

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Working Party No. 3 on Co-operation and Enforcement****Roundtable on designing and testing effective consumer-facing remedies - Note by
Hungary****5 June 2018**

This document reproduces a written contribution from Hungary submitted for Item 4 at the 127th Meeting of the Working Party No 3 on Co-operation and Enforcement on 5 June 2018.

More documentation related to this discussion can be found at www.oecd.org/daf/competition/consumer-facing-remedies.htm

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1. In the recent years the Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH) closed several cases with consumer-facing remedies. The consumer-facing remedies primarily concerned direct reimbursement to consumers and educational campaigns. According to the experiences of the GVH the framework of commitment decisions provide the most appropriate basis for meeting the competition concerns in a timely and effective way.

2. Examples to the cases involving consumer-facing remedies are the following.

1. Copyright collection societies (Vj/15/2014 – Artisjus)

3. In December 2016 the GVH has accepted the commitments of ARTISJUS Magyar Szerzői Jogvédő Iroda Egyesület, Előadóművészi Jogvédő Iroda Egyesület, Filmjús Filmszerzők és Előállítók Szerzői Jogvédő Egyesülete, Hungart Vizuális Művészek Közös Jogkezelő Társasága Egyesület and Magyar Hangfelvétel-kiadók Szövetsége Közös Jogkezelő Egyesület (hereinafter jointly referred to as ‘collection societies’) according to which the blank carrier media remuneration will be more precisely determined for both its obligors and its obligees and consumers will be given the opportunity to reclaim the blank carrier media copying remuneration.

4. The copying of copyrighted music, films, images and literary works is permitted for free for private purposes. However, ‘fair compensation’ must be paid for this freedom in the form of a lump-sum remuneration which is payable on the sale of blank video and audio carrier media. This remuneration is called the blank carrier media remuneration. The collection societies – authorised by law – determine the blank carrier media remuneration every year in their tariff announcements. The distributors of blank video and audio carrier media are obliged to pay the blank carrier media remuneration to Artisjus (which acts as the enforcer of this remuneration among the collection societies), which divides the received amount among the authorised authors. The fee that must be paid for the blank carrier media remuneration is based on the type of content copied (for example, whether it is music, film, literary work, etc.), with each type of content subject to a different rate to be paid to the actors. When determining the amount of the lump-sum fee to be paid for the blank carrier media remuneration, a mix of the copied content is taken into account and the calculation is based on the market researches and analyses made by the collection societies.

5. During its inspection, the GVH found that the collection societies – authorised by law and having a legal monopoly to determine, collect and divide the blank carrier media remuneration – had not, since 2007, made any adjustments to reflect the changes to content consumption habits (e.g. when specifying the fee, copying for music purposes remained well overrated), with the result that the determination of the blank carrier media remuneration may have been distorted due to deficiencies in the methods of their market researches and economic analyses; consequently, this may have damaged the interests of both the obligors and the obliges of the remuneration, and ultimately those of the consumers as well.

6. The parties offered commitments to remedy the GVH's concerns. The GVH accepted these commitments in its decision and requested the parties to remedy the deficiencies present in their market researches and economic analyses, so that when they are determining the blank carrier media remuneration that is to be paid they can take into account the changes to content consumption patterns, even if this necessitates abandoning obsolete methods and employing new content consumption technologies.

7. The part of the case that contains the greatest relevance in terms of consumer-facing remedies is that through the acceptance of the commitments, the possibility of reclaiming blank carrier media remuneration that has been paid has been established in Hungary. In the European Union, following the Netherlands, Hungary is the second Member State to provide this opportunity to those consumers who exclusively copy their own, professional contents to the blank data carriers. The legal right to claim a refund has been inserted into their 2017 publication on royalties. Furthermore, the collection societies have undertaken in the event of a legal dispute between a consumer requesting a refund and the concerned collection society, to participate in the proceeding of the Council of Copyright Experts operating under the Hungarian Intellectual Property Office in order to settle the dispute. The collection societies have also undertaken to finance the fees of the proceedings of the Council of Copyright Experts so that consumers may use the dispute settlement forum for free. The Council of Copyright Experts is an alternative dispute resolution forum, to the proceedings of which the Act on Arbitration applies.

8. Additionally, the collection societies have undertaken to commission an education campaign lasting 3 years for a budget of 45 million HUF (around 150,000 EUR) to publicise the refund opportunity. The targeted campaign, which will be repeated annually, will run online and also on printed media, both of which are independent from the collection societies.

2. Prepayment of loans (Vj/22/2008 – OTP Jelzálogbank, Vj/16/2008 – K&H Bank, Vj/181/2007 – CIB Bank)

9. In 2010 the GVH issued three commitment decisions that concerned banking practices in connection to loans. In the course of long-term contractual relationships in the loan market, the banks unilaterally modified the contracts. These modifications typically concerned the partial and full prepayments, and the amount of service charges. In accordance with the commitments, the banks made repayments to their customers directly.

3. Selling of mobile phones (Vj/12/2016 – Vodafone)

10. The GVH investigated whether Vodafone had communicated to consumers genuine figures about the price of its phones when in its commercial campaigns promoting its offers to its consumers, published from October 2013, it did not display the excess monthly fee which was to be paid in addition to the discount price of the devices (1 – 19,999 HUF, up to ca. 66 EUR) during the commitment period.

11. According to the decision of the GVH, Vodafone provided misleading information about the real price of the devices in its commercials when it did not display the monthly (extra) fee, which in fact had to be paid and which meant that even during the commitment period after purchasing the phones consumers were burdened with extra

costs in addition to the so-called unit price which was advertised as the basic service. This may have given the average consumer the false impression that – even though only when committing to a loyalty period – they were being offered a particularly favourable price, and they may have falsely believed that only the highlighted part of the price had to be paid in relation to the device (beyond the monthly base-fee, which is, however, related to the telecommunication service).

12. The GVH deemed the above-described type of communication unlawful. Despite the fact that Vodafone did not admit to the infringement, as a sign of its cooperation

- it strengthened its compliance programme to an extent that went beyond the usual market practice;
- it changed its commercial practice and eventually the sales construction of its devices as well; and
- it offered the affected consumer group the possibility to freely cancel their fixed-term contracts, thus undertaking a significant financial burden.

13. The GVH regarded the above actions – especially the indemnification-like contract termination offer – as significant mitigating circumstances, and consequently it set the amount of the fine, which was calculated on the basis of the costs of the particular campaigns, at 200,000,000 HUF (ca. 666,000 EUR), taking into account other factors as well.

4. Interest-free reimbursement related to the use of credit cards (Vj/16/2017. – OTP)

14. The GVH accepted the commitments of OTP Bank Nyrt., which include an obligation to pay compensation to its consumers and the elaboration of a communication campaign for educational purposes.

15. The GVH investigated whether the undertaking – from 1 January 2012 to 18 December 2013 – provided appropriate information about the possibilities of interest-free reimbursement related to the use of its credit cards, paying particular attention to interest calculation applicable until 20 June 2016, on the basis of which in the case of reimbursements made after the grace period interest must be paid even after purchases made in the next accounting period.

16. The GVH imposed the following obligations on the undertaking on the basis of the submitted commitments:

- the undertaking shall reimburse approximately 11 thousand concerned consumers a total amount of more than 19 million HUF (ca. 63,000 EUR) – charged due to the practice of the interest calculation – furthermore, the repayment shall not place any expense or any other obligation or engagement on consumers, and the undertaking must inform consumers of the reason and circumstances of the reimbursement;
- the undertaking shall launch a campaign for educational purposes lasting a minimum of four weeks and primarily consisting of television and online appearances (mini programme on television, online advertising, YouTube videos and website), aimed at improving the financial culture, consumer awareness and responsible decision making, as well as drawing the attention of different

consumer groups to the main information regarding credit cards (e.g. accounting period, grace period, as well as the repayment opportunities);

- in the above-mentioned information channels the undertaking shall promote an educational website that is available for a minimum of two years aimed at different consumer target groups (students, young people, elder persons) on the topic of credit card use, and enabling access to bank neutral information.

5. Compulsory civil liability insurance in respect of the use of motor vehicles (Vj/32/2014 – Allianz, Generali, MPM)

17. In a most recent decision the GVH ordered Allianz Hungária Biztosító Zrt., Generali Biztosító Zrt. and MPM Biztosítási Alkusz Kft. inter alia to launch an educational campaign targeted to the vehicle owners in order to help them to make a profound decision on the different motor vehicle insurance products. The remedies stipulate the main issues to be covered by the campaigns, their time frame, their media coverage and the framework budget. Furthermore, as an alternative to direct reimbursement, the insurance companies provide additional policies to their customers.