

The GVH imposed a fine due to price-fixing, market allocation and information exchange on the market of waste management – first successful settlement

According to the decision of the Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH), ALCUFER Ipari Kereskedelmi és Szolgáltató Kft. (Alcufer), FE-GROUP INVEST Vagyonkezelő, Tanács adó és Nagykereskedelmi Zrt. (Fe-Group) and JÁSZ-PLASZTIK Kft. (Jász-Plasztik) had carried out discussions having an anti-competitive objective from 26 June 2013 until 27 March 2014 relating to prices (fixing purchase prices), geographical areas (allocation of the relevant market) and strategic data (the exchange of data among each other). The GVH imposed a total fine of HUF 112,520,000 (approx. EUR 360,000) on the undertakings for the infringement.

Through its investigation, the GVH revealed that Alcufer, Fe-Group and Jász-Plasztik had participated in discussions aimed at the creation of a consortium agreement on the collection of lead-acid batteries. The agreement was due to become operative on the opening up of a battery processing plant in Jászberény.

1. The three undertakings under investigation incorporated the details of their discussions into a consortium agreement. According to the contract, the three undertakings agreed on the allocation of the collection market for lead-acid batteries; Alcufer and Fe-Group undertook that they would sell all or at least a large amount of the lead-acid batteries collected by them to Jász-Plasztik, which was building a battery processing plant in Jászberény.
2. According to the discussions, Jász-Plasztik had guaranteed to offer Alcufer and Fe-Group a favourable purchase price (by giving up a percentage of its savings stemming from transportation costs), while it had stated that it would offer a lower purchase price to undertakings which were not party to the agreement.
3. The undertakings decided to exchange confidential and individualised quantity, pricing and shipping data in order to comply with and supervise the consortium agreement.

The existence of the single and comprehensive plan could be ascertained from the chain of authentic written and personal evidence found in relation to the agreement. The parties postponed the enactment of the consortium agreement on more than one occasion; in the end, the parties did not sign the agreement and did not apply its content.

However, these factors do not change the fact that the parties intended to create a consortium agreement and do not prevent an infringement from being established.

When determining the basic amount of the fine in the case of Alcufer, Fe-Group and Jász-Plasztik, the GVH took into account the net sales revenues coming from the waste management activity relating to lead-acid batteries for the duration of the participation in the infringement on a time proportion basis as a relevant turnover. This turnover includes both Hungarian and foreign sales revenues coming from the sale of lead-acid batteries and revenues coming from collection fees.

When defining the amount of the fine, the GVH took into account, among other things, the following factors:

- cartels involving price fixing and market allocation amount to the most serious competition law infringement,
- the undertakings are the most significant participants of the lead-acid batteries waste management market in Hungary,
- the agreement eventually did not enter into force and therefore it did not have any actual market effect.

This was the first case in which the GVH invited an undertaking to indicate whether it was interested in engaging in the settlement procedure in order to bring about a quick and effective conclusion of the proceeding.

In the case, Fe-Group introduced its settlement submission in which it, among other things, voluntarily admitted the infringement. Consequently, the GVH reduced the fine imposed on Fe-Group by 10%.

According to the settlement procedure, the GVH reduces the fine to be imposed by 10% if the undertaking under investigation admits the infringement on the basis of the revealed evidence; moreover, it must also waive its rights to extensive access to files, to make a statement, to a hearing and to seek a legal remedy. This procedure facilitates the conclusion of the proceeding in a more rapid and less resource intensive manner. The settlement procedure may result in significant cost savings, not only for the competition authority but also for the undertaking. Additionally, the 10% fine reduction can be increased if the undertaking takes part in the [leniency programme](#), which may result in a 50% reduction of the fine. More information regarding the settlement procedure is available [here](#) and other means of cooperation with the GVH is available [here](#) (available only in Hungarian).

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Hungarian Competition Authority

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