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Anticompetitive uniform interchange fees

The Hungarian banks set uniform interchange fees in transactions by payment cards of Visa and MasterCard, which was found to distort market competition – established the Hungarian Competition Authority (GVH). The practice of the payment card schemes also infringed competition since it enabled the banks to conclude agreements that hindered competition. The banks originally drawing the agreement and the two payment card schemes Visa and MasterCard have been fined; in the case of other financial institutions joining the agreement later the GVH has also established the infringement, however no fines have been levied on them with regard to their limited involvement in the infringement and their cooperation with the GVH during the proceeding.

The Hungarian banks had already agreed in 1996 that they would introduce the same interchange fees both for Visa and MasterCard. As a result of the deal only distorted and hindered competition has evolved between the two payment card schemes and the card-acquiring banks. The agreement concluded between the banks has indirectly influenced (uniformized) the commissions paid by retailers accepting payments via payment cards. Normally this fee serves as one of the most important factors in competition between banks operating and acquiring terminals.

According to the GVH, the conditions for competition were available since

- Visa and MasterCard had partly different member banks, which could normally have resulted in different interchange fees,
- fees for cross-border payment card transactions were different in the case of Visa and MasterCard,
- the two payment card schemes applied different fees before 1996,
- and since 2008, after abolishing the agreement, they have been applying different interchange fees.

MasterCard and Visa also restricted competition since

- the operation rules of the two undertakings enabled the Hungarian banks to jointly set uniform fees for Visa and MasterCard,
- it is not realistic that the two undertakings would not have been aware of the practice of the banks,
- the banks have admitted that the two payment card schemes offered explicit help in concluding the agreements.

The GVH deemed it reasonable to impose fine on the undertakings that were active in the conclusion of the agreement distorting competition. The agreement was concluded between competitors with the explicit aim of restricting competition and had a lasting impact.

The seven banks have been fined a total HUF 968 million (Budapest Bank Zrt. HUF 188 million, OTP Bank 281 million, MKB 84 million, CIB 91 million, Erste 107 million, K&H 127 million, ING 90 million) which equals approx. EUR 3,57 million, the two payment card schemes Visa and MasterCard have each been fined for HUF 477-477 million (EUR 1,76 million each).

When calculating the fines, the GVH took into account the total amount of domestic interchange fees between 2004-2007. The GVH also took into consideration the 1996 and current market shares of the banks concerned.

The GVH took into consideration several important mitigating factors, among them that the undertakings under investigation

- recognised that they should have changed the level of the interchange fees,
- were cooperative in the course of the proceeding, for instance they provided the documents necessary to reveal the infringement and to better understand the historical events in order to establish their own responsibilities under competition law,
- after the launch of the proceeding they were cooperative too, they set up a commitment proposal which would mean a significant financial burden for them,
- certain governmental bodies were also aware of some of the elements of the agreement,
- the European Commission has not yet imposed fines for similar kind of agreements.

In the case of the two payment card schemes, taking into consideration the same above mentioned mitigating factors, the GVH imposed a decreased amount of fine.

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