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Parliament accepted the annual report 2007 of the GVH

Parliament approved with 370 favourable votes, with no black-balls and abstainers the annual report 2007 of the Hungarian Competition Authority (GVH). According to the document the GVH initiated 204 proceedings and imposed a total fine of HUF 2,3 billion.

In 2007 the GVH conducted 204 **competition supervision proceedings**, out of which 154 cases – i.e. 158 cases taking into consideration the aggregation between case types – were closed by a resolution on the substance of the case of the Competition Council. 84 of the latter related to unfair manipulations of consumer choice while 74 of them to antitrust (i.e. to concentrations, conducts restricting competition and abuses of dominance). The total number of interventions of the GVH was 106; they were made mainly in consumer fraud cases (81 cases), and the rest in cases with antitrust relevance (25 cases). The GVH imposed fines by 68 decisions on the substance of the case; the total amount of the fines was HUF 2359 million. This sum is lower than the total fine imposed in the previous year, however, resulting from the fact that all cases are unique and special, no approximately identical heights of the total can be expected in each year.

In 2007 84 resolutions on the substance of the case were made in **consumer fraud cases**, out of which 81 necessitated the intervention of the GVH. There were 73 cases in which a serious violation of law was established and the total amount of fine imposed was HUF 1,285 billion. Regarding the number of cases and the seriousness of violations, the competition supervision proceedings concerning financial services, electronic communications services and advertisements, information provided on products affecting our health were also outstanding in 2007 within this type of cases.

In 2007 15 resolutions on the substance of cases were made in **restrictive agreement cases**. There were 12 cases where the GVH made an intervention, and 6 out of them were finished with the GVH's imposing fines in a total amount of HUF 1069 million. The most severe prohibited and secret agreements restricting competition (price fixing, allocation of markets, setting quotas) affecting bidding processes continued to be a priority field. In 2007 the GVH disclosed unlawful co-operations between potential competitors preceding their offer-making in relation to building activities and purchasing of equipments. At the same time the highest fine imposed by the GVH concerned a non-contest agreement on the newspaper distribution market rather than any of those bidding co-operations.

In 2007 there were 13 cases for alleged **abuse of dominance** that were closed by a resolution on the substance of the case of the Competition Council. 10 of them were finished by the intervention of the GVH: all the undertakings under investigation made a commitment to harmonise their conduct with the provisions of the competition law, therefore no decisions establishing an infringement were made. Accordingly no fine was imposed in these cases in

2007. The commitments of the five Hungarian ex-concessionaire fixed-line telephone service providers made “pure” ADSL services available on the market. The GVH terminated further two proceedings initiated against unilateral modification of long-term loan agreements by accepting the commitments of the biggest player of the residential banking sector. Both proceedings allowed us to draw the conclusion that Act CXII of 1996 on Credit Institutions and Financial Undertakings enabled banks to carry out never-ending unilateral contract modifications and the interests of consumers in a defencelessness situation were not adequately protected by the sector regulations.

In 2007 there were 46 decisions authorising **concentrations**. Seven concentrations were not bound to authorisation, or the proposed transactions did not qualify as concentrations. In 36 cases the GVH authorised the concentrations while in three cases it only granted authorisation to concentrations based on commitments offered by the parties or subjected to conditions.

It is clear from the above-mentioned examples that the transposition of a quite new legal institution, the commitment-resolution into Hungarian practice was successful in 2007. The practice of **offering commitments** fundamentally changes the procedural practice of the GVH. In these cases the undertakings under investigation commit themselves to bring their conducts and practices in compliance with the competition rules. The GVH must consider whether effective safeguarding of competition as public interest can be ensured in this way. As for the conduct under investigation the GVH does not establish whether the infringement has been committed nor imposes fines in these cases, however the undertaking concerned must actively remedy the undesirable anticompetitive conduct. This may have several forms. There were examples in the GVH's practice that general contractual terms and conditions or codes of conduct were modified even retroactively or money was reimbursed to consumers, which was equivalent to the direct reimbursement of pecuniary advantages resulting from unlawful conduct. It also happened that the undertakings under investigation committed themselves to provide extended consumer information in order to remedy concerns about the practice investigated. The GVH only accepts commitments of undertakings if it is ensured that the performing of the conduct offered by the undertaking is more advantageous also in the long run, from a competition point of view, than the establishment of the infringement, the imposing of fines or the carrying out of the whole legal procedure.

The GVH started two **sector inquiries** the termination of which is due in 2008. The first inquiry was launched in order to collect information and evaluate the processes on the wholesale and retail markets of television program providing that belongs to the electronic media as economic sector and the processes on the TV advertising market in relation to sales of television advertisement, access to sport and film rights and television broadcast transmission. The sector inquiry in the field of financial services on the residential banking markets and the markets of small undertakings is aiming for the collection of information and the evaluation of the processes which are in connection with the replacement of certain financial products of financial service providers by similar products of other providers (customer mobility in banking).

Based on **court review experience**, around half of the decisions establishing an infringement are submitted to court for review. There has been harmony between law application by the courts and that by the GVH for years: out of the 301 final decisions of the GVH - that had been appealed under the Competition Act - only 20 were altered (in part or in its entirety) concerning the legal basis by the Municipal Court of Budapest or the Supreme Court (or the Court of Appeal Budapest). In another 17 cases the amount of the fine was reduced to certain extent by the courts.

In 2007 the GVH was also active in **competition advocacy activity**. In the framework of this activity the GVH attributes high importance to the making of comprehensive competition policy analyses relating to certain sectors. Therefore in 2007 the GVH published its competition policy standpoint in relation to the electronic communications sector; this standpoint about the development of competition and regulations on the electronic communications market is based on the experience gained in the course of the liberalization of the electricity market in 2002. The GVH also disclosed its discussion paper in relation to the possibilities and barriers of competition on the regulated healthcare markets. This paper describes a possible regulatory alternative taking into account the failures of the health and health insurance market, mapping the answers of the already existing regulatory system and taking into consideration the situation of the institutional background of healthcare regulations. In the course of opinion giving on draft pieces of legislation and other drafts, it happened in respect of more than 100 proposals submitted for opinion to the GVH that the Authority elaborated a detailed opinion. It focused on the (re)regulation of processes in the electricity sector in 2007 which was though a significant year as for the creation of conditions for a complete market liberalization, changes in favour of competition lagged behind the expectations. According to the GVH, the new Act on Electricity (Act LXXXVI of 2007) contains numerous professionally controversial solutions that are quite difficult to understand and apply. The GVH had been emphasizing the necessity and urgency of a draft legislation on program providing and digital transition. A thorough preparation of the draft allowed the GVH to enforce general aspects concerning the regulation that support competition in the course of preparatory meetings.

The GVH also paid increasing attention in 2007 to the third pillar of its activity, the **development of competition culture**. Many colleagues of the GVH teach competition law and subjects in relation to competition regulations in higher education institutions and give presentations for the professional audience. The staff members gave more than 90 presentations, more than 80 interviews and more than 70 studies and articles were published in law and economic periodicals and professional papers. Compared to the previous years, the attendance of the website and the number of people or undertakings turning to the Enquiries of the Authority have grown significantly. The **Competition Culture Centre (CCC)** was established in 2005 in order to make competition culture development more effective and better organised. The CCC performs its tasks on the basis of its published annual work plan. The CCC aims at realising the objectives mentioned above, within the framework of tender procedures, on the one hand by organising and managing activities and programs for the development of competition culture, and on the other hand by supporting the work of other persons' and institutions' that are engaged in the development and dissemination of competition culture. In 2007, a book of Massimo Motta (Competition Policy - theory and practice) was translated into Hungarian and published by the CCC to make this internationally recognised professional book available in Hungarian as well. The CCC, besides publishing educational materials, leaflets and the periodical *Versenytükör* (Mirror of Competition), organises international competition law conferences and regular, professional discussions for a limited number of audience in order to disseminate information for a wider range of public in the field of competition law and competition policy. In autumn 2006, the CCC invited tenders for supporting professional programs, research and other scientific and educational projects, and civil activities for consumer protection – with the aim of involving external institutions in the development and dissemination of competition culture. In the course of 2007, 87 tenders were submitted; their assessment and realisation in most cases took place by the end of 2007.

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