Gazdasági Versenyhivatal

GVH has accepted commitments offered by the MOL

The Gazdasági Versenyhivatal (GVH, the Hungarian Competition Authority) has accepted commitments offered by MOL Magyar Olaj-és Gázipari Nyrt (MOL – the Hungarian Oil Company). According to the commitments, in the next 5 years the changes made to the gas oil wholesale listed prices of MOL, which are counted on an annual average basis, will be tighter (within a range of +/-1%) and will reflect the changes made to the Platts's references prices. The commitments have been accepted by the GVH in the hope that they will result in the creation of a calculable pricing policy, and that they will facilitate the entry of potential competitors into the market of crude oil. Following the stock prices more accurately by MOL, as a result of the commitments, is one of the preconditions of fostering import competition which may result in more favourable MOL prices for consumers.

During its investigation initiated against MOL, the Hungarian Competition Authority scrutinised the market behaviour of MOL under EU and Hungarian legal provisions on the prohibition of abuse of dominant position

During its proceeding, the GVH established that the vast majority of storage facilities available for commercial use and the only refinery are controlled by MOL. Taking into account that MOL is a market player with a market share of 80%, the GVH is of the opinion that it has a dominant position in the wholesale market.

MOL determines its wholesale list prices based on the import parity scheme. The reference prices are the prices published by Platts and additional cost elements are added to them which would arise if an undertaking was to import the fuel to Hungary. The calculated list price is the result of this calculation method applied by the MOL. The weekly announced wholesale list prices could have been higher or lower than the calculated list prices during the five years period of investigation.

Entry into the Hungarian import fuel market is highly dependent on predictability. According to the statements of the GVH, it is essential for potential importers that MOL announced list prices, which were unilaterally established and followed by competitors, in a predictable way. This requires that the relation between the list prices announced by MOL and the international reference list prices should be predictable. This is due to that fact that competing wholesalers / importers also have to adapt to the needs of their customers, who have to follow the announced list prices of MOL as reference prices in their yearly contracts. It is important to emphasise that MOL's market share is extremely high on the Hungarian fuel wholesale market.

The profitability of the domestic sale of fuel purchased on alternative import fuel base prices therefore depends on how the calculated and announced list prices of MOL develop compared to the Platts prices throughout the duration of the contract. In order

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to find out whether MOL follows the changes made to the Platts prices, the GVH examined the calculated and weekly communicated list prices of MOL. It can be concluded in that regard that the impacts of significant changes arising from market conditions of fuel prices (i.e. sudden changes in Platts prices and/or currency exchange rates) are built in the price gradually by MOL, thereby trying to mitigate the effects of the changes in the market conditions. The GVH also looked at whether in terms of potential importers the impact of the price mitigating mechanism will be equalised by the commitment in such a way in the foreseeable future that it will show close correlations with the Platts prices.

On the basis of the expert opinion given during the investigation, the GVH found that there were years in which the weekly published list prices of diesel fuel persistently exceeded or stayed below the calculated list prices based on the Platts reference prices which were serving as international reference prices. According to the GVH, it may be the pricing scheme of MOL that is contributing to the uncertainty when calculating the pay back prospects of the imports. The unpredictable deviations from internally accepted and used reference prices like Platts could be one of those factors which makes imports to Hungary more difficult.

Diverting the weekly announced list prices from the calculated list prices based on previous weeks' Platts prices does not in itself raise any concerns. The lack of justification arises from the price methodology scheme applied by MOL during a specific time period. Namely, it originates from the fact that the deviations in the case of gas oil could not be justified on the basis of criteria providing an objective basis for the deviations. The proceeding Competition Council, consequently, concluded that it was not necessary that the announced and calculated list prices are entirely equal.

It is sufficient if the degree of the deviations remains relatively small, thus enabling other participants of the market to eliminate the uncertainty originating from deviations from the Platts prices. This way it will make no difference for importers if they set their prices according to Platts prices or MOL announced list prices. Thus the risk of using imported gas oil and investing in import could decrease and, consequently, gas oil coming from the (non MOL-related) oil refineries of neighbouring countries might strengthen competition for MOL. The proceeding Competition Council found MOL's +/-1% range list price deviation commitment to be sufficient to realise the above mentioned positive effects of competition, considering that the deviations in fuel prices remained between these limits as well.

The proceeding Competition Council also considered it significant that the commitments were developed through negotiations as this will likely result in better coherence between the public policy goals (following more accurately the Platts prices, and dimming the price fluctuations) than if the Council had excluded MOL from the negotiations. The process was protracted for many reasons. On the one hand, in addition to the behaviours that the GVH originally planned to investigate, other market conducts were also scrutinised and this resulted in a large number of time consuming requests for information. Besides this, MOL only made its list pricing practices clear to the GVH after one and a half years and this took the proceeding in an entirely new direction – the acceptance of the commitments – of the investigation The GVH imposed a procedural fine of 150 million HUF (500 thousand EUR) on the undertaking.

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In addition to the above mentioned reasons, the obligatory consultation between the GVH and the Commission took longer than usual, taking into account the complexity of the case. Now that the competition supervision proceeding has been concluded, the Authority is in control of ensuring that the undertaking complies with the prescribed commitments. This will be achieved through a post-investigation.

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Hungarian Competition Authority

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