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The GVH scrutinizes the Strabag/Cemex acquisition

The Hungarian Competition Authority (GVH) launched an authorisation proceeding on application of Strabag SE, for examining the acquisition of control over Cemex Austria AG and its subsidiaries by Strabag, and it decided to examine the merger in detail in two phases.

In September 2008, the GVH received a notification from the European Commission of the intention of Strabag to acquire control of Cemex Austria AG. Since the concentration would exert its effects on the territory of Austria and Hungary, on 6 October 2008 Strabag turned to the Commission and requested the transaction to be examined in its entirety by the competent authorities of the two countries. The GVH and the Austrian competition authority notified the Commission of their agreement with the proposal of Strabag. On 10 November the Commission decided about the referral of the examination of the transaction to Austria and Hungary as far as the Austrian market and the Hungarian market are concerned respectively. On 11 and 12 November 2008 Strabag submitted its applications for authorisation to the Austrian and the Hungarian authorities respectively. Upon receipt of the application, the GVH commenced its proceeding.

Pursuant to the Competition Act, when the consideration of an application is simple (i.e. granting authorisation for the concentration may clearly not be refused under the Act), the resolution concluding the proceeding is made within 45 days of the date of receipt, or the completion, of the application; however this time limit may be extended by at most 20 days on one occasion. In all other cases the resolution is made within 120 days, though this time limit may be extended by further 60 days.

The assessment is considered to be simple in several cases (e.g. the GVH may not refuse to grant authorisation for a concentration where the concentration does not create or strengthen a dominant position, which would impede the formation, development or continuation of effective competition on the relevant market or on a substantial part of it.) Pursuant to Notice No 1/2003 of the GVH, the application of the simplified procedure is subjected to the market shares reached by the undertakings involved in the merger on the relevant market. In the course of the investigation, the GVH has contacted numerous market players with the aim of getting knowledge about the market shares and market trade conditions in question. In the course of the analysis, it has been stated that there exists at least one geographic area where the combined and individual shares of Strabag and the Cemex Group on the ready-mix concrete market exceed the "simplicity-thresholds" mentioned in the Notice No 1/2003 of the GVH. As for some product groups, the concentration would significantly increase in some geographic areas and the market power of the parties could be strengthened as a result of the proposed concentration.

Based on all mentioned above, the GVH decided to examine the request for authorisation in two phases.

Case number: **Vj-146/2008.**

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