

SMP regulation in retail sector

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Reason of regulation

- Act on Trade: in force since 2006
- Big retail chains – buyer power
 - Asymmetrical power and negotiating position
 - Adverse effect on market position of small and medium-sized suppliers in the long-run
 - + Lower retail prices (good for consumers in the short term)
- Aim of the regulation: protect **suppliers** from abuse of retailers significant market power
(≠ aim of competition law: protect consumers)

Hungarian retail market

- Big international and domestic **supermarket chains** cover more than 90% of the retail market.
- In the last 10 years there was some concentration (merger activities)
- Tesco is the market leader with ~20% market share
- Three domestic players + two international supermarket chains have each ~9-13%
- Two entrants in the last 10 years (Lidl and Aldi) market share expanding every year

Who has significant market power?

Trader / group of traders /purchasing alliance

- one-sided bargaining position
- market structure,
- restrictions in entering the market,
- market share,
- financial strength and other resources,
- the magnitude of commercial network,
- the size and location of commercial establishments, and any other related activities

BUT: in practice it is needless to analyze

Who has significant market power?

Non-rebuttable presumption in the law:

- **net revenues** of a group

Including: *parent companies, affiliates, companies in a purchasing alliance*

- excess of **100 billion HUF**(~ EUR 320 Million) from trading activities

Practically covers all relevant players in the market

SMP cases

Abuse of significant market power

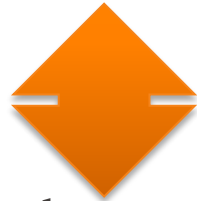
- Conduct: Applying bonus payment without sales surplus performance upon the supplier. Unjustified, because there was **no service behind it**, and the bonus had **no performance incentive function**

Case ID	Fine	Court proceeding
VJ/47/2010 SPAR	~160.000 €	Approved by supreme court
VJ/60/2012 Auchan	~3.420.000 €	Pending before supreme court
VJ/43/2016	Ongoing case	n.a

Food sector: change of regulation / uncertainty of competences

Change of Trade Act

Since middle of 2012 the Hungarian Competition Authority has no competence regarding food products: the national food safety agency has right to surveillance in case of unfair trading practices of a retailer against food suppliers



Since 2016 an other presumption of the law entered into force in the Act of Trade:

- The **presumption of dominant position** of a retailer in the relevant food retail market

Presumption of dominant position in the food retail sector

- The presumption of **dominant position of a retailer** in the relevant food retail market if turnover is in excess of **100 billion forints** (EUR ~320 Million) from *food* trading activities
- GVH does not launched any case yet
- ...

Thank you for your attention!



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