

Recent developments in cartel cases

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Watermelon Cartel

1. Investigation in the **watermelon market, Vj-62/2012**
2. **Scope of investigation:** price fixing, supported by a ministry;
aim: to protect farmers, fair deal for producers and consumers.
3. **Investigation stopped**, as no efficient procedure against cartels involving agricultural products, Lex Watermelon



Lex Watermelon – the „Hungarian Dantin”

Act CLXXVI of 2012 on the **Amendment** of Act CXXVIII of 2012 on interbranch organisations and on certain issues on the regulation of agricultural markets

 *„the entry into force of this Amendment shall affect all ongoing cases and retrials”*

Agricultural products and EU competition law:

Dantin-report: large scale exemption of agricultural products from the scope of European competition law – European Parliament vs European Commission,



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Mill-cartel (Vj-69/2008)

1. Since 2010 under appeal

2. GVH:

- **Hard-core cartel**, involving grain processors
- **single continuous infringement** between February 2005 and April 2008

3. Appeal Court (First instance)

- Decision of the GVH partly revoked
- Parties, GVH appealed

4. Appeal Court (Second Instance)

- Court of Appeal refers case back to the GVH for obtaining the opinion of the Minister, as Lex Watermelon is applicable to all ongoing cases



Mill-cartel

”ongoing” case?

1. According to some case law of the Supreme Court, an administrative case is in progress, until binding judgment of the review court.
2. BUT, this is controversial, as some Supreme Court judgments state the opposite: administrative case ends with the decision of the administrative body (LB.Kvf.37.200/2009/9)



What's common?



LEX





Single continuous infringement

August 2013: first decision of Supreme Court confirming concept of a single continuous infringement in a bid-rigging case (Vj-130/2006)

- Overarching plan, common goal, continuous conduct
- Market definition – all tenders?
- Issues of proof



Issues of proof

1. Principle of „free proof”
2. Indirect evidence
3. Per se statements by undertakings contrary to documentary evidence not sufficient to shift evidential burden of proof
4. Holistic approach
5. Correspondence:
 - Third parties' correspondence may prove infringement of non-corresponding party
 - „internal” correspondence



Miscellaneous

1. First **informant** rewarded since the establishment of reward scheme in April 2010 (case Vj-43/2011)
2. **Banking cartel** (Vj-74/2011) – under appeal
3. **Railway construction cartel** (Vj-174/2007) – appeal pending before the Supreme Court + constitutional complaint before the Constitutional Court
4. **Testimonies** of protected witnesses



Thank you!



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