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Off the hook again – OTP's commitments accepted

The examination of the abusive behaviour on the mortgage loan market ended up in a commitment of the OTP Bank. Due to the commitments accepted and made obligatory by an order of the GVH ten thousands of customers will get their money back.

The proceeding was initiated because of a significant unilateral increase in the amount of the fee of early repayment of the loan. In the case of certain contracts that meant an increase from 0 to 3.6% for the case customers intended to make use of the possibility of early repayment. After the increase of the fee of early repayment, OTP changed the rules on handling fee, eliminating the original HUF 9000 upper ceiling of the otherwise 2% fee resulting in a significant increase in the monthly payments of many consumers.

According to the GVH the behaviour of OTP was capable of distorting and restricting competition on the market. The unilateral increase of exit costs meant increased costs for consumers, and made it more difficult to refinance their loans with other bank's more advantageous loans. Higher exit costs, together with other costs of refinancing might result in a situation where even in case of a significant price rise, consumers are unable to change over to another product. Moreover according to present regulation, disadvantageous unilateral changes of the contracts are not directly communicated to consumers, but only through advertisements to be seen in the premises of the bank 15 days in advance of the effectuation of those changes. This provision effectively excludes the possibility of a swift refinancing before the disadvantageous changes take place.

OTP was disputing the illegality of the behaviour and referred to the increase in its costs, and to the fact that its steps were honest and fully in line with the regulation applied in the sector. However having regard to the conclusions of the investigation, it undertook to:

repay the increased repayment fees to the affected consumers,

make available for a given period the possibility of early repayment of the loan under the original conditions (mostly for free),

re-establish the HUF 9000 ceiling of the monthly handling fees, and to pay back the amount charged above that ceiling during the period since the ceiling was abolished. Before the next raise of the fee it would inform all its customers directly, ensuring 90 days for them to exit the old contract.

Having regard to the circumstances of the present case the GVH considered that the acceptance of these commitments served consumers' interests the best.

Similarly to the case concerning personal loans closed this summer (Vj-12/2006) the present case leads to the conclusion that the regulation in force of financial institutions does not

effectively protect the interest of consumers, and enables banks to continue anti-competitive practices.

The Act on Credit Institutions allows the unilateral amendment of agreements by the banks without putting any substantial limits to such amendments and it makes possible for banks to pass on any, even unjustified cost increases to their customers. The regulatory arrangement according to which amendments negatively affecting consumers are allowed to be communicated as close as only 15 days before their entering into force through an announcement made public in the premises of banks, also seems not to be eligible.

Banking practices have been built on the possibility of unilateral amendments and on the way of information supply described above, practices that make unreal the regulatory attempt to enable consumers to switch from one to another bank in the case of unfavourable unilateral amendments.

In the case of mortgage loans, beside the practice presented above, it is a further discouraging element that the Act makes expressly possible for banks to claim a compensation for expected but lost gains in the case of early repayments.

According to the Competition Act a proceeding can be closed with a commitment decision if that is the most effective way to ensure the protection of public interests. The advantage of this tool frequently applied by foreign competition authorities as well is that the identified problem can swifter and more effectively be addressed with the cooperation of the perpetrator. In such cases, the final order does not establish an infringement of the competition rules but makes the commitments binding on the undertaking, the fulfilment of which is checked by the GVH in post-investigations. Should the undertaking infringe its commitments, it can be sanctioned with substantial fines and the behaviour concerned can be re-investigated as well.

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Communication Group

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