

Act LXXXVII of 1990 on Price Setting

/competition law related provisions of the Act */

Main regulators of prices are market and economic competition. Only if the provisions laid down by the Act on the Prohibition of Unfair Market Practices** are not sufficient for harmful restriction of competition or abuse of a dominant position to be prevented is direct intervention in prices by the Government justified. In order to designate the frameworks of Government intervention, Parliament has enacted the following Act.

Scope of the Act

1. § (1) This Act shall apply to

a) Legal persons, companies with no legal personality, other companies and natural persons, performing economic activities each (hereinafter together: entrepreneurs), furthermore to prices and fees charged by them within Hungary, furthermore,

b) The entities setting the administrative prices.

[(2)]

(3) For the purposes of this Act, the term „economic activity” means any business activity, whether production or service related, performed for consideration, the aim of which is profit earning or asset acquiring.

General provision

[2. §]

Mandatory notification

3. § The Government may make mandatory by legal norm for entrepreneurs that have, under the criteria established by the Act on the Prohibition of Unfair Market Practices, a dominant position on the relevant market of a product, which is manufactured by them and which does not fall within the sphere of administrative price setting, the prior notification of price increases proposed by them in respect of the product in question.

4. § Entrepreneurs shall be obliged preliminary to notify the Hungarian Competition Authority of price increases proposed by them in respect of any product manufactured by them, which is listed in such a legal norm adopted by the Government, furthermore, of their intention to charge, to a new customer, a price which is higher than the highest of the different prices which he applied until then.

5. § (1) The extent and date of, and the reasons for the planned price increase together with the turnover expected to be achieved with the product shall be indicated in the notification.

(2) When further data apart from those mentioned in paragraph (1) are needed for the assessment of the notification, the notifier shall be obliged to supply them within eight days, upon request of the Hungarian Competition Authority, to the Authority.

6. § (1) The Hungarian Competition Authority shall prohibit by its decision, within 45 days of receipt of the notification or the additionally supplied data, a part or the whole of the proposed price increase, if the application of the increased price would infringe the provisions of the Act on the Prohibition of Unfair Market Practices.

(2) Prices may only be raised in compliance with the notification, if the Hungarian Competition Authority, within the time limit set by paragraph (1), did not prohibit by its decision the price increase or failed to make a statement. Even in that case, only if the contracting parties reached agreement may increased prices be applied.

* Taken from the consolidated version of the Act.

** Currently: the (several times amended) Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices

(3) Contractual offers containing increased prices for the products relating to which the notification in question is mandatory may only be made, if the Hungarian Competition Authority did not prohibit the price increase or failed to make a statement within the time limit set by paragraph (1).

Administrative price setting

7. § (1) For products and services listed in the Annex to this Act (hereinafter together: products) the minister or the local government indicated in that Annex (hereinafter together: entities setting administrative prices) shall set maximum or minimum prices (hereinafter together: administrative prices).

[(2) - (5)]

8. § (1) Maximum prices ... shall be determined in a way which ensures cover, for both the costs and the profit needed for the operation, for the efficient operation of entrepreneurs, taking also into consideration deductions and subsidies.

[(2)]

(3) Minimum prices shall be determined in a way which ensures cover at least for the costs of the efficient operation of entrepreneurs, taking also into consideration deductions and subsidies.

[**9. § - 15. §**]

16. § For the case of an infringement of the provisions relating to administrative prices, the entity setting the administrative price concerned shall, by its decision,

a) Prohibit the further application of the unlawful price and, at the same time, oblige the entrepreneur to apply the lawful price; furthermore,

b) Oblige the entrepreneur to reimburse to the person suffering damage the additional sales revenues achieved by the infringement of the provisions relating to administrative prices or, for the case that the identity of that person cannot be established, to refund them for the benefit of the State;

[**16. § c) - 17. §**]

18. § (1) If no court review of the decision has been sought, the entity setting the administrative price shall send the decision to the Hungarian Competition Authority for the latter to impose a fine as regulated by the Act on the Prohibition of Unfair Market Practices.

(2) If a court review of the decision had been sought, and the court established the infringement of the provisions relating to administrative prices, it shall send its final decision to the Hungarian Competition Authority for the latter to impose a fine as regulated by the Act on the Prohibition of Unfair Market Practices.

Miscellaneous provisions

[**19. §, 19/A. §, 21. §**]

Entry into force; temporary provisions

22. § (1) This Act shall enter into force on 1 January 1991.

[**23. §**]