MATÁV abused its dominant position

Vj-100/2002

The Gazdasági Versenyhivatal (The Hungarian Competition Authority – GVH) found in its decision that the MATÁV Magyar Távközlési Rt. (hereinafter: MATÁV) abused its dominant position between February 2002 and July 2002 by setting the price of its connection services and the fees of its telephone service packages relative to each other in a way that was likely to prevent new entries to the market.

The GVH therefore imposed a fine of HUF 70 million.

MATÁV is a monopoly on the market of terminating calls in and initiating calls from its network. The markets mentioned before are specific wholesale markets the access to which is essential for new market entrants in order to be able to reach the costumers of MATÁV, thus raising competition for it.

In case of vertically related markets – such as the interconnection services provided to other telecommunications providers and the retail services to the subscribers in the present case – an undertaking in control of the wholesale market (as a necessary input) can through its price-setting behaviour prevent new competitors from entering the retail market . One method for this is the use of margin squeeze.

If a vertically integrated group of undertakings sets the consumer price of the retail product in such a way that it becomes impossible for competitors to offer their retail products or services profitably because of the newly created narrow (or negative) margin between the wholesale product and the retail product, these competitors are either forced out of business or even cannot enter the market because of the margin squeeze.

Calculations made with the fees based on FDC and LRIC commercial contracts which were applied by MATÁV before MARIO contracts showed in the case of both Ritmus100 and Ritmus200 packages that the incomes realized by these packages do not cover the costs even of the wholesale services, i.e. in each case the margin was negative. In the investigated time period a margin squeeze situation was created in the segment of large customers as well, since in the case of customers with individual offers or subscribers of the Ritmus3000 package due to the more favourable tariffs the difference between the wholesale prices was obviously even smaller (in absolute value, bigger) than the ones mentioned before.

The negative margin between wholesale costs and retail prices in this case was to be attributed to the level of the wholesale price. This is also supported by the fact that the MARIO-based wholesale prices significantly dropped in July 2002, although there is no indication that the costs of MATÁV decreased by such an extent in the meanwhile passed 4-5 months.

When imposing the fine the Competition Council proceeded pursuant to the principles of the notice of the President of the Hungarian Competition Authority and the Chair of the Competition Council of the Hungarian Competition Authority on the Method of Setting Fines in Antitrust

Cases.[1] The margin squeeze, as an abuse of dominant position which is likely to drive out competitors from the market, was regarded by the Competition Council as a moderate infringement that had minor actual effect on the market. The Competition Council regarded the turnover realized on the market of business subscribers during the few concerned months as the basis of the fine. Considering the turnover data reflecting the size of MATÁV this fine which had been adjusted to the gravity of the infringement is more of symbolic than of deterrent nature in the case of this past infringement that had been terminated and did not last for a long period of time.

The court upheld the decision of the GVH.

[1] The Notice was repealed in 2009.

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