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Integrating Consumer Behaviour Insights in Competition Enforcement – Note by Hungary

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More documents related to this discussion can be found at
https://www.oecd.org/daf/competition/behavioural-insights-in-competition-enforcement.htm

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1. Introduction

1. This contribution briefly explains the role of consumer surveys as the main way of collecting consumer insights in competition enforcement practice by the Hungarian Competition Authority (Gazdasági Versenyhivatal, hereinafter: GVH). The paper first introduces the general approach of the GVH on how and when it incorporates consumer surveys (and the insights generated) into its evaluations. In the second part of the paper, relevant experiences (cases, sector inquiries, and market analyses) are summarized.

2. Institutional setup

2. The GVH has been strengthening the role of consumer surveys since 2020 when it established the Competition Economics and Market Research Section. Consumer insights are primary incorporated in sector inquiries and market analyses. Due to the less tight schedule of these proceedings, there is more room for designing and executing surveys and/or other experiments. However, there are also examples of surveys conducted in merger cases.

3. Most consumer insights are connected to the competition policy domain, but there is a growing tendency of applying consumer insights in consumer protection cases as well. Building on the double mandate of the authority (competition policy and consumer protection), the first market analysis concerning both antitrust and consumer protection aspects has been launched at the end of 2020. This market analysis heavily relied on a multistep market research.

3. Enforcement experience

4. In case of the GVH, the primary source of consumer insights is consumer surveys. These surveys can be executed in-person, online, or via phone. However, along with traditional survey methods, the GVH is also experimenting with new research methods. For example, in a market analysis commissioned in 2021, the GVH used a controlled randomized experiment as well as the authority ordered an eye-tracking study in 2019. Furthermore, there is an ongoing research in partnership with Eötvös Loránd University about eco-statements that also employs a controlled randomized experiment.

3.1. A telecommunications merger

5. The GVH relied, in part, on consumer surveys in a sequence of merger investigations dealing with the same transaction at different times (Magyar Telekom/Vidanet – VJ/158/2008 and VJ/72/2012). The purpose of the transaction was that Magyar Telekom, the incumbent fully integrated telecommunication service provider intended to gain control over Vidanet, a regional fixed line service provider.[1]

[1] The prohibition decision of the GVH, made in 2009, was later annulled by court in 2011, thus the GVH needed to assess the same transaction four years after its first decision. The second case was terminated as the merger proposal was dropped by the parties after they learned what competitive

6. In both cases, market definition, and within that, the substitutability of fixed internet by mobile internet played an important role. A consumer survey was conducted in 2008, and once again an updated version in 2012, primarily to inform the investigation as to whether mobile internet was a sufficiently close substitute for fixed line internet in Hungary at that time. The surveys aimed at exploring relevant consumer preferences and experience in multiple ways, rather than coming down to a single, hypothetical SSNIP question. For example, residential subscribers were asked if they switched from fixed line to mobile internet subscription in the past or are planning or contemplating such a switch within a year.[2] Responses showed that such a switch is a very rare phenomenon.

7. Consumers were also asked about their internet usage habits and activities. Results indicated that while both types of services were used for non-data intensive activities, such as emailing and browsing, mainly fixed line internet was used for data intensive activities, such as streaming and file transfer (downloading and uploading). Similarly, the impressive development of mobile internet and its growing use in terms of user hours did not entail any decrease in fixed line internet usage over the time between the two surveys.

8. The mere fact that a large share of users had both fixed line and mobile internet subscriptions pointed towards complementarity rather than substitution. This was confirmed by answers to the explicit question on whether respondents see fixed line and mobile internet as substituting or as complementing each other. A further reinforcement came from the fact that respondents expressed significant interest in a bundle of fixed line and mobile internet (with a discount compared to the combined price of the two services taken separately, a fictious but plausible offer at that time), which is only rational if those services are complementary.

9. The surveys found that mobile internet users are more price sensitive than fixed line users. In addition, it was found that in case of a significant increase in the price of their current fixed line subscription, those who would consider switching, would more likely look for another fixed line subscription than for a mobile one.

10. Respondents also had the chance to comment on their experience in a kind of "online discussion forum" in both surveys. Those comments – although they were sporadic, especially in the second survey – tended to stress the technological deficiencies of mobile internet in terms of coverage, speed, and reliability, as well as other less favourable characteristics, such as data limits and pricing, relative to fixed line internet. They also underscored the difference of usage patterns and suggested that the only genuine merit of mobile internet for consumers was its mobility.

11. All the above findings were consistent with complementarity rather than substitution and served as a basis for the assessment of the GVH as to whether mobile internet providers could impose sufficient competitive pressure to constrain the fixed line internet pricing of the merged entity in areas where there were too few current or prospective third-party broadband fixed line operators to do so.

12. It is noticeable that many of the conclusions of the 2012 survey were more straightforward than those of the 2008 survey (despite the significant improvement of mobile internet in Hungary) in terms of quality, price, and popularity. Indeed, an overview

concerns the GVH identified in its second investigation and what kind of remedies the GVH deemed to be appropriate.

[2] This question was asked somewhat differently from those who have fixed line only, mobile subscription only or both, but the point was always whether they unsubscribed or are planning to unsubscribe their fixed line access to rely solely on mobile internet. Similarly, most other issues were addressed by more than one, tailor-made question.

of objective technological and economic parameters of mobile internet services could make the impression that it became a much closer competitor of fixed line services by 2012. This was a major reason why the GVH decided to conduct a second, updated survey, instead of relying on the 2008 results.

13. As it turned out, technological parameters, alone, did not determine the closeness of competition. This may or may not be the result of behavioural biases, such as a possibly false consumer perception of service reliability or speed.

3.2. Sector inquiry concerning the television broadcasting and broadcasting transmission services markets

14. The television broadcasting and broadcasting transmission services markets in Hungary have undergone several changes in the recent years. Some players in the sector reported to the GVH that television broadcasting companies offered their services (pay tv) to larger broadcasting transmission companies (telecommunication companies) at lower rates than to smaller ones. As a result, smaller broadcasting transmission companies faced higher procurement costs than their larger rivals. A sector inquiry has been initiated in 2020 to explore market dynamics and possible distortions of competition.

15. The sector inquiry analysed the pricing of television broadcasters and broadcasting transmission companies, the strategies of market participants and the impact of their behaviour on consumer welfare. A representative consumer survey[3] was executed to explore consumer attitudes, satisfaction, preferences, expectations in the pay tv market. As fair market competition should ultimately serve to prosper consumer interests, consumer behaviour insights were essential to understand the effect of market dynamics and corporate behaviours on consume welfare.

16. One of the most important results of the consumer survey was that while the price of the service is indeed a very important aspect for consumers when choosing between broadcasting transmission companies, they also consider several other factors. Behavioural insights have shown that larger broadcasting transmission companies are more likely to meet consumers' needs, and their subscribers are more satisfied with their pay tv services. The overall picture of smaller broadcasting transmission companies was much more negative, not primarily in terms of price but in terms of reliability or the provision of quality services. The final report of the sector inquiry concluded that the observed pricing practices (the larger the subscriber base of a broadcasting transmission company, the more favourable the conditions for obtaining television broadcasting rights) did not raise competition concerns as they also generated consumer benefits, such as reduced consumer prices or increased corporate efficiency.

17. Another significant result of the consumer survey was related to consumers' willingness to switch. Consumers have found it particularly difficult to switch between broadcasting transmission companies due to the complicated and cumbersome process of switching. Many subscribers felt that it was not worth the effort. Consequently, the GVH included a proposal in the final report of the sector inquiry that it would be worth facilitating the switching process for consumers to strengthen market competition between broadcasting transmission companies and increase consumer welfare.

[3] The survey was representative for gender, age, education, type of settlement, and geographic location.

3.3. Sector inquiry concerning the beverage procurement of the hotel, restaurant, and catering (HORECA) sector

18. The (ongoing) sector inquiry on the beverage procurement of the HORECA sector is another good example where consumer insights played a vital part in assessing market dynamics. The sector inquiry was initiated by the GVH after receiving numerous complaints[4] from market participants regarding the difficulties of getting into the portfolio of the hospitality sector.

19. One recurring theme in the sector inquiry concerned assumptions about consumer preferences. On one hand, new entrants or small market players that experienced difficulties in getting their beverages listed on the menus, argued that consumers would be open to new products if they had the possibility to choose them at restaurants, bars and other on-premise locations. According to this view, existing contracts with large market players create artificial entry to barriers to new entrants and small market players. On the other hand, incumbent suppliers argued that consumers opt for already known brands and therefore it is logical that bars and restaurants choose them as the safe and reliable suppliers that serve their customers' needs. The latter argument indicates that HORECA units are not interested in the offerings of new entrants or small market players as their customers are not willing to buy these products. This is creating an entry barrier, but it is not connected to existing contracts.

20. To base the opinion of the GVH on factual data instead of on anecdotal evidence, the authority conducted a representative survey[5] on consumer preferences. The survey explored the main factors consumers consider when choosing a place, what their favourite alcoholic and non-alcoholic beverage brands are, how open they are to try new products and if the latter attitudes differ by product category (beers, spirits, non-alcoholic beverages, coffee, energy drinks). These key insights acquired through the consumer survey help the authority understand the rootcauses of the dynamics one can be observed in the sector.

21. The results of the survey reinforced that consumers have low to moderate interest in handcrafted and other newly emerged beverages and they strongly prefer old and well-known brands. Furthermore, the available beverage portfolio does not have a major effect when selecting a restaurant or bar.

3.4. Market analysis about the importance and usage of data in e-commerce

22. The coronavirus outbreak resulted in double-digit annual growth in e-commerce since 2020. Several new companies entered into the e-commerce market that increased competition. However, the inability to access data might create a barrier to entry and access to a large database might enable firms to become dominant. The GVH launched a market analysis to understand the role of data in competition among e-commerce companies as well as to understand how data collection is perceived by the shoppers and whether they are aware of the data collection and type of data processing executed by the online retailers. This was a joint effort by the antitrust and consumer protection sections of the GVH.

[4] The GVH has ongoing enforcement cases within the HORECA sector that also indicated the need to understand the sector's market dynamics holistically. On-premise and retail channels are separate relevant markets; hence, retail trade was not considered in the sector inquiry.

[5] The survey was representative for gender, age, education, type of settlement, and geographic location.

23. The market analysis extensively built on a five-step market research that targeted both consumers and e-commerce companies. The consumer-focused part of the market research included an innovative desk research, a community forum-based research, and an online survey. During the innovative desk research, fictive users were registered to different webstores and different activities (e.g., browsing the offers, selecting some products but leaving the basket, buying a product, filing a complaint) were executed with them. The research company monitored the amount and the level of personalization of the communications received from the webstores.

24. The community forum-based research had a similar approach, but in this case with real people instead of fictive profiles. The participants had to register into a webstore they did not use before, execute different tasks (same as during the previous phase), and share and discuss their experiences with each other. The research revealed how webstores use consumer data, whether there are any significant differences in personalization across the stores, and how shoppers perceive these activities.

25. The first part of the online consumer survey was a usual survey, while the second part was designed as a controlled randomized experiment. Respondents had to register into a fictitious webstore. Based on a randomized setting, respondents either had to provide only the necessary data (name, email address, password) or several other personal data (gender, phone number, date of birth) as well. The second randomized element was the length of the data protection policy (short or long). Shopper behaviour was observed with a focus on how willing they were to provide more personal data as well as how likely they were to read and get familiar with the short and long data protection policy.

26. The corporate side of the market research included in-depth interviews with professional experts and webstore operators, besides a quantitative survey distributed among small and medium sized webstores.

27. The conclusions of the market analysis incorporated the consumer insights gained during the market research. The most interesting results were that shoppers were not completely satisfied with the way webstores collected and analysed their data; however, the motivation of a fast and seamless online shopping overwrote their concerns. To the contrary, shoppers are very sensitive regarding their bank card data.

28. Nevertheless, the majority of the webstores did not use consumer data except fulfilling the order. Only large e-commerce companies do personalized advertisements, the rest of the companies rely on large tech firms in their advertisement activities.

4. Conclusions

29. The surveys executed by the GVH were not specifically aimed at identifying behavioural biases, nonetheless, they are relevant in the context of this roundtable discussion in at least three ways.

30. First, empirical analyses that capture real consumer behaviour internalise behavioural biases that influenced consumer decision-making. In other words, they do not reveal behavioural biases (at least not as a stand-alone exercise), but their results do not need to be corrected for such biases, as they already show what consumers actually do.

31. This also applies to consumer surveys as long as they are properly designed and conducted, and concern consumer experience (especially if those experience are recent and/or factually supported). As a result, answers to factual and hypothetical consumer survey questions may differ from each other, not only in terms of reliability, but also in

terms of their relation to behavioural biases of the respondents. These differences are relevant when interpreting the results.

32. Second, our experience reinforces that analyses based on objective parameters of functionality and on assumptions on how consumers would optimally react to those parameters may be wrong or non-conclusive. It is thus better to complement those technical assessments with hints of real-life conduct of actual consumers, in which consumer surveys may be helpful. Those hints, reflecting either biases or preferences, may alter and improve the competitive analysis as it was the case in the Magyar Telekom/Vidanet merger.

33. Third, while consumer surveys may be very useful to avoid analytical distortions caused by behavioural biases, surveys themselves may be exposed to such biases, making results inaccurate, or the interpretation of those results dubious. This involves non-factual survey questions, including not only hypothetical questions and questions on stated preferences, but also questions on actual experience should they concern more distant past and/or do not have factual support (such as receipts). Answers to these questions may be prone to certain behavioural biases and inconsistencies (to a varying degree).

34. In the experience of the GVH, the best that can be done to deal with this vulnerability, beyond careful design of the questions, is targeting the same issue from various angles, within, and possibly outside of the survey. This can serve as a built-in double check or cross examination. For example, as it is explained above, both Magyar Telecom/Vidanet merger surveys addressed fixed line and mobile internet substitution in several ways, combining hypothetical and factual questions of different kind, and other types of evidences. Various pieces of evidences were consistent with each other and pointed to the same direction.

35. In summary, the experience of the GVH suggests that controlling for behavioural biases in competition analysis does not always require explicit identification and understanding of those biases, and that consumer surveys may be a useful tool in that context.