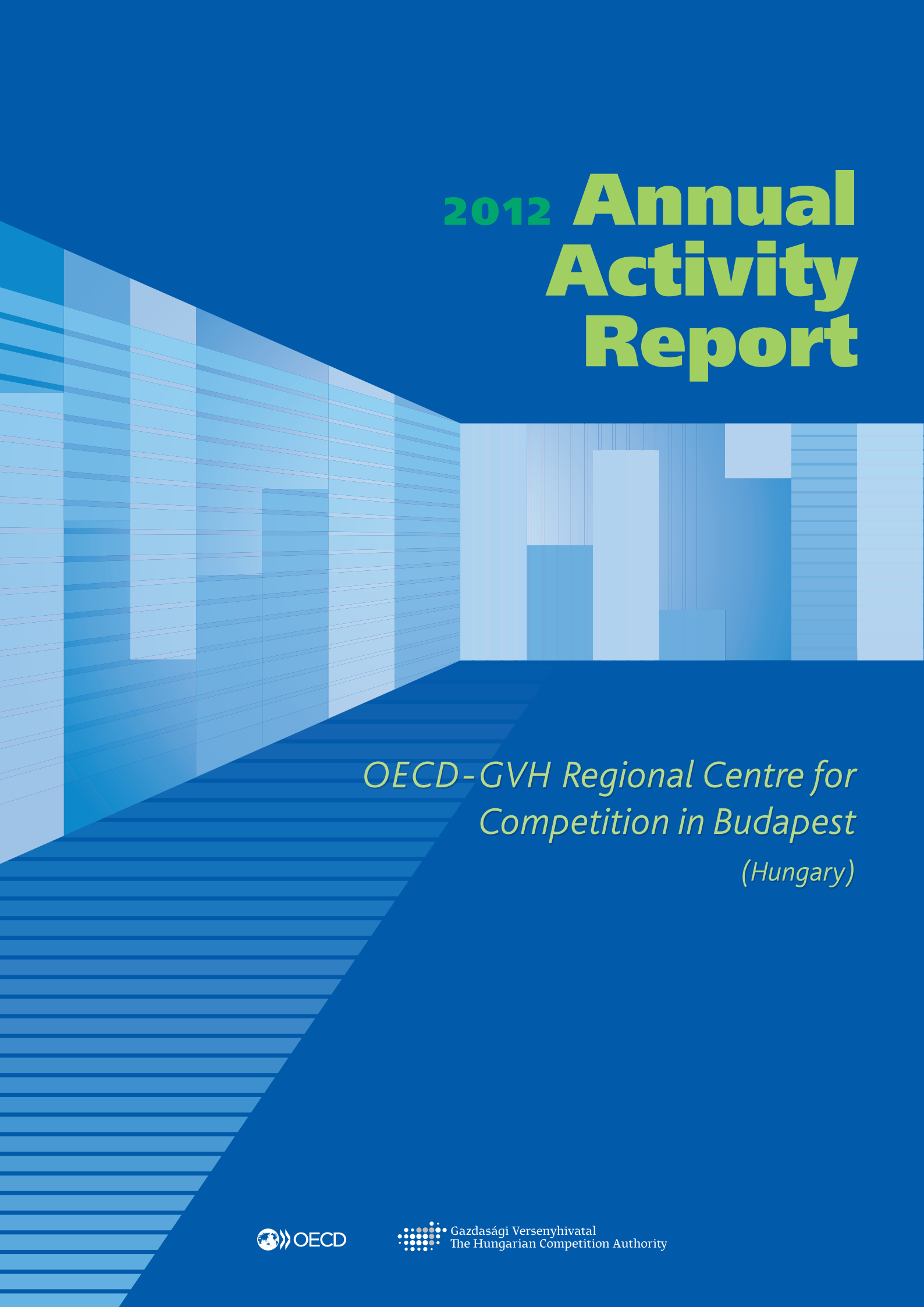

2012 Annual Activity Report

OECD-GVH Regional Centre for Competition in Budapest

(Hungary)

OECD

Gazdasági Versenyhivatal
The Hungarian Competition Authority

OECD-GVH Regional Centre for Competition in Budapest (Hungary)

Annual Activity Report 2012

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I. Introduction and organisational setup

The OECD-GVH Regional Centre for Competition in Budapest (Hungary) ("RCC") was established by the Gazdasági Versenyhivatal (GVH, Hungarian Competition Authority) and the Organisation for Economic Co-operation and Development (OECD) on 16 February 2005 when a Memorandum of Understanding was signed by the parties.

The main objective of the RCC is to foster the development of competition policy, competition law and competition culture in the South-East, East and Central European regions and to thereby contribute to economic growth and prosperity in the involved regions.

The RCC provides capacity building assistance and policy advice through workshops, seminars and training programmes on competition law and policy for officials in competition enforcement agencies and other parts of government, sector regulators, and judges. The RCC also works to strengthen competition law and policy in Hungary and in the GVH itself.

The RCC's work **focuses on four main target groups**. The first group of beneficiaries are the competition authorities of South-East Europe and the majority of the CIS countries, namely Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, FYR of Macedonia, Moldova, Montenegro, Romania, the Russian Federation, Serbia and Ukraine. The work targeting these economies is regarded as the core activity of the RCC. These economies have all progressed with the development of their competition laws and policies, but are at different stages in this process. As a consequence, the needs for capacity building differ among the involved non-OECD member economies and this necessitates a broad approach to competition outreach work. Major capacity building needs in these regions include (a) enhancing analytical skills in competition law enforcement, (b) raising the awareness of the judiciary regarding the specific characteristics of competition law adjudication, (c) pro-competitive reform in infrastructure sectors, (d) competition advocacy, (e) relations between competition authorities and sector regulatory agencies, (f) legal and institutional reform in the area of competition, and (g) building international co-operation and networking.

Judges represent the second target group of the RCC's activities. The judges seminars provide judges with an opportunity to improve their understanding of competition law and economics, to exchange views on the latest developments in EU competition law, and to discuss the key challenges arising in competition law cases. These GVH programmes are supported by the OECD, the European Commission and the Association of European Competition Law Judges (AECLJ).

The third group of beneficiaries of the work of the RCC are the competition authorities which belong to the Central European Competition Initiative (CECI). This Initiative aims to provide a forum for co-operation on competition matters and was established by the Central European competition authorities in 2003. It is a network of agencies and operates via workshops and informal meetings. Involved are the competition authorities of Austria, the Czech Republic, Poland, Slovakia, Slovenia and Hungary. These countries all belong to the same geographic region, share fundamentally similar cultural traditions and historical experiences and are, more or less, at the same stage of development. As a result, their competition authorities face several common challenges and difficulties. Moreover, from time to time these authorities deal with markets which are regional, overlapping or which are connected to each other, and they may also on occasion deal with the same parties (the same companies within the region).

The fourth beneficiary of the RCC's work is the GVH itself. The agendas of the RCC workshops that are organised for the staff of the GVH are related to ongoing projects or "hot" topics and provide an excellent opportunity for staff to learn about state-of-the-art antitrust theory and enforcement practices.

Seminar on European Competition Law for National Judges

24–25 February 2012

Concerning the functioning of the RCC, the Memorandum of Understanding of the RCC provides that the GVH and the OECD are to make major decisions on their activities and work jointly. For this purpose, the parties meet on an annual basis to review the operation and performance of the RCC and to prepare the annual workplan.

Regarding the financing of the RCC, the GVH is responsible for providing most of the necessary funding for the functioning of the RCC, including an annual voluntary contribution to the OECD for the costs associated with the staff position in Paris. The OECD helps to co-finance the RCC's operation and activities. In addition to this, both the GVH and the OECD co-operate in efforts to raise additional financial support for the RCC from third parties.

II. Overview of the activities of the year 2012

2012 was the eigth year of the RCC's activity. In 2012 the RCC organised a total of eight events, which focused on some of the most important core competences of competition authorities as well as on best practices in the area of competition law.

In addition to its regular seminars, the RCC continued with its special initiatives: (i) seminars on competition law for European judges, of which two were organised in 2012 (ii) a seminar organised in one of the beneficiary economies, and (iii) a seminar focusing on how competition authorities litigate their cases before courts.

table no 1
Total number of speakers per country or institution

	Speakers	
Country / Institution	Number	Person-days
EU Commission	3	8
Finland	1	4
France	1	2
Germany	6	16
Ireland	2	5
Israel	1	3
Italy	1	3
Netherlands	3	9
Oxera Economic Consultancy	2	2
Poland	2	5
Portugal	1	3
Russia	5	15
Sweden	4	10
United Kingdom	2	4
United States	3	10
GVH	9	26
OECD	8	23
Aggregate	54	148

Altogether, over the course of the year, the RCC invited 252 participants and 54 speakers to its events. Through the RCC's core events it delivered 616 person-days of capacity building.[1] All in all, participants from 31 economies or institutions attended the RCC's programmes, coming from Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Georgia, Germany, Greece, Italy, Kazakhstan, Kosovo, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Ukraine and Uzbekistan. Meanwhile, experts from 17 countries and institutions attended as panel members: EU Commission, Finland, France, Germany, Israel, Italy, Ireland, Netherlands, Oxera (Economics Consultancy), Poland, Portugal, Russia, Sweden, United Kingdom, United States, the GVH and the OECD.

[1] *Person-days are defined as the number of days a person attended a RCC seminar. Thus, if 10 people attended a course for 5 days and 4 people attended a course for 3 days the number of person days delivered is 62 (10*5 + 4*3 = 62).*

III. Detailed review of the activities in the year 2012

Table No2 provides a brief overview of the topics of the seminars held in 2012 as well as the participating economies and institutions.

table no 2
Summary of activities 2012

Event Topic	Date	Total Number of Participants and Speakers	Attending Economies / Institutions
Seminar on European Competition Law for National Judges: Competition Law Cases Through the Intellectual Property and High Tech Lens	24–25 February	31+4	Participants: Bulgaria, Croatia, Czech Republic, Estonia, Finland, Germany, Greece, Italy, Latvia, Lithuania, Macedonia, Poland, Portugal, Romania, Slovenia *Speakers: Germany, GVH, OECD, Poland*
RCC-FAS joint event for CIS countries held in St. Petersburg, Russian Federation: Workshop on Competition Issues in Payment Card Services	13–15 March	36+12	Participants: Armenia, Azerbaijan, Belarus, Kazakhstan, Moldova, Russia, Ukraine, Uzbekistan *Speakers: EU Commission, France, GVH, Netherlands, OECD, Russia*
Competition Litigation Seminar	17–19 April	30+6	Participants: Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo, Macedonia, Moldova, Romania, Russia, Serbia, Ukraine *Speakers: Germany, GVH, Ireland, Netherlands, OECD, Poland*
Workshop on Vertical Restraints	8–11 May	31+6	Participants: Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kosovo, Macedonia, Moldova, Montenegro, Romania, Russia, Serbia, Ukraine *Speakers: Finland, Germany, GVH, Ireland, OECD, United States*

Workshop on Merger Control: Innovative Remedies and Merger Analysis	26–28 June	29+7	Participants: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kosovo, Macedonia, Moldova, Romania, Russia, Serbia, Ukraine *Speakers: EU Commission, GVH, Israel, OECD, United Kingdom, United States*
Workshop held in Kiev, Ukraine, on Economic Analysis Tools in Cartel Investigations	18–20 September	37+8	Participants: Azerbaijan, Belarus, Bulgaria, Croatia, Georgia, Kazakhstan, Macedonia, Moldova, Montenegro, Romania, Russia, Serbia, Ukraine *Speakers: GVH, Italy, OECD, Oxera, Portugal, Sweden*
Seminar on European Competition Law for National Judges: Abuse of Dominance: Cases, Trends and Open Questions	23–24 November	26+6	Participants: Bulgaria, Croatia, Czech Republic, Estonia, France, Germany, Greece, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia *Speakers: Germany, GVH, OECD, Sweden, United Kingdom*
Seminar on Price Related Abuses of Dominance	11–13 December	32+5	Participants: Albania, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Kazakhstan, Kosovo, Macedonia, Moldova, Romania, Russia, Serbia, Ukraine *Speakers: EU Commission, Germany, GVH, Sweden, United States*

A)1. Standard programmes in the framework of the core activity

a) 8–11 May, Intermediate level seminar: Vertical Restraints (refusal to deal, price discrimination and selective distribution)

From 8 to 11 May 2012, 31 participants from 15 competition authorities across Central and Eastern Europe came together in Budapest for a workshop on vertical restraints.

The workshop included 11 presentations from expert speakers. The presentations dealt with both the theory of vertical restraints as well as real cases involving vertical restraints. In addition to the presentations from the experts, the workshop included seven case study presentations from participating countries and a hypothetical exercise on exclusive dealing.

Day one began with an introductory presentation from Simone Warwick of the OECD in which she explained the different types of vertical restraints and the difference between vertical and horizontal agreements. Her presentation also provided an overview of the key competition concerns that arise from different types of vertical restraints. The morning continued with a much more in depth presentation from Sabine Zigelski of the German Budeskartellamt on resale

Workshop on Vertical Restraints

8–11 May 2012

price maintenance (RPM). Her presentation looked at both the theory of RPM and at the German experience, in particular in the food retail industry.

On the first afternoon of the seminar there was a presentation from Peggy Bayer Femenella of the United States Federal Trade Commission about the way in which vertical restraints are assessed in the United States. Her presentation provided an interesting and useful contrast to many of the other expert presentations which focused on the European approach.

Day two of the workshop again began with a presentation from Simone Warwick of the OECD. Her presentation looked at the way in which vertical restraints are assessed in Europe and dealt with the block exemption regulations and the European Commission's guidelines on vertical restraints. The next presentation stayed with the morning's more theoretical theme as Rainer Lindberg of the Finnish Competition Authority spoke about the assessment of buyer power in vertical restraints cases, which in recent years has come under increased scrutiny in Europe.

The afternoon of day two commenced with a presentation by David O'Connell of the Irish Competition Authority on the economics of exclusive dealing. His presentation provided an overview of the key economic considerations that must be taken into account when assessing vertical restraints. Later in the afternoon, Péter Sükösd of the GVH presented on the GVH's investigation into, and action against, beer ties in the Hungarian market.

Day three included three case study presentations from the expert speakers. To start off, Peggy Bayer Femenella of the United States Federal Trade Commission gave a presentation on the Federal Trade Commission's Intel case. This was followed by David O'Connell from the Irish Competition Authority speaking about his Authority's investigation into exclusive pay television arrangements in newly built apartment buildings. In the afternoon, Sabine Zigelski spoke about the Budeskartellamt's case against Merck with respect to exclusive supply and distribution agreements, as well as rebates.

A hypothetical exercise on exclusive dealing was also conducted on the afternoon of day three. The participants were split into three groups to discuss and analyse a hypothetical case about exclusive dealing conduct before reporting back to the group as a whole.

On the final morning of the workshop, Rainer Lindberg of the Finnish Competition Authority gave a presentation on hub and spoke arrangements, that is RPM arrangements which also involve horizontal collusion.

b) 26–28 June, Advanced level workshop: Innovative Remedies and Merger Analysis (structural v. behavioural remedies, international co-operation, the role of trustees and arbitration clauses)

Twenty-eight competition law enforcers from 14 SEE and EE countries attended the workshop organised by the RCC on merger analysis and procedures.

The programme covered all relevant issues related to merger control enforcement, including defining the relevant market, analysing the market structure, assessing the proposed merger and imposing remedies. It dealt specifically with the more topical and innovative types of merger remedies that have been imposed in recent cases.

In particular, participants discussed the relative advantages and disadvantages of structural and behavioural remedies, the use of trustees and arbitration clauses and the role of international cooperation in the design, enforcement and monitoring of remedies.

The topics were addressed and discussed in lectures and case studies by competition experts from OECD countries as well as in case studies presented by 4 of the participant countries. A roundtable discussion followed each presentation.

The expert speakers delivered 9 presentations during the seminar. The topics ranged from an introduction to the basic concepts of economic theory, such as the principles of perfect competition and market definition, to more complex models of imperfect competition and econometric modelling of demand. During the course of the seminar, several

case studies illustrating the advantages and difficulties of applying advanced quantitative techniques to merger analysis were presented by the experts and discussed with the participants.

On the first day of the workshop, João Pearce Azevedo and Antonio Capobianco from the OECD introduced the topic of

Workshop on Innovative Remedies and Merger Analysis

26–28 June 2012

the implementation and monitoring of remedies in merger cases, where they discussed the type of remedies used in merger cases and the advantages and difficulties of structural and behavioural remedies. They also focused on recent trends in merger remedies, such as the use of arbitration clauses to help monitor behavioural remedies and the growing role of international co-operation on remedy design and implementation. They were followed by Daniel Ducore from the US Federal Trade Commission who detailed the FTC's ex-

perience with structural and behavioural remedies. His presentation stressed the preference that competition agencies have for structural over behavioural remedies, principally in mergers with horizontal competition concerns.

Bill Roberts from the UK Competition Commission explained the context under which the Competition Commission chooses between remedy options in merger cases. He proceeded to detail the way in which the Competition Commission uses monitors and third party trustees to implement behavioural remedies. Shlomi Parizat from the Israel Antitrust Authority discussed the experience of his authority in moving from the use of behavioural remedies in vertical and conglomerate mergers to the use of a more structural form of remedies.

The second day began with a presentation from Lucia Bonova from DG Competition on the Commission's experience in the design and implementation of non-divestiture commitments in merger cases. She explained the way in which the European Commission designs and implements suitable remedies and the way in which arbitration clauses can be used to monitor merger remedies by detailing some merger cases with conglomerate issues between complementary products. Shlomi Parizat gave a presentation on the issues surrounding a divestiture procedure in merger remedies. In particular, he detailed the role of trustees, the implementation and the foreseeable difficulties of the sale procedure.

In the afternoon, Nóra Váczi from the GVH presented the Hungarian Competition Authority's (GVH) practice on the implementation of remedies. She compared the application of structural and behavioural remedies and illustrated the practice of the GVH with a merger case in the cement market.

On the last day, Bill Roberts presented a case in which the UK Competition Commission had accepted a combination of behavioural remedies in a recent horizontal merger in the television and radio broadcasting industry. Dan Ducore finalised the workshop by talking about the FTC's experience in the international cooperation with respect to merger remedies. He detailed the growing trend for multinational merger cases that has lead to closer cooperation between agencies in remedy design, implementation and monitoring.

c) 11–13 December, Advanced level seminar: Pricing Abuses (excessive pricing and predatory pricing)

Analysing abuses of dominance is one of the most challenging areas of competition policy. Analysing "price-related" abuses of dominance — excessively high or low prices, or discriminatory prices leading to a margin squeeze — can be particularly controversial. The RCC's workshop on 11–13 December on Price Related Abuses of Dominance focused on untangling this complex area of competition analysis through lectures and case studies presented by experts from OECD member countries, case study presentations by participant authorities, and a guest lecture by a visiting academic. 33 competition enforcers and regulators from 15 SEE and EE countries participated, along with six experts from OECD member authorities. In addition to the prepared presentations, participants and experts engaged in lively discussions throughout the workshop.

The first day of the workshop began with a discussion of the overarching theme of how to assess monopoly power in abuse of dominance cases, and then focused primarily on the analysis of predatory pricing behaviour. Eric Emch, consultant to the OECD, discussed the general methods that are used to assess monopoly power, including both structural evidence (e.g., shares, entry barriers, lack of buyer power) and direct evidence (e.g., measures of prices and profitability, or anti-competitive effects). He illustrated how these principles were applied by the US Department of Justice in the American Airlines predatory pricing case and by the European Commission in its case against Microsoft.

During the rest of the first day, several experts from OECD member countries dealt in greater depth with predatory pricing. Zoltán Bara of the GVH outlined the economics of predatory pricing and discussed the "Chicago school" challenge of the predatory pricing theory and the "post-Chicago" economic models that resuscitated the assessment of predatory pricing in the context of modern game theoretic analysis. Mr. Bara also examined some key predatory pricing cases and discussed the varying approaches of the different jurisdictions to the assessment of the predator's potential for recoupment of lost profits.

Mr. Emch followed this talk with a detailed description of the common price-cost tests that are used to assess predatory behaviour. This included a discussion of the differences be-

tween the commonly used measures of cost — for instance, average variable cost, average avoidable cost, and long-run incremental cost. He emphasised that a key distinction between the various cost tests is the relevant margin of output over which to assess predation. In the final presentation of the day, Richard Gadas of the EC's DG-COMP explained in detail the Commission's predation case against Wanadoo Interactive, a division of French Telecom. Key issues in the case included defining a market based on high-speed Internet access for residential customers and evaluating predation based on a comparison of price to variable costs, which included an adjustment based on amortised subscriber acquisition costs. He explained the lengthy post-trial appeals process that had taken place in this case which had focused on the possibility of recoupment of lost profits. He detailed how the European Court of Justice had ultimately sided with the European Commission in 2009 when it declared that proof of recoupment of losses was not a necessary aspect of the analysis of predatory pricing. In 2009 the Commission noted that since its successful case in 2003, entry had occurred and prices had significantly decreased in the relevant market.

Seminar on Price Related Abuses of Dominance

11–13 December 2012

Day two of the workshop focused on the issue of excessive pricing and in particular on how to define, evaluate, and remedy the practice using the limited resources of a competition authority. Apostolos Baltzopolous of the Swedish Competition Authority discussed the economics of excessive pricing. He explained how interventions by a competition authority against excessive pricing balance remedying the deadweight loss of high prices against the risk and potentially high cost of distorting pro-competitive investment incentives and other beneficial market dynamics. He also discussed how it is generally difficult to measure and remedy excessive pricing. To illustrate his point, Mr. Baltzopolous later presented a case study of the Swedish Competition Authority's intervention in a case against a dominant incumbent heating company. This case clearly highlighted the difficulty of determining when a price is "excessive" and in finding an adequate remedy when it is. Roland Schwensfeier of the Bundeskartellamt discussed a similar case from Germany involving abusive pricing by recently-liberalised natural gas suppliers. Mr. Schwensfeier emphasised the practical hurdles and complexities in calculating an appropriate benchmark price even in a formerly regulated industry.

Alexandr Svetlicinni of the Tallinn University of Technology provided a good overview of the subject in his presentation of the results of an academic study he had conducted into the enforcement of measures against excessive pricing in the new EU member states and candidate countries. His study found similarities across jurisdictions in the economic sectors in which excessive pricing exists — these tend to be highly concentrated or monopolistic industries with high entry barriers, many of which were formerly regulated. However, he also found significant differences in the substantive tests applied and in the remedies imposed.

The third and final day of the workshop focused on margin squeezes: situations in which a firm's sales of an input to a downstream competitor may lessen that competitor's vigour in the downstream market. Mr. Schwensfeier of the Bundeskartellamt began the day with an explanation of the practice, describing the theories of harm implied by margin squeezes, and the legal bases which can be used to establish the illegality of the practice. Mr. Gadas followed with a detailed discussion of margin squeezes in the telecommunications sector, referencing the leading EC cases of Deutsche Telekom, Telefonica, and TeliaSonera. These cases confirmed the existence of a margin squeeze offence in EU jurisprudence that is distinct from a predatory pricing or excessive pricing offence. Mr. Emch concluded the discussion with a comparison of the EU and US approaches in this area, noting the fact that US courts and agencies were more hesitant than their EU counterparts to invoke a "duty to deal" with a competitor upon which an allegation of a margin squeeze must rest on some level.

Interspersed within the expert presentations throughout all three days were presentations from participating countries which covered the practical and theoretical issues that arise from pricing-related abuses of a dominant position. Representatives of the participating competition authorities discussed, for instance: the case of a government tariff on imports leading to a potentially dominant position for an incumbent cement producer, and the possible responses of a competition authority to actions taken by another branch of government; excessive pricing by bread producers and firms in the retail fuel market; and restrictions of competition in markets for various airport services that led to reduced entry and higher prices. These case study presentations generated discussion on the details of calculating appropriate pricing benchmarks and the feasibility of imposing one-time structural remedies to remedy price related abuses of dominance rather than engaging in ongoing price supervision.

Seminar on Price Related Abuses of Dominance

11–13 December 2012

table no 3
Number of participants and events attended

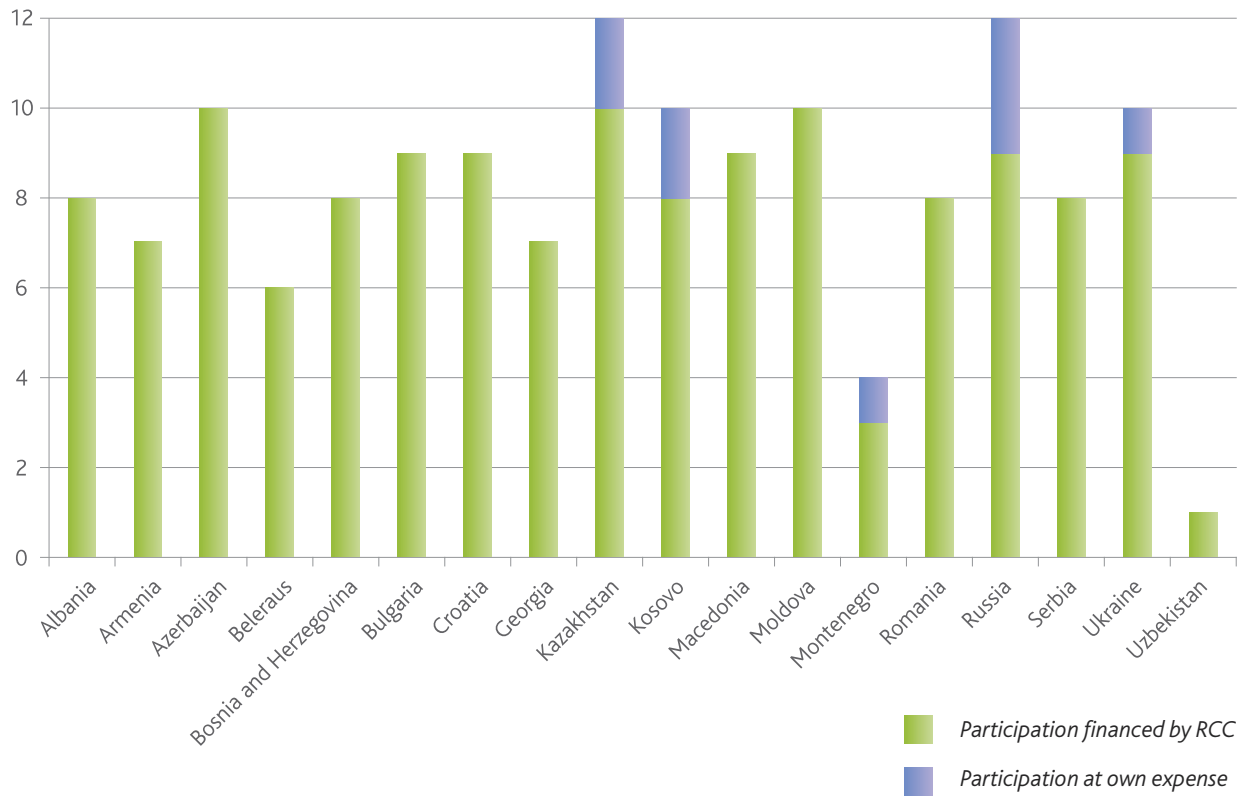
Table No3 provides an overview of the number of participants at the seminars. This summary focuses on the participants of the seminars organised as part of the core activity of the RCC.

Economy	Number of participants	Person-days	Events attended
Albania	8	26	4
Armenia	7	23	4
Azerbaijan	10	32	6
Belarus	6	18	4
Bosnia and Herzegovina	8	26	4
Bulgaria	5	15	3
Croatia	9	29	5
Georgia	7	23	4
Kazakhstan	12	38	6
Kosovo	10	33	4
Macedonia	9	29	5
Moldova	10	32	6
Montenegro	4	14	2
Romania	8	26	5
Russia	40	122	6
Serbia	8	26	5
Ukraine	33	101	6
Uzbekistan	1	3	1
Total	195	616	

chart no 1

Total number of participants per economy attending seminars organised as part of the core activity of the RCC

Chart No1 provides an overview of the number of participants per economy and to what extent participants were financed by the RCC or their institutions.



B)2. Special events in the framework of the core activity

a) 13–15 March, RCC-FAS joint seminar for CIS countries held in St. Petersburg, Russian Federation: Competition Issues in Payment Card Services

The OECD-GVH Regional Centre for Competition in Budapest (Hungary) and the Federal Antimonopoly Service of Russia conducted a workshop on competition issues in payment card services for forty competition law enforcers from 8 CIS countries.

In this workshop participants addressed issues which concern both regulators and competition authorities regarding the application of competition policy to payment card services, and they also dealt with general competition issues in the payment card services industry including questions about the efficiency of the system, market definition in two-sided markets and the characterisation of dominance and abuses in these industries.

The topics were addressed and discussed in lectures and case studies by competition experts from OECD countries as well as in case studies presented by participant countries. A roundtable discussion followed each presentation.

Seven OECD expert speakers participated at this seminar. João Pearce Azevedo from the OECD-GVH Regional Centre for Competition in Budapest (Hungary), Jurga Stanciute from the European Commission, Anne Yvrande-Billon from the French Competition Authority, Anneloes van Haaren and Joost van Zwet from the Dutch Competition Authority, and

role of economic analysis in competition cases. João Pearce Azevedo of the RCC gave an introductory talk on the specific competition issues that two-sided markets raise in the context of payment card services. He focused on the implications for market definition, assessment of pricing abuses and exclusionary behaviour by payment card platforms of the two-sided nature of these markets. He was followed by Anneloes van Haaren and Joost van Zwet who discussed the NMa experience in the Dutch payment cards sector. They detailed the Interpay case from 2004, the implication for the national market of the SEPA Migration Plan and the current annual tariff inquiry ran by the NMa. Andrey Kashevarov then spoke in general about competition in the payment card sector in the Russia Federation.

RCC-FAS joint workshop for CIS countries

13–15 March 2012

Zoltán Bara and Boris Martinovic from the GVH. The experts gave 8 presentations. These presentations ranged from general discussions about the methodology that is used to analyse two-sided markets in payment card services to the presentation of specific cases and regulatory issues in these markets. On the first day of the workshop, Zoltán Bara began by describing the experience and view of the GVH on the

In the afternoon, Yuri Borisov from the Bank of Russia described the Russian payment card market, its current state, recent developments and outlook. Jurga Stanciute presented the European Commission's policy regarding payment cards systems. She examined the EU Mastercard and Visa cases and also gave an overview of the European national competition authorities' cases that had used the Commission decisions

as a starting point. She went on to detail the Green paper published by the Commission in 2012 that assesses the current landscape of cards, internet and mobile payments in the EU. Zoltán Bara then detailed the implications for the Hungarian market of the EU Commission's decisions on Visa and Mastercard and the competition concerns regarding the merchant interchange fees (MIF) of these payment platforms.

On the second day Anne Yvrande-Billon spoke about the views of the French Autorité de la Concurrence regarding payment card services. Her presentation focused on the competition concerns raised by interchange fees and the role of merchant surcharging in obtaining a more efficient payment card system. This was followed by a talk from Olga Sergeeva that detailed several competition cases brought by FAS Russia in the sector of payment card services.

Boris Martinovic from the GVH described the Hungarian MIF case in his presentation on the last day of the seminar. He detailed the development of the Hungarian card payment system market and the case in which 22 banks, Visa and Mastercard were found guilty of restricting competition by agreeing to a single MIF.

The Ukrainian Antimonopoly Committe presented a case in which Visa and Mastercard were charged with raising and introducing new tariffs and commissions for Ukrainian banks. Zulfira Akbasheva from FAS Russia presented a case in which several parties were found guilty of restricting the access of banks to participate in the "Social Card of Bashkortostan" project.

Anneloes van Haaren and Joost van Zwet finalised the session and the seminar by summarising the major competition issues that are raised by payment card conditions such as the Honour-all cards rule, the No-steering rule, the No-surcharge rule and Co-branding of cards.

b) 17–19 April, Seminar on the Litigation of Competition Cases Before Courts

The RCC organised its second competition litigation seminar on 17–19 April 2012. The goal of the seminar was to provide competition authority staff who are responsible for representing their authorities before courts with an opportunity to discuss the practical aspects of litigating competition cases and to learn from more experienced authorities what steps they could consider taking in order to improve their chances of succeeding in court cases which are almost certain to become more frequent in the future.

This seminar addressed a wider group of competition authorities than the seminar organised in November 2011. The speakers were highly motivated and adjusted their presentations very well to the envisaged format; participants with some experience in competition litigation contributed throughout the seminar with questions. Although the topic of the seminar was very advanced for some of the participants and the programme was very intense, the feedback provided by the participants was positive.

30 participants took part in the event. The seminar was chaired by Andreas Reindl. The presentations were divided

among six speakers, including João Azevedo, OECD, Paris; Árpád Hargita, GVH, Budapest; David McFadden, Irish Competition Authority, Dublin; Anke Prompers, NMa, The Hague; Andreas Reindl, Leuphana University, Lüneburg and Sonia Jozwiak, Polish Competition Authority, Warsaw. The speakers provided a broad range of different experiences, both from larger, well resourced agencies with a lot of experience in litigating cases such as the NMa, and smaller agencies such as the Irish Competition Authority.

The seminar was devoted to the practical issues involved in litigating competition cases and the corresponding responsibilities of the legal department of a competition authority. The first morning focused on issues related to the investigation of cases and the gathering of evidence as well as on the role of the legal department in an authority. The afternoon session dealt with the presentation of complex economic issues to judges. The second day focused on the individual country experiences of Ireland and Poland and featured a roundtable discussion in the afternoon on a range of topics

Seminar on Litigation of Competition Cases Before Courts

17–19 April 2012

from developing relationships with judges to the role of a legal department within a competition authority. This was preceded by a discussion in breakout groups to better focus participants' attention to the relevant issues. Thursday focused on institutional issues and the role of the European Human Rights Convention in litigated competition cases. Participants presented case studies throughout the programme.

The agenda provided for a mix of different presentations and opportunities for questions and discussions, both among the panelists and with the audience. Set pieces were kept to a minimum. Throughout the programme speakers and participants presented cases that had been litigated before courts and the lessons that had been learnt from them.

The seminar benefitted from a good selection of speakers who had diverse and relevant experience in litigating cases and who understood the interactive format of the event. The roundtable discussion and the exchanges that took place during the seminar were very lively and rich in content.

c) 18–20 September, Ukraine, Kiev, Economic Analysis Tools in Cartel Investigations

The RCC conducted a workshop on economic analysis tools in cartel investigations for forty-four competition law enforcers from 14 EE and SEE countries.

The workshop consisted of a series of presentations on the key issues faced by competition authorities when applying competition law in collusive agreements cases. Participants discussed the procedures involved in cartel cases, the kind of evidence that is relied upon in such cases and the economic theory that underpins these pieces of evidence.

The main focus of the workshop was the use of tools such as economic analysis in proving the existence of a cartel, indicating grounds for further investigation or as a basis for damages/fines calculation. The limitations presented by the use of economic evidence of cartel behaviour as proof of an collusive agreement were also discussed.

The topics were addressed and discussed in lectures, exercises and case studies by competition experts from OECD countries as well as in case studies presented by the Ukrainian competition authority. A roundtable discussion followed each presentation.

The experts gave 10 presentations during the seminar. The topics ranged from an introduction to the basic concepts of cartel theory and the role of evidence, to the advantages and

disadvantages of using economic analysis in cartel investigations and damages quantification. During the course of the seminar, several case studies illustrating the advantages and difficulties of applying advanced quantitative techniques to

merger analysis were presented by the experts and discussed with the participants. A hypothetical case study on the quantification of damages in cartel cases was also included in the programme.

On the first day of the workshop, João Pearce Azevedo of the RCC gave an introductory presentation on the growing importance of anti-cartel enforcement around the world. He explained how the number of fines and other sanctions has increased in several jurisdictions. He also talked about the economic foundations of cartel creation and stability, detailing the various types of evidence that can be used in cartel cases, from the economic, circumstantial evidence of market characteristics and price movements to the hard, direct evidence of communication and agreements between parties. He was followed by Antonio Buttà from the Italian Competition Authority who talked about the use of direct and circumstantial evidence in three cartel case studies that his agency had dealt with.

In the afternoon, Manuel Cabugueira from the Portuguese Competition Authority gave a presentation on fighting cartels in public procurement. In his presentation he detailed the legal concept and the underlying economics of this topic. Hanna Witt, from the Swedish Competition Authority gave a talk on the use of economic evidence in the detection and investigation of cartels. She focused her presentation on public procurement market cases and presented a checklist that has been developed by her agency on the use of circumstantial evidence in initiating an investigation into bid-rig-

Workshop held in Kiev, Ukraine

18–20 September 2012

ging cartels. She also talked about some statistical models that are employed by her agency to look for suspicious patterns in bids in order to detect potential bid-rigging in procurement auctions.

The second day began with a presentation by Enno Eilts from Oxera on the horizontal effects of vertical agreements. He focused his talk on the potential collusive effects of some vertical agreements, namely from resale price maintenance, exclusive distribution and dealing and most most-favoured-customer clauses. Martin Sutinen from the Swedish Competition Authority and Alexander Gaigl from Oxera then gave talks on the damages caused by cartel activity and the different models that can be used to calculate these damages. The morning finished with a hypothetical case study delivered by Enno Eilts and Alexander Gaigl. This hypothetical case study involved the presentation of some facts to the participants about a hypothetical cartel in the fish industry. After reviewing the documentation presented, the participants

were then split into three breakout groups, one representing the plaintiff, the other the defendant and the third one the competition authority. Each group had to present their point of view and argue their case in a plenary session and a final decision on the quantification of damages had to be reached.

On the last day, Manuel Cabugueira spoke about several cases in which the Portuguese Competition Authority had applied economic evidence to their cartel investigations. He detailed the way in which the evidence was used and where the economic approach was most helpful in prosecuting the case in court. Martin Sutinen then detailed how the Swedish Competition Authority had used scanning and economic analysis of public tenders as a way of detecting cartels and initiating investigations in that area. Tibor Strelinger from the Hungarian Competition Authority concluded the seminar by giving a presentation on the practice of his agency in the application of economic analysis tools to cartel investigations in several industries.

C) Events for the RCC's special audience

a) 24–25 February, European Judges Seminar on Competition Law Cases Through the Intellectual Property and High Tech Lens

The RCC organised a competition law seminar for judges on 24–25 February, 2012. The seminar focused on competition cases involving IPRs and related, "high tech" issues. The choice of the topic reflected a suggestion repeatedly made in the evaluations of previous judges seminars. The topics were organised into three areas: parallel trade, abuse of dominant position, and collecting societies. The goal of the seminar was to discuss with participants primarily those issues in this potentially very complex area of the law that have come up in private litigation or which are likely to do so in the future. As usual, the emphasis throughout the seminar was on practical questions such as issues related to evidence and burden of proof and on discussing the questions raised by the participants.

31 judges from 15 countries participated at the event. The seminar was chaired by Andreas Reindl, Leuphana University. The presentations were divided among the chair and an additional three speakers, including João Azevedo, OECD, Paris; Péter Lánchidi, GVH, Budapest and Sonia Jóźwiak, Polish Competition Authority.

The seminar was devoted to a discussion of selected topics related to IPRs and "high tech" issues such as restrictions related to internet sales. Discussions in breakout groups on both days ensured that participants were actively involved in the seminar and had an opportunity to reflect on some of the issues covered in the presentations. As in earlier seminars, some breakout group discussions were organised before the related presentations in order to encourage participants to detect problems and possible solutions without prior guidance. There was also considerable time for discussion of fact patterns during the general sessions.

Seminar on European Competition Law for National Judges

24–25 February 2012

The first morning focused on an introduction to IPR issues, including the economics of IPRs, and on parallel trade cases. A breakout session before the parallel trade session gave participants an opportunity to think of some of the difficult issues that continue to arise in parallel trade cases. The session began with the relatively straight forward "core" rule on parallel trade between member states and moved on to more difficult issues that continue to present problems in court

cases, including unilateral strategies for limiting parallel trade, parallel trade from third countries, cross border trade in non-tangible products, and internet sales restrictions. This session also provided an opportunity for the discussion of very recent, controversial case law such as Premier League and Pierre Fabre and it placed these cases into the broader context of guidelines and continuing policy debates, while at the same time allowing for a discussion of their impact on future similar cases before national courts.

Friday afternoon was used to discuss abuse of dominance cases, focusing on major refusal to deal cases. The session also included a discussion of cases related to database rights, both to illustrate the ability of IPR regimes to reduce anti-competitive effects by limiting the scope of "unjustified" rights, and to discuss a currently pending, national refusal to deal case in breakout groups.

Saturday featured a short session on abusive IPR litigation as a competition law violation. The main focus was on collecting societies, in particular abuse of dominance cases which tend to come up before national courts more frequently. This topic began with a breakout session. Both speakers during this session focused on European as well as national cases from their own jurisdictions, thus providing a rich sample of cases to illustrate problems related to collecting societies. Although the topic of horizontal relationships among collecting societies was deliberately not put on the agenda, as it tends to be an issue which primarily comes up before competition authorities, the topic was addressed briefly during the final discussion.

Seminar on European Competition Law for National Judges

24–25 February 2012

The agenda provided for a mix of different presentations and opportunities for discussion. Comments and questions were encouraged, as well as discussions among speakers and with participants. Throughout the seminar participants used the opportunity to raise questions and comment on cases from a practical, judicial perspective.

b) 23–24 November, European Judges Seminar on Abuse of Dominance: Cases, Trends and Open Questions

The RCC organised a competition law seminar for judges on 23–24 November, 2012. The seminar focused on recent developments in European and national abuse of dominance cases involving pricing conduct, in particular the influence of economic concepts on case analysis and case outcomes in the context of private enforcement before national courts. Particular emphasis was placed on the evidentiary, practical,

and procedural questions that judges are faced with when presiding over cases involving issues of pricing conduct. The seminar programme presumed that participants already had basic knowledge of European competition law, which had been explained in the invitation to the seminar.

26 judges from 16 countries participated at the event. The seminar was chaired by Andreas Reindl, Leuphana University. The presentations were divided among the chair and five other speakers, including John Davies, OECD, Paris; Gergely Dobos, GVH, Budapest; Clare Potter, Competition Appeal Tribunal, UK; Ingeborg Simonsson, Stockholm City Court and Joerg Terhechte, Leuphana University, Lueneburg.

The seminar was devoted to a detailed discussion of recent Article 102 TFEU case law and policy developments involving pricing conduct by dominant firms. Developments in case law in this area have been significant but not necessarily consistent, creating challenges for national judges who are likely to be confronted with conflicting views on the state of the law under Article 102 TFEU. Discussions in breakout groups on both days ensured that participants were actively involved in debating the implications of some recent Court judgements, in particular on evidentiary requirements and the evaluation of economic evidence. There was also time for a discussion of fact patterns during the general sessions, including a longer hypothetical case with "briefs" for both sides on Saturday afternoon.

Seminar on European Competition Law for National Judges

23–24 November 2012

The first morning focused on the general economic concepts that are applicable in Article 102 TFEU cases involving the exclusion of competitors, with particular emphasis on predation. Predation was illustrated by the presentation of a case which was examined by the Hungarian Competition Authority and was followed by a breakout group discussion on a hypothetical case involving alleged predation. The morning concluded with a presentation of the various "tests" that have been developed to ensure a more predictable analysis in Article 102 TFEU cases, including illustrative case examples where various tests have been applied. This presentation connected the economic concepts discussed earlier with legal analysis, concluding in particular the overview of predation case law and analysis.

Friday afternoon was used to extend the discussion of predation standards to margin squeeze and focused on recent European case law as well as on national cases. These cases were used in particular to discuss with judges evidentiary requirements in an effects based competition law regime. The breakout session at the end of the day built on the earlier discussion as it encouraged participants to discuss analytical, practical and evidentiary questions in connection with a margin squeeze case.

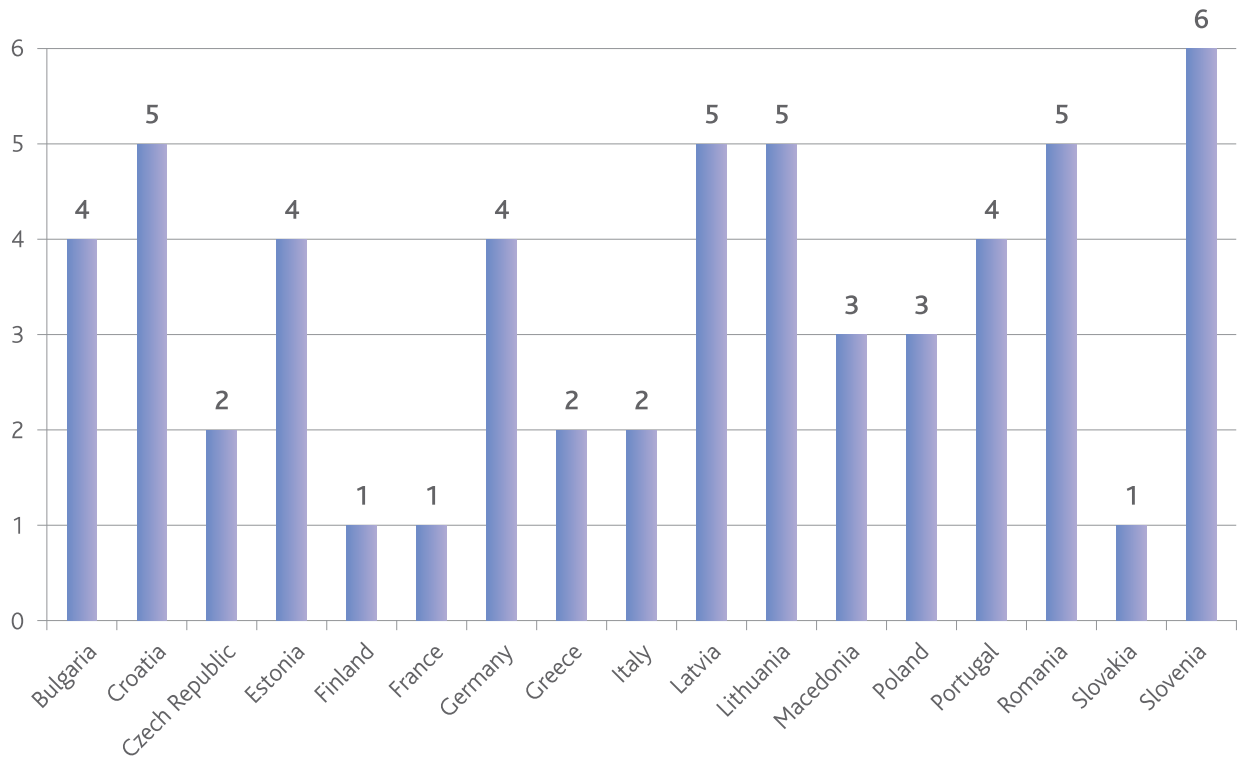
The Saturday morning programme extended the discussion of the previous day to other forms of pricing conduct, such as rebates and mixed bundling. A case investigated by the Hungarian Competition Authority was used to examine mixed bundling strategies. The discussion which followed focused in particular on rebates, an area where uncertainty about the impact of recent ECJ judgments can create particularly challenging questions for national judges. The session was also used to discuss the role of economic experts in

competition law litigation. Saturday morning concluded with a presentation on excessive pricing cases, including recent German developments which many jurisdictions in Central and Eastern Europe continue to consider of great importance.

Saturday afternoon was used to discuss a longer and more complex fact pattern in greater detail which was modeled after a case decided by a court in Sweden. Participants were asked to first organise the case analysis in breakout groups and identify evidentiary questions for both parties. The results were summarised and presented by a panel of judges representing each breakout group, and the case was summarised at the end of the general session.

chart no 2

Total number of participants per country for the two European Judges Seminars



IV. Evaluation of RCC Seminars

Participants are always asked to provide feedback on RCC seminars in order to maintain and potentially increase the standard of the events. According to the feedback, participants found that the seminars provided theoretical and practical information that was highly relevant to their day-to-day work and that the seminars also provided a good opportunity for the exchange of opinions between participants and experts. The average value of all of the answers for the entire year was 4,3 out of a maximum of 5.

Participants considered the quality and the relevance of the programmes to their work to be either: very high or high — 95 percent of respondents rated the seminars on this basis. Based on the feedback, the current distribution of the topics is well received. As usual participants would like more presentations on practical issues and in-depth case analyses, rather than theoretical discussions.

table no 4

Participants' evaluation of events organised by the RCC in the year 2012

Distribution of answers	Very low	Low	Moderate	High	Very high
Overall usefulness of the event	0%	0%	4%	52%	43%
Overall usefulness of the topics	0%	0%	12%	52%	36%
Quality of presentations	0%	0%	8%	61%	31%
Usefulness and quality of materials	0%	0%	9%	61%	31%
Quality of conference facilities	0%	0%	4%	51%	44%
Workshop preparations	0%	0%	11%	47%	41%
Usefulness of hypothetical cases / country contributions / case studies	0%	3%	18%	47%	33%
Overall quality	0%	1%	10%	53%	37%

table no 5

Detailed participants' evaluation by events and by categories

	Seminar for Judges 24-25 February	RCC- FAS joint seminar 13-15 March	Seminar in Budapest 17-19 April	Workshop in Budapest 8-11 May	Workshop in Budapest 26-28 June	Workshop in Ukraine 18-20 September	Seminar for Judges 23-24 November	Seminar in Budapest 11-13 December	Average
Overall usefulness of the event	4,7	4,5	4,3	4,1	4,3	4,3	4,6	4,3	4,4
Overall usefulness of the topics	4,4	4,3	4,2	4,2	4,2	4,1	4,2	4,3	4,2
Quality of presentations	4,5	4,2	4,1	4,0	4,2	4,1	4,5	4,2	4,2
Usefulness and quality of materials	4,6	4,1	3,9	4,3	4,0	4,1	4,5	4,3	4,2
Quality of conference facilities	4,6	4,4	4,0	4,5	4,3	4,3	4,5	4,5	4,4
Workshop preparations	4,4	4,3	4,1	4,4	4,0	4,2	4,5	4,3	4,3
Usefulness of hypothetical cases / country contributions / breakout sessions	4,3	4,4	3,9	4,0	3,9	4,2	4,1	4,3	4,1
Average	4,5	4,3	4,1	4,2	4,1	4,2	4,4	4,3	4,3

V. Financial and intellectual contributions

Ensuring that the RCC operates at the highest level is the task of the founding parties, the GVH and the OECD. This is set out in the Memorandum of Understanding signed by the parties in 2005, when the RCC was established. Both institutions provide financial and intellectual contributions towards the operation of the RCC. The accumulated experience and expertise of the OECD members also contributes to the training programmes offered by the RCC.

The dedicated funding for the operation of the RCC appears completely separate in the annual budget of the GVH.
The RCC had a budget of EUR 499 200 for 2012. This includes funds provided by the GVH and the OECD, as well as grants received from the European Commission, the latter for the judges training.

The following tables provide details on the total costs of the operation of the RCC in 2012 by sources of funds, by events and by major categories of costs.

table no 6
The sources of funds

Sources of funds (EUR)	
Gazdasági Versenyhivatal	423 200
OECD	30 000
European Commission (estimated, grants for the judges seminars)	46 000
Total funds	**499 200**

table no 7
Breakdown of total expenses by items

Breakdown of total expenses (EUR)	
A) Direct organisational costs	
Seminar on European Competition Law for National Judges, February 2012	33 500
RCC- FAS joint workshop for CIS countries, March 2012	13 700
Competition Litigation Seminar, April 2012	46 100
Workshop on Vertical Restraints, May 2012	47 900
Workshop on Innovative Remedies and Merger Analysis	42 500
Workshop held in Kiev, Ukraine, September 2012	39 300
Seminar on European Competition Law for National Judges, November 2012	27 800
Seminar on Price Related Abuses of Dominance, December 2012	35 800
Total direct organisational costs	**286 600**
B) Overhead and operational costs of the RCC	**32 600**
C) Staff costs transferred by the GVH to the OECD (see comment 1)	**180 000**
TOTAL EXPENSES in 2012	**499 200**

Comment 1: On the basis of the Memorandum of Understanding, the GVH made a voluntary contribution to the OECD for staff-related purposes.

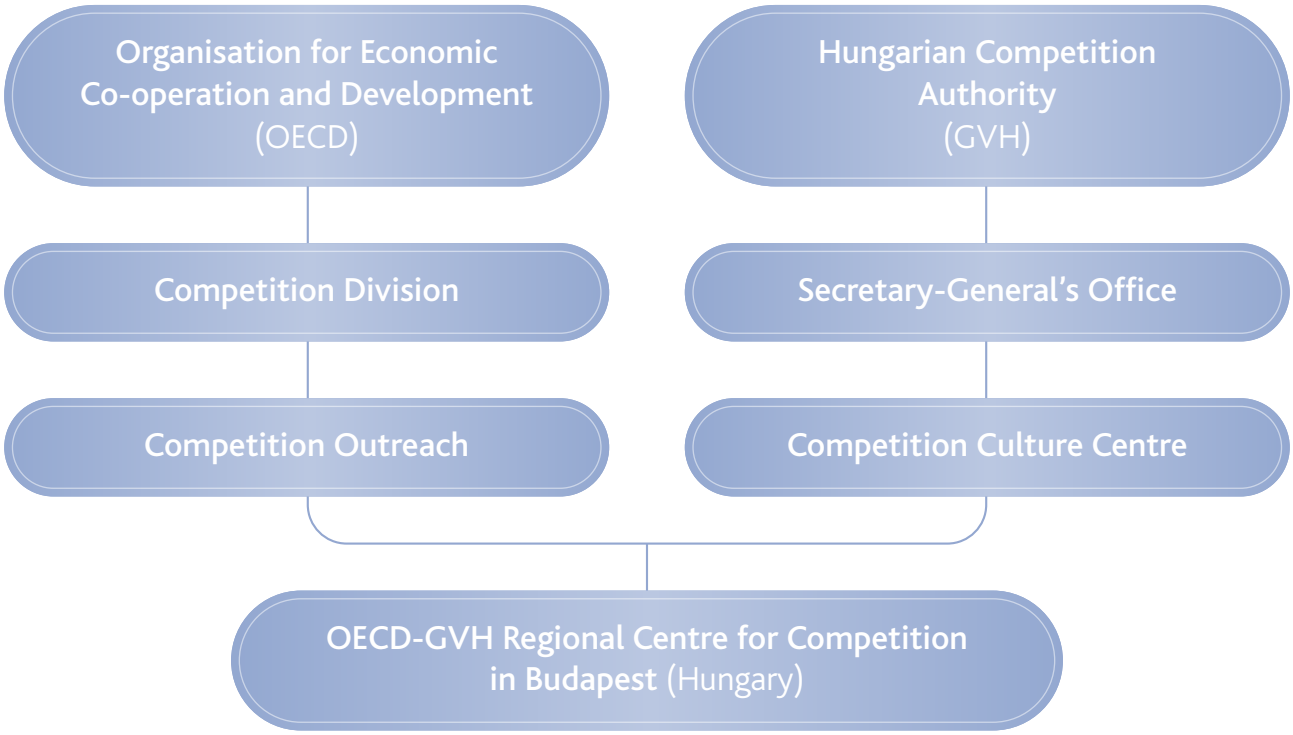
VI. RCC Dedicated Staff

The RCC is a "virtual" centre, thus it does not have a central office but is accommodated in the headquarters of the GVH. The virtual existence of the RCC allows it to concentrate funds on the real purpose of its establishment, that is, organising seminars and inviting and training participants. The virtual structure also facilitates adaptation to changing situations. The RCC is run by a full-time senior consultant and a consultant who are at the same time employees of the GVH in Budapest and by a full-time senior competition expert at the OECD headquarters in Paris.

The work of the RCC is based on the expertise of both the GVH and the OECD. The GVH is responsible for inviting participants and organising all of the practical arrangements for the RCC's programmes. The expert at the OECD sets up the content of the programmes and invites speakers to the seminars. The GVH provides speakers or panellists for each seminar. Other speakers are invited from different OECD member states.

Structurally, the RCC is located in the Competition Culture Centre of the GVH.

chart no 3
Organisational diagram of the RCC



Seminars' speakers of the year 2012

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RUSSIAN FEDERATION

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SWEDEN

Zoltán BARA
Hungarian Competition Authority
HUNGARY

Lucia BONOVA
DG Competition
EUROPEAN COMMISSION

Antonio BUTTÀ
Italian Competition Authority
ITALY

Manuel CABUGUEIRA
Portuguese Competition Authority
PORTUGAL

Antonio CAPOBIANCO
Competition Division
OECD

John DAVIES
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