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## The Hungarian Competition Authority in 2009 in the light of figures

**The Hungarian Competition Authority (GVH) deems its work of 2009 successful, which manifested in numerous competition supervision proceedings and in the strengthening of competition advocacy work and the development of competition culture.**

The activities of the GVH rest on three pillars. Its main task is competition supervision. In the course of competition supervision proceedings it investigates the practices of market players and if necessary it establishes that the practice examined has infringed the law and imposes fines pursuant to the provisions of the Competition Act. This is the activity which receives the most attendance since the decisions are public, the full version of the decisions are available at the website of the GVH (in Hungarian) and the press releases about the cases are also available there ([www.gvh.hu](http://www.gvh.hu) under the heading Press Room). In English the summary of the most important decisions may also be found at [www.gvh.hu/resolutions](http://www.gvh.hu/resolutions). Competition advocacy constitutes the second pillar. Within the framework of competition advocacy, the GVH gives its opinion on draft bills and law statutes from a competition point of view, hereby engaging itself in the preparation of the legislation process. Also in 2009 the GVH commented many draft bills in many fields. The proposal to restrict unilateral contract modifications by banks that was based on the observations of the GVH's sector inquiries related must be highlighted. The third pillar is the development and propagation of competition culture, which is not a typical task for authorities, however at the moment there is no other organ that would fill in the gap by concentrating on this activity. Within the framework of this sub-activity by translating and publishing technical books, preparing publications, supporting professional researches, organising and sponsoring programmes, the GVH aims that the public would become aware of the benefits of competition, the principles and the activity of the authority. At the end of November upon the invitation of the Competition Culture Centre Neelie Kroes, European Commissioner for Competition visited Budapest and evaluated the recent five years of activity of the GVH and also summed up from a competition policy point of view what the European Commission has done for the benefit of the newly joined region.

In 2009 the number of *competition supervision proceedings* somewhat decreased in comparison with those of the previous years: altogether 142 competition supervision decisions were reached. Infringement of the Competition Act was established in 47 cases by a decision made in the competition supervision proceedings, and the GVH imposed a total fine of HUF 5,832 billion (approx. EUR 21,6 million). This sum is higher than the total fine of HUF 716 million (approx. EUR 2,6 million) imposed by this time in 2008. This high amount can be explained first of all by the increasing number of cartel cases sanctioned by important

finances and also by the increasing fines imposed for consumer deception. Most of the proceedings – with respect to their complexity and the period of time required for their settlement – are closed following the calendar year; as a consequence the number of the decisions made and the aggregate amount of fine imposed alter every year.

It can be established that an important number of consumers continue to turn to the GVH with their complaints. In 2009 there were about 1500 complaints or informal complaints submitted to the GVH. This number is somewhat lagging behind the 2000 complaints submitted in 2008, which has various reasons. First of all the order of administration of the customer service has changed, thus a certain number of consumer problems are already solved at the time of contacting the GVH. On the other hand pursuant to the Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers, the GVH transfers ex officio the non-related informal complaints received to the authorities that have power to proceed; hereby the applications officially become complaints at another partner authority, not at the GVH.

In 2009 the most frequent subject of the proceedings of the GVH was the **deception of consumers**. Therefore it is not surprising that a total fine of HUF 827,8 million (approx. EUR 3 million) was imposed by 41 decisions of the GVH. Though the amount of the fines imposed by the GVH for consumer deception is increasing, there are certain sectors where the infringements recur year by year. For instance:

- In the telecommunications sector, telephone service providers were under investigation and called into proceedings on several occasions by the GVH, since they promised their clients unlimited access to mobile internet, but they in fact limited data circulation even in normal use.
- Taking advantage of people striving for a healthier life, many undertakings advertised their products by assigning unfounded curative power and health preserving effect to them.
- Pieces of information provided in connection with products in leaflets of big supermarket chains proved to be capable of deceiving consumers several times.

Besides all these, in 2009 in the course of its consumer protection activity, the GVH paid increased attention to two further sectors. One of them was the financial sector where the GVH established several times the infringements committed by certain purchasing communities, mortgage loan providers and banks for consumer deception and unfair commercial practices. For the same reasons several multinational companies interested in cosmetics were imposed big amount of fines since they had urged consumers to buy based on unfounded advertisement promises.

In 2009 the GVH applied more and more often in the course of its consumer protection activity the provisions of the Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers that entered into force on 1 September 2008. The cooperation with the National Consumer Protection Authority and the Hungarian Financial Supervisory Authority has contributed a lot to this activity.

Decisions made by the GVH in **cartel** cases have generally the widest media coverage. In 2009 in this type of cases 29 investigations were initiated. There were 6 proceedings that were closed with the imposing of fines, the amount of the fines imposed somewhat surpassed HUF 5 billion (approx. EUR 18,5 million). At the beginning of the year many road construction companies were fined a total HUF 3 billion (approx. EUR 11 million), since they

had concluded illegal restrictive agreements in order to win tenders in Heves county. At the end of September seven Hungarian financial institutions and two payment card schemes were imposed a total fine of HUF 1,9 billion (approx. EUR 7 million), since they set uniform interchange fees for transactions by Visa and MasterCard payment cards. 16 baker companies and the Hungarian Association of Bakers were fined HUF 76,6 million (approx. EUR 0,2 million) for cartelling. A total HUF 103 million (approx. EUR 0,3 million) was imposed on the undertakings that had colluded on the market of GPS navigation tools. The proceeding initiated by the GVH in connection with the Code of Ethics on the Food Production Chain received wide public attention, however this proceeding was terminated since the code became inapplicable. Though the amount of fines has been increasing, economic stakeholders do not renounce to conclude prohibited restrictive agreements. This entails that there are several pending cartel investigations.

In 2009 no **abuse of dominance** was established and therefore no related fines were imposed. However, this does not mean that this type of cases would not have been before the GVH. The most significant cases were not closed with the imposition of fines, but with commitment decisions. In the GVH's opinion this way the consumers can benefit more than by the fines flowing into the central budget. As a result of the intervention of the GVH Raiffeisen undertook to compensate its clients who as a consequence of the bank's unilateral contract modification were obliged to repay the remaining debts for a higher sum than it was formerly calculated.

In 2009 the GVH assessed 42 **applications for authorisation of a concentration**. The GVH investigated such significant Hungarian and international cases of wide media coverage as the concentration of Strabag and Cemex construction companies, Emerson and Avocent IT undertakings, Blikk and Bors tabloid paper publishers, or else the one of Magyar Telekom and ViDaNet telecommunication service providers. In the latter two cases no concentration authorisation was granted: Blikk withdrew its application and the Magyar Telekom and ViDaNet merger was blocked.

In 2009 two **sector inquiries** were closed. The most important observation of the sector inquiry in connection with bank switching, that was published in January, is that the chance for contractual asymmetry favouring loan providers in long term business relationships increases significantly, which has harmful effects on competition. For the sake of a more effective competition, the GVH proposed a stricter re-regulation of unilateral contract modifications, the maximisation of repayment fees, comparable price information and the portability of state subsidies. As a result of the intensive competition advocacy activity of the GVH in this field, Parliament refined the regulation of unilateral contract modifications and maximised the amount of the early repayment fees. The sector inquiry that was closed in April 2009 on the television program providing market identified some problems to be solved and proposed some solutions for them in connection with the digital terrestrial platform and audience measurement. Pursuant to the results of the inquiry – within its competition culture development activity – the GVH organised a conference and invited the parties concerned for an open professional debate, in order to provide professional help with the long overdue media regulation reform.

Similarly to the preceding years, the GVH was also successful in 2009 in defending its decisions **before the courts**. In 2009 about 70 cases were closed in the first or second instance at the courts, now there are about 120 pending cases in the first or second instance or before the Supreme Court for review. More importantly, in 2009 many decisions made by

the GVH in significant cases that are of theoretical and more universal importance were upheld by the courts.

It must be highlighted that the GVH finally won the insurance cartel case before the court that was closed with the second biggest fine imposed in the history of the authority. The Supreme Court also upheld the decisions made by the GVH in connection with the nation-wide road construction cartel, the cartel organised for the renovation of the building of the national pension insurer and the cartel established for winning the tender published for the procurement of IT tools for universities. In the past few years, minimal prices proposed by different interest groups were found to be infringing the Competition Act by the decisions of the GVH. The parties concerned challenged these decisions, however the court confirmed the arguments of the GVH. It was also considered a great success that the court did not contest that OTP had deceived its consumers when promising that they could use their credit cards free of interest for a definite time.

In 2009 the GVH continued its active **competition advocacy activity**. Besides giving opinion on plenty of draft bills and providing observations on the merits with the aim of contributing to the development of competition and making it more effective, the GVH has also been engaged in the debate around the governmental intentions aiming to remedy the problems of the Hungarian agriculture. According to the GVH, even in the agricultural sector the guarantee in the long run for the competitiveness of the sector and the welfare of the Hungarian consumers and the society is to flexibly adapt to the constraints of the market. On the food markets competition does not constitute a barrier to competitiveness, on the contrary it is one of the sources of competitiveness. Accordingly the GVH proposed to the legislators to introduce enforceable ethic rules in order to arrange asymmetric business relationships between the suppliers and the merchants. However Parliament decided to arrange this problem in another way and tries to regulate it in statutes.

The development of the **competition culture** in Hungary is also very important for the GVH. The Competition Culture Centre (CCC) of the GVH – that was established in 2006 with the aim of developing competition culture – continued its activity in 2009 as well in the form of translating and publishing technical books, preparing publications, organising and supporting professional programmes; and for raising interest among the young generation it published educational tenders for the tenth time and sponsored the Hungarian National Student Conference. In autumn in order to support the activity of other organisations it published its invitations for professional tenders, hereby providing assistance for other educational, scientific and research projects, civil organisations engaged in consumer protection, and continues to cooperate with professional organisations supporting, disseminating and developing competition culture in Hungary and judges engaged in competition law cases.

The GVH founded a prize in 2005 for those experts working outside the GVH who have contributed the most to the development of competition culture in Hungary in a given year. In 2009 the GVH decided to dedicate the Award for Competition Culture to Noémi Alexa, chief executive officer of Transparency International Hungary. Ms Alexa has devoted herself to act for the protection of fair competition and public life without corruption, hereby contributing to the reputation and the work of the GVH. In spring, upon the establishment of the new government, she called the attention of the Prime Minister and the public that one of the minister candidates had been executive officer of an undertaking that had been found guilty of cartelling. This courageous act and initiative also called the attention of the public to the fact how important it is to respect fair competition. Noémi Alexa also spoke about her

conviction before the media, which made it obvious not only for experts interested in competition law, but also for every day people that there are still some people and organisations that pay attention and are committed to respect the rules and fair proceedings. It is also to be mentioned that the work of the GVH has also been acknowledged since Noémi Alexa called the attention to the fact that non-compliance with these rules may entail serious and irreversible consequences. Besides this award in 2009 the GVH dedicated for the first time the newly-founded Media Award for Competition Culture to the editorial staff of Inforádió. The award ceremony Inforádió was represented by Márton Módos. The Media Award for Competition Culture was founded to acknowledge the work of the editorial staff or the journalist playing a leading role in informing the public on competition policy and competition law. The radio has been putting great emphasis for many years on informing the public in details and in an understandable way about the activity of the GVH and the competition authority of the EU. Furthermore, it informs its audience about lessons they can learn from the most important cases concerning market competition, by preparing detailed and objective background programmes on the cases. It is also to be mentioned – especially considering the other award-winner – that after Transparency International Hungary expressing its concerns in spring, Inforádió informed listeners about the happenings, the cartel case and its background in an accurate, comprehensive and understandable way in its different report- and news programmes.

The international activity of the GVH is very diverse. Besides cooperating as a Member State competition authority with the other MSs and the European Commission, its relationship network outside Europe is also very active. Besides having multilateral professional contacts, the GVH is also engaged in bilateral co-operations with the neighbouring or farther competition authorities. It has a special institution called OECD-Hungarian Regional Centre for Competition (RCC), which – based on the professional background of the Competition Division of the OECD and the GVH – provides technical assistance to competition authorities mostly in the Eastern and South-Eastern and Central European region by organising educational and professional programmes.

The RCC celebrated its fifth anniversary in 2009, on this occasion it organised 9 programmes. The topics of the seminars were around the main activities of the competition authorities, hereby sharing the best practises to be applied in competition law and competition policy. RCC invited and welcome 269 participants from 35 countries and 65 lecturers from 17 countries, and gave lectures for a total of 833 working days. In 2009 it organised two seminars on European competition law for foreign and Hungarian judges.

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## ANNEX

The highest amount of fines imposed in *consumer* cases:

	Case number	Undertaking investigation/condemned	Fine imposed (HUF)
1	Vj-116/2007	L'Loreal Magyarország Kft.	150 000 000
2	Vj-145/2007	Beiersdorf Kft.	110 000 000
3	Vj-133/2008	Penny Market Kft	100 000 000
4	Vj-056/2008	Johnson & Johnson Kft	70 000 000
5	Vj-115/2008	Euro Credit Consulting Kereskedelmi és Szolg. Kft.	41 618 100
6	Vj-24/2009	Avon Cosmetics Hungary Kft	40 000 000
7	Vj-58/2009	K&H Bank Zrt.	40 000 000
8	Vj- 136/2007	Magyar Telekom Nyrt.	30 000 000
9	Vj-182/2007	OTP Bank Nyrt.	30 000 000
10	Vj-165/2008	Hild Ingatlanbefektető Kft.	0
	Vj-165/2008	Hild József Örökjárdék Zrt.	30 000 000
11	Vj-78/2009	Penny Market Kft	30 000 000
12	Vj-178/2007	Wizz-Air Légitársasági Kft.	20 000 000
13	Vj-21/2009	Kereskedelmi & Hitelbank Rt	20 000 000
14	Vj-47/2009	Magyar Telekom	20 000 000

Fines imposed in 2009 in *cartel* cases:

Case number	Name of the case	Total amount of fines per case	Fine	Undertaking
1	Vj- 2006/130 Heves county road construction cartel	1	200 000	EGÚT Egri Útépítő Rt
	Vj- 2006/130 Heves county road construction cartel		700 000	Strabag Építő Zrt.

	Vj- 2006/130 Heves county road construction cartel		000	0	HE-DO Kft.
	Vj- 2006/130 Heves county road construction cartel	2 906 000	000	6 000 000	Colas Dunántúli Út- és Vasútépítő Zrt.
<b>2</b>	Vj-18/2008 Payment card interchange fees			127 000 000	Kereskedelmi & Hitelbank Rt
				188 000 000	Budapest Bank Nyrt.
				91 000 000	CIB Bank Zrt.
				107 000 000	Erste Bank Hungary Nyrt.
				90 000 000	ING Pénztárszolgáltató Zrt.
				84 000 000	MKB Bank Rt.
				281 000 000	OTP Bank Nyrt.
				477 000 000	Visa Europe
		1 922 000	000	477 000 000	MasterCard Europe Sprl.
	GPS navigation tools				
<b>3</b>	Vj- 166/2006			43 000 000	LCP System Kft.
				1 000 000	RRC Hungary Kft.
				9 000 000	Hamex Zrt.
		103 000 000	50 000 000		MITAC International Corporation
<b>4</b>	Vj-57/2007 Baker cartel			10 000 000	Szolnoki Sütőipari Zrt.
				5 000 000	Magyar Pékszövetség
				7 200 000	Ceres Sütőipari Zrt.
				3 600 000	ALBA-KENYÉR Sütőipari Zrt.
				1 800 000	Bácska Sütő- és Édesipari Kft.
				3 600 000	Delta Pékség Sütőipari és Kereskedelmi Kft.
					Európa-Pék Export, Import Kereskedelmi és Szolgáltató Kft.
				2 000 000	Szolnoki Sütőipari Zrt.
				8 000 000	Ferrosüt Sütő- és Édesipari Kft.
				3 600 000	Lővér Sütő Zrt.
				7 200 000	Pannon Sütő Ipari és Kereskedelmi Kft.
				3 600 000	Tatabányai Sütőipari Kft.
				4 000 000	Univer-Coop Kereskedelmi és Szolgáltató Zrt.



			1 000 000	Zsemle'93 Sütőipari és Keereskedelmi Kft.
			2 000 000	Kurdi Family Pék, Kereskedelmi és Szolgáltató Kft.
			8 000 000	Zalacko Sütőipari Zrt.
			2 000 000	Karamell-Ingatlanüzemeltető Zrt.
		76 600 000	4 000 000	Jász-Sütőház Sütőipari Kft.