

MasterCard abused its dominant position

The Gazdasági Versenyhivatal (GVH – the Hungarian Competition Authority) established that MasterCard Europe SA (MasterCard) abused its dominant position through its exclusionary practice of not decreasing its interchange fees of its consumer debit cards issued in Hungary to the level of Visa's interchange fees. This behaviour took place from 8 February 2011 to 31 December 2013.

The European Commission (Commission), as the competition authority at European level, carried out several proceedings against card issuer companies relating to interchange fees. The interchange fee is the fee that a merchant's bank (the "acquiring bank") pays a customer's bank (the "issuing bank") for the acceptance of card based transactions. The level of which in Hungary is defined by the card issuer companies.

Because of the commitments offered by Visa and accepted by the European Commission, Visa faces an upper limit since 2011 on its interchange fees on domestic transactions made by consumer debit cards, while MasterCard faces no such limitation.

The credit and debit card market is a special market where the competition of card companies located in the upstream level of the market leads to an increase in interchange fees. The reason for this is that the card issuing banks receive an income from interchange fees and therefore they choose those card companies which are able to determine the extent of interchange fees at a higher level.

MasterCard was a dominant undertaking in the Hungarian debit card market in the relevant period and the upper limit placed on Visa's ability to determine interchange fees strengthened even its position *so that it had an unchallengeable* competitive advantage *vis-à-vis* Visa.

MasterCard, aware of the above mentioned facts, determined the level of its interchange fees in a manner which further weakened the already weak competition resulting from MasterCard's dominant position in the market.

Consequently, the GVH concluded that MasterCard had abused its dominant position.

The GVH established the infringement and also imposed a fine on MasterCard. In determining the amount of the fine to be imposed, the GVH took into account 10 percent of the relevant income of MasterCard's debit card turnover in the investigated period.

As a mitigating factor, when determining the amount of the fine, the GVH took into account the novelty of the infringing conduct of MasterCard, and consequently imposed a fine of 88 million HUF (approx. 284 thousand EUR).