Reduced administrative service fees, more effective merger control, increased possibilities for reduction of fines – new regulations of the Hungarian Competition Act enter into force

The recent amendment to Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition (Tpvt., Competition Act) achieves a number of objectives: administrative service fees are reduced by 75 %, the effectiveness of merger control will increase, clients willing to cooperate with the Hungarian Competition Authority will receive more help from the authority, and the regulations of the Directive on Antitrust Damages Actions have now been incorporated into Hungarian law

As a result of the new regulations entering into force, proceedings opened upon request regarding the permission of the merger of undertakings will no longer be applicable, and in the future a notification of the undertakings will only be required if the merger exceeds the prescribed threshold limit, and the authority will open a proceeding ex officio to investigate its effects on competition. The authority must settle the notification within 8 days. Regarding the notification, an administrative fee of only 1 million HUF must be paid when submitting the application, as opposed to the former fee of 4 million HUF.

The threshold limits have also been modified: the former 500 million HUF "net turnover of each of at least two of the groups of undertakings concerned" has been increased to 1 billion HUF, while the 15 billion HUF aggregate net turnover of all the groups of undertakings concerned has remained unchanged. According to the act, only the Hungarian turnover, that is the inland sales must be taken into account when calculating the combined net sales revenues.

The GVH receives a new entitlement in connection with the raising of the threshold limits, since mergers under the threshold limits mentioned above can also be investigated, if the combined net sales revenues of the undertakings involved are above 5 billion HUF, and the merger is likely to affect competition. In order to ensure that this law is enforced, undertakings involved in such mergers must notify the acquisition; in case of a failure to notify the authority is empowered to open a proceeding ex officio only within 6 months after the execution of the merger.

In the context of all these changes, the amendment also enables on-site inspections to be carried out in concentration cases, if a reasonable suspicion exists that the transaction in question would be implemented in the absence of the GVH's authorisation, or the notification of the concentration conceals essential information or contains misleading information.

There are a large number of ways in which undertakings can cooperate with the GVH in order to foster compliance. As a result of the amendment of the Competition Act, under the framework of the settlement procedure the GVH may now reward an undertaking with a fine reduction of 30 % (as opposed to the previously available 10 %).

The amendment makes it possible for full immunity or for a fine reduction of up to 50 % to be granted also in the case of vertical agreements aimed at resale price maintenance. In addition to this, the "agreements of minor importance" characterisation of these vertical agreements (below 10 % market share) is no longer applicable.

By amending the Competition Act, the legislators have fulfilled their obligation, according to which the provisions of the 2014/104/EU Directive *"on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union"* had to be incorporated into the national law by 27 December 2016.

Budapest, 22 December 2016

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