



GAZDASÁGI
VERSENYHIVATAL

The Hungarian Competition Authority initiated a public consultation on the draft of the new notice on the Method of Setting Fines in Antitrust Cases

In the middle of 2011 the Gazdasági Versenyhivatal (GVH - Hungarian Competition Authority) undertook to reconsider its notice on the method of setting fines in antitrust cases, which was repealed in May 2009.

In the course of the public consultation initiated today by the GVH, many of the interested parties (stakeholders) are expected to provide information and to make proposals with regard to the draft document.

According to subsection (6) paragraph (36) of the several times amended Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (hereinafter referred to as “**PURA**”) the President of the Hungarian Competition Authority may issue, together with the Chair of the Competition Council, notices, which describe the basic principles of the law enforcement practice of the Hungarian Competition Authority. Notices have no binding force; their function is to increase the predictability of the law enforcement.

The first notice on the method of setting fines (hereinafter referred to as antitrust fine notice) was published on 15 December 2003, and adopted the Authority’s guidelines on fine setting-methodology in the case of restrictive agreements (cartels) and abuse of dominant position. Although companies welcomed favorably the antitrust fine notice as it increased transparency, the GVH was compelled to withdraw it as a result of the conflicting judicial practice of the court of first instance. The Supreme Court of Hungary has approved the legality of certain elements of the fine setting-methodology implied in the antitrust fine notice. In April 2011 the GVH, when concluding decision in case Vj-102/2004, stated that the Authority is entitled to adopt a notice on the method of setting fines which is based on mathematical methods and which has a binding force on the GVH itself. The abovementioned decision of the Supreme Court of Hungary opened the door to the GVH to readopt the principles and methodology applied by the previous antitrust fine notice. The replacement of the notice was even encouraged by the public opinion of professionals.

It follows that the new drafted version does not change the previously applied methodology based on mathematical principles, it will be only specified and developed through the international experiences and the practice of the Competition Council and the case law established by courts.

Having regard to the economic crisis, the antitrust fine notice includes all the aspects of fine reduction in relation to the fines paid by undertakings in difficult economic situations. Through the review of the notice the GVH is trying to provide more space - in accordance with European trends - for the deterrent effect of imposing fines on cartels.

GVH is inviting interested parties (stakeholders) to submit written comments and observations until 5 December 2011. The comments can be sent by e-mail to birsagkozlemeny_konzultacio@gvh.hu. The consultation document can be downloaded from the [website](#) of the GVH.

Budapest, 15 November 2011

Hungarian Competition Authority
Communication Group

Further information:

Katalin GONDOLOVICS

Gazdasági Versenyhivatal

Mail: 1054 Budapest, V. ker. Alkotmány u.5.

Postal address: 1245 Budapest, 5. POB. 1036

Tel: (+36-1) 472-8902

Email: press@gvh.hu

<http://www.gvh.hu>