures (such as “suggested” life insurance) after the submission and acceptance of a bank loan application (namely, during the credit review phase). As the loan application process itself is rather time and money consuming it is likely that one would turn to another credit institution only in the case when his application is refused. In other cases consumers are forced to incur the extra costs and expenses arising “en route”. As a consequence other market options and withdrawal in respect of their choice of the credit institution are only realistic and open to consumers up to the point of the submission of the loan application. Afterwards such a change is only possible with incurring excessively high costs/losses, or by running the risk of the loss of the flat they wish to buy.
26. The legally required application of the indicator “total cost of credit”, which facilitates consumers to make reasonable decisions, helps them to choose the bank with the most suitable conditions. However only practice will show how standardized is the calculation on the market of this indicator and what kind of practical problems may occur with it. Besides the indicator, it would be by all means necessary, that credit institutions publish the likely costs of credit – either in absolute value terms, or by using the same basis for the calculation when the costs are displayed in percentages. Besides being a clearly understandable information for customers, this would also decrease the credit risk for creditors for the average consumer could himself predict his paying abilities (solvency). In the case of a home loan, a monthly instalment of the order of 50 000 HUF as a minimum (and the related compulsory insurance and occasional other costs) does not make it irrelevant when and why an additional amount in the order of ten thousands need to be paid out, the possible omission of which may result in further expenses and risks. According to our view, the diversity of fees is not at all justifiable by objective grounds. It would be reasonable to reduce related banking “creativity” so that costs charged reasonably could be “totalled” under maximum 3-4 payment obligations (which would have the same names all through the sector).
27. The GVH does not dispute the right of banks for detailed cost accounting, however the application of numerous – and undefined – fees is not justified by the actual operational costs. It raises concerns about multiple consumer payments for loan-related bank operations. It cannot be explained for example what workload difference and actually occurring cost difference would serve as a justification for the differences, which arise on a typically roughly 2% handling cost basis. This percentage rate results in a HUF 100 000 handling fee in the case of a 5 million HUF loan, as opposed to the same fee being HUF 600 000 in the case of a 30 million HUF loan. (Such a rate of handling cost amounts to millions in the case of a 15-year loan maturity, and it means varying handling cost

incomes of the indicated amounts for the bank.) It remains further questions, what kind of operating costs are not to be included in handling costs, what is covered by handling costs and thus, what is justified to be charged to customers as separate cost items. The missing transparency in the present situation hinders effective competition in the banking sector and it may even result in welfare losses to consumers.

28. In the opinion of the GVH, the average consumer – yet having the most detailed and fully comprehensive information – currently is not able to foresee the consequences what the long run obligations described above may result in, including those of the occasional unconformity with the underlying contractual obligations. A fundamental reason to this is the relatively low level of financial culture. A manifestation of this problem is that lots of consumers are truly interested only in what monthly instalments they need to calculate with, which is known concretely only at the beginning. Additional expenses that could be foreseen from the loan contract (such as insurance premiums, interest rates or other fees, etc.) are not always pre-estimated by them. This fact is not altered even by the quality of the given notary information on contractual obligations or by the number of statements signed by a debtor stating his awareness and understanding of conditions.
29. General banking practice may also result in inadequate awareness of consumers. Besides the complexity of contracts themselves (loan contracts, mortgage contracts, surety, etc.) many conditions are invoked from the respective general contract conditions, general business rules or from the occasional business unit rules. Consequently, any conditions formed later during the duration of a long-term loan, and not known at the time of underwriting have to be accepted by clients. It is nearly impossible for clients to calculate the actual risks occurring under these other conditions.
30. One of the conditions to effective competition is the presence of well-informed consumers, who are thus able to make reasonable choices. However, resulting from the lack of information, from the limited rationality of a layman, from the proliferation of information, from the diversity of consumers' decisions stemming from the lack and distortion of selection, and lastly from the time lag in decision making situations –, consumers' decisions are less capable of enforcing effective competition on the supply side, especially the intensifying of real price competition.
31. At the assessment of the credit institution's conditions, it has to be kept in mind that under due diligence credit institutions have to assess the solvency of future debtors, also through requiring collaterals to make sure that the loaned amount will be repaid. In case of subsidised loans there is a special liability for satisfying the conditions stemming from the government subsidy and for ensuring the State not to get out of possession. The factual assessment and the amount of the required collaterals is made even more difficult by the scarcity of time which makes it impossible to gather the necessary knowledge – for example about the magnitude of the actual risk. There is no evidence for a significant amount of non-performing loan debts in the period after 2002 according to information from the supervisory and banking institutions. However, prior to 2002 there were some, not many of which ended in forcible collection as credit institutions had attempted to find other ways (e.g.: rescheduling) to solve the problem. It is necessary to state, that a bank can utilize a given collateral only in case of a client not fulfilling his contractual obligations. Consequently, this fact cannot be neglected at assessing particular cases, which are typically consumer protection related rather than competition related matters.
32. Among contractual collaterals – such as mortgages on real estate, mortgage, property insurance, credit covered by life insurance, surety, option to purchase (the latter is not typical) – only the surety and public notarisations are not prescribed by legal regulations,

and can be seen to serve mainly the interests of the credit institution. The situation is less straightforward with insurances, because real estate insurance also serves the interests of the debtor and not only those of the creditor. In case of property damage the insurance exempts the debtor from the consequences of unplanned and unexpected extraordinary damage, which the majority of the debtors are unlikely to be able to cover. . Credit covered by life insurance can be regarded as serving also the interests of the debtor, however stipulations by the bank cannot be considered in the same manner as a real estate insurance could be. According to our opinion, it is not the banks' responsibility to protect the consumers in such a way. A bank should only make it clear to consumers what options and consequences they may encounter later. There are no empirical data at our disposal about the proportion of actual repayments by the insurance companies, however, the period investigated was too short compared to the long terms for drawing sound conclusions.

33. State intervention has competition distortion effects to the market of home loans. The different forms and magnitude of subsidies result in different situations for each market participant (commercial banks, cooperative financial enterprises, mortgage banks, home savings and loan associations).

Suggestions to regulatory organs and/or supervisory authorities for consideration

34. We suggest that credit institutions should be obliged to give credit applicants individual, specific and written information lined to the given credit about its costs, main attributes, risk elements – over the general information. However credit institutions should simultaneously be restricted in stipulating any further conditions in addition to those having been told and published.
35. Tying practice without objective justification under which home loans are offered together with the imposition of an “obligation” to utilize other services connected to the management of a current account at the same credit institution, should be prohibited or restricted. Not only that this results in a hidden credit cost increase, it also distorts competition on the market of the tied service with stiffening the market structure.
36. It should be clearly articulated in regulation or in contractual terms, that the actual market value of the property should be the basis for determining the collateral value, in order to avoid “double depreciation” in case of forced sale of a real estate. Our opinion is that incurring an evaluation fee means less loss to the client, who is in a difficult situation, than facing a lower minimum sell price based on the value estimated at the time of contracting. . Of course, there is nothing against a creditor and a debtor agreeing at the time of the forced sale about using the coverage value estimated at the time when they signed the loan contract.
37. It should be prescribed – otherwise than the general rules of purchase options state – that the credit institution should give a 90-day period in case of home loans for the debtor to sell the real estate by himself, or there should be an option for a “common selling”.
38. We suggest, that extra conditions should be prescribed by the State in case of subsidized credit products for the participating banks with regard to the fee structure applicable to such credit facilities, with a special view to the number, simplification, and comparability of the fees and costs. The State could even restrict participating banks in charging, apart from costs elements defined in the regulation, fees based on further titles or entitling fees. Relating to this range of products, obligations concerning the minimum standards of consumer information could also be more detailed, which would improve consumers' decision making abilities. Regarding the calculation of the indicator “total cost of credit”,

it is worth mentioning that it includes only costs arising up to the date of disbursement of the credit, but any further ones. The obligation to publish the total cost of credit allows the comparison of products projected to a specific point in time.

39. General terms and conditions of the credit institutes should be examined from the aspect of whether contractual clauses of sample contracts which are unilaterally favourable for credit institutions are in compliance with special consumer protection regulations appearing in civil law (unfair contract conditions). Insofar as there is any doubt concerning the compliance of any contract condition with the consumer protection provisions, it is necessary to initiate judicial procedures for challenging the validity of such terms.

Initiations at the Hungarian Bank Association

40. Self-regulation should be established that would make it mandatory for the banks to exactly define, possibly even with calculation instructions, each cost element (also handling costs) besides interest rates (showing in this way what operations are to be paid for). It is not straightforward in the present situation which cost elements are included in and how many times they are paid for as handling costs or as other fee items entitled differently.
41. Self-regulation should be established with regard to different indirect banking services connected to home loans (e.g.: remuneration of notary, evaluation fee). The credit institutions as the buyers of such services should pay for them, since they have a stronger bargaining power due to their interest, which may lead to lower fees.
42. We suggest considering whether any of the expert opinions on the evaluation of a real estate could be handed over to customers and thus can be used at loan applications submitted to other credit institutions.

The widening of consumers' market knowledge

43. The Hungarian Competition Authority in cooperation with the Hungarian Financial Supervisory Authority (HFSA) wishes to get involved in the development of consumers' financial culture and in the broadening of the education and information of consumers (starting as early as in their childhood) in respect of the home loan market, as well as in making the product comparisons prepared and periodically published – presently on its homepage – by HFSA available for a wider circle of consumers.
44. According to the opinion of the GVH, it is necessary to take a step forward with regard to the appropriate utilization of consumer protecting civil organizations' opportunities in the fields of right and interest assertion. It is essential for the State to take a role in this matter by creating the legal, institutional, personal and material conditions. Furthermore, it is also indispensable to communicate experiences and make them widely available to the public. The training of consumers enabling them to make the right decisions that would guarantee considerable benefits and the availability of information are all necessary for achieving consumer welfare gains. Home loans are a field of credit services where substantial consumer gains (surplus) could be realized through adequate consumer protection measures. For example in the case of consumption credits, even a 2-3 % difference in fees would result in savings measurable in ten thousands, while a 0,5 % difference in fees in the case of home loans would lead to differences measurable only in millions. However, presently massive barriers hinder the realization of these gains by consumers in Hungary, the removal of which is basically not to be resolved by means of the competition law.