

The GVH imposed a fine on a public procurement cartel yet again

12 October 2021, Budapest – The Hungarian Competition Authority (GVH) imposed a fine of approximately HUF 135 million on three undertakings, which are active in the retail trade of agricultural machinery for sharing more than a dozen Hungarian public procurement procedures among themselves, while pretending to compete with each other. Two out of the three undertakings in the hope of fine reduction admitted their participation in the infringement; however, it was later revealed that they provided misleading information to the Authority.

The investigation conducted by the GVH established that three undertakings active mainly in the retail trade of agricultural machinery and parts (Tempel Kereskedelmi és Szolgáltató Kft., Normtec Kft. and the Slovakian Premium Line s.r.o.), engaged in unlawful negotiations during certain Hungarian public procurement procedures. Indeed, the undertakings coordinated their bidding behaviour regarding at least 16 different public procurement tenders of agricultural and other machinery, during which they – in a single and continuous manner – shared the market among each other.

An interesting feature of the case is that it was initiated as a result of leniency applications; two of the undertakings involved submitted their applications almost simultaneously, only a few days apart, in which they revealed their participation in the operation of the cartel. The key aspect of such application is that undertakings voluntarily admitting their infringements and providing evidence thereof may receive a fine reduction or a complete immunity from fines. However, the investigation revealed that the leniency applicants failed to cooperate with the GVH in good faith. Indeed, although the undertakings described their collusion as merely ad hoc, isolated negotiations, they did in fact coordinate with each other regarding every single public procurement tender that they were able to participate in, meaning that they systematically coordinated their activities related to public procurement. In addition, they denied the existence of any written evidence of the cartel, yet the GVH was able to find evidence during its investigation.

Due to the incomplete and misleading information provided, the fines of the undertakings were not waived or reduced despite their leniency applications. However, the GVH evaluated among others that the two undertakings provided the evidence voluntarily and did not challenge the facts discovered. Therefore, a competition supervision fine amounting to a total of approx. HUF 135 million was imposed on the infringing undertakings.

Leniency may result in significant (up to 20-100%) reductions for undertakings, who facilitate the voluntary elimination of cartels. However, by doing so, cooperation with the Authority in good faith is of highest importance. Since, if undertakings submit their leniency applications to the GVH in an incomplete or a misleading manner, their cooperation will not be able to serve the proper functioning of the public interest.

The official registration number of the case is: **VJ/10/2018.**

GVH Press Office