

2.7 billion fine on several ready-mix concrete manufacturers in Budapest

The Gazdasági Versenyhivatal (GVH – the Hungarian Competition Authority) in its decision on 30 June 2014 imposed a total fine of 2 790 200 000 HUF (9 300 000 EUR) on eight ready-mix concrete manufacturers in Budapest and on the Hungarian Concrete Association, because between 2005 and 2007 they, divided among them orders on ready-mix concrete exceeding the amount of 1000 m³ in the area of Budapest by a previously agreed quota, and they also fixed the price level of ready-mix concrete, thus engaging in a single, continuous and complex infringement.

Based upon the – mostly documentary – evidence at its disposal (charts, journal entries and other records made at meetings), the GVH established that in the time period between 2005 and 2007, Betonpartner Magyarország Kereskedelmi és Szolgáltató Kft., Cemex Hungária Építőanyagok Kft., DBK-Földgép Építési Kft., Duna-Dráva Cement Kft., Osteuropäische Zementbeteiligungs AG, Magyar Betonszövetség “v.a.”, STRABAG Építő Zrt., Frissbeton Betongyártó és Forgalmazó Kft., and LASSELSBERGER HUNGÁRIA Termelő és Kereskedelmi Kft. regularly held negotiations in order to share the market and maintain price levels.

In its proceeding the GVH investigated whether Betonpartner, Cemex, DBK, Frissbeton, Holcim, TBG, Lasselsberger and Strabag, also within the framework of the Hungarian Concrete Association, had held negotiations between 2005 and 2007 in order to maintain price levels and share the market. The investigation of the GVH also dealt with whether the undertakings under investigation had exchanged information in which they mutually agreed not to serve certain clients during the investigated time period.

Based on the evidence, it was established that the senior managers of the concerned undertakings met once a year (in Hungary or Austria), and the middle managers met several times a month (in the office of the Hungarian Concrete Association). The aim of the coordination was to retain the previously agreed upon price levels and “protected” customers, and to share the customers between each other based on the market shares of the undertakings.

The fines imposed on the individual ready-mix manufacturers were as follows:

- Betonpartner Magyarország Kft. 185 400 000 HUF
- Cemex Hungária Kft. 643 900 000 HUF
- DBK-Földgép Kft. 192 000 000 HUF
- Duna-Dráva Cement Kft. 465 800 000 HUF
- Frissbeton Betongyártó és Forgalmazó Kft. 53 500 000 HUF
- Osteuropäische Zementbeteiligungs AG 550 000 000 HUF
- LASSELSBERGER HUNGÁRIA Kft. 270 200 000 HUF

• STRABAG Építő Zrt. 428 400 000 HUF

The GVH imposed a symbolic fine of 1 000 000 HUF on the Hungarian Concrete Association, because its role in the uncovered infringement was restricted to administrative tasks related to the cartel.

The calculation of the fine was based upon the 1/2012 Notice of the President of the GVH and the President of the Competition Council, which states the conditions of the imposition of a fine. During the procedure the GVH considered as relevant turnover the net revenue from orders on ready-mix concrete exceeding the amount of 1000 m³ in the area of Budapest during the time of the infringement.

When establishing the amount of the fine, it was an aggravating circumstance that price fixing and market sharing are considered as amounting to a hard-core cartel, and also that the undertakings significantly restricted competition through their behaviour. The GVH took into account the combined market shares (regards the city of Budapest) of the undertakings involved in the ready-mix concrete market of Budapest during the investigated time period, and regarded it as an additional aggravating circumstance that the undertakings actually implemented the previously agreed upon price level of the ready-mix concrete.

Secretly implemented, so-called hard-core cartels constitute the most severe forms of competition restrictive agreements. These agreements concern the direct or indirect determination of buying or selling prices between competitors, market sharing (also collusion on tenders), or the determination of production or selling quotas, and therefore may not fall under exemption or be regarded as exceptions.

Moreover, the GVH regarded imputability as an aggravating circumstance, to which significant weight was placed, that the undertakings in question were obviously aware of the unlawful nature of their behaviour. This could be seen by the fact that the undertakings implemented enhanced safety measures in order to keep their meetings secret. As Strabag Építő Zrt. was a repeat offender; the GVH increased the base amount of the fine imposed on it by +200%.

Due to lack of evidence regarding the undertakings' agreement not to serve non-paying customers from 2008, the GVH terminated the proceeding regarding this behaviour.

The work of the GVH was aided by an informant, who was awarded an informant reward of **27 902 000 HUF (93000 EUR)**, which is equal to one percent of the amount of the fine imposed on the undertakings involved in the proceeding. The identity of the informant will not be revealed by the GVH in any form.

Case number: **Vj-29/2011.**

Budapest, 8 July 2014.

Further information:

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