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# GVH detected newspaper distribution cartel

**The Hungarian Wholesale Newsagent Co. Ltd. and the Hungarian Post Co. Ltd. entered into an agreement restricting competition. The two companies agreed not to attack each other's markets. A fine of EUR 1 890 000 was imposed on each of the two undertakings.**

Periodicals are distributed in two ways: either through single copy sale (newsstands, shops, petrol stations), or through subscription. Until 1998, both ways of distribution were used by the Hungarian Post Co. Ltd. (hereinafter referred to as the Hungarian Post). In 1998 the Hungarian Post sold its regional newspaper retailers to the French owned Hungarian Wholesale Newsagent Co. Ltd. (hereinafter referred to as Lapker). Hence, it became the task of Lapker to deliver newspapers from the publishers to the retailers. At the same time, the Hungarian Post kept for itself the distribution of newspapers based on subscriptions, and until the beginning of 2007, when the company MédiaLog entered the market, only the Hungarian Post dealt with subscriptions.

Evidenced by notes, memos, strategy papers and other materials, the Hungarian Post and Lapker entered into a restrictive agreement in the second half of 2001; accordingly, there was no chance for a change of the status quo on the market. First, the agreement on the privatisation of the Hungarian Post's regional newspaper distribution network, which was in force between 1998 and 2001, contained a clause in which the Hungarian Post announced that it would not seek to forward newspapers from the printer to the retailers. In exchange for this, in a Co-operation Agreement entered into by the parties for the period of 2002-2007, the Hungarian Post achieved that the commission, which it received from Lapker subject to the circulation (of newspapers) sold at post offices, rose from the former 13% to 23,5%. In the amendment to the Co-operation Agreement, effective from 2003, Lapker agreed not to enter the market of newspaper subscription. Lapker paid HUF 260 million (approx. EUR one million) in a lump sum, as a "market-organisation fee" on condition that the Hungarian Post did not enter the single copy sale wholesale market for five years.

The GVH is of the opinion that there is a stronger incentive for the undertakings to compete if they do not know the objectives and plans of the actual and potential market players. A concertation between competitors about the date from or even until which they will refrain from entering each other's market amounts to a disturbance of the functioning of the market. As the mutual self restriction did not bring about efficiencies of which consumers received a fair share, the GVH did not see any possibility to grant an exemption from the prohibition of restrictive agreements. Besides, it does not hold true that the agreement was essential in order to keep in existence the system of the recollecting of the unsold copies. According to the opinion of the GVH, the Hungarian Post's entering into the wholesale market would not have undermined the established distribution model supposed a particular periodical would have been distributed to a retailer only by one wholesaler. The Hungarian Post's not entering into the wholesale market of single copy sale resulted in a total exclusion of competition.

Therefore, both the Hungarian Post and Lapker were fined HUF 468 million (approx. EUR 1 890 thousand) each. In calculating the fines, the GVH took into consideration that the agreement aimed at a complete exclusion of competition, it was in force for years, and it had actual effects on the market. An aggravating circumstance was the fact that the parties are practically monopolists on their respective markets; therefore they had to be fully aware of the competition restricting effect of their agreement. At the same time, as a mitigating circumstance, the GVH reckoned with the fact that both undertakings expressed their intentions to terminate the agreement. This termination reduced the envisaged duration of the agreement from five to three years.