



GAZDASÁGI  
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## Dental mechanics restricting competition

**The Hungarian and Budapest Professional Guild of Hairdressers, Dental Mechanics, Cosmeticians, Manicurists and Pedicurists, Artificial Nail Builders, Soda-makers, Dyers and Dry-Cleaners was fined HUF 3 million by the decision of the Hungarian Competition Authority (GVH) for restricting competition.**

The GVH initiated competition supervision proceedings in April 2008 against the Hungarian and Budapest Guild of Hairdressers, Dental Mechanics, Cosmeticians, Manicurists and Pedicurists, Artificial Nail Builders, Soda-makers, Dyers and Dry-Cleaners (hereinafter: the Guild) because the Guild had set recommended minimum prices in HUF and in EUR for four product categories (fixed and removable dental protheses, fixed and removable orthodontic braces, titanium implants) related to dental mechanics services and published them in its annual recommendations (hereinafter the Recommendation).

The Guild is a social organisation established in 1990. The Guild's main task is to protect and represent the professional and economic interests of its members among which we can find Hungarian hairdressers, dental mechanics, cosmeticians, manicurists and pedicurists, artificial nail builders, soda-makers, dyers and dry-cleaners. The National Dental Mechanics Guild that prepared and published the lists of the recommended prices is one of the six professional sub-groups of the Guild. With a significant past, the Guild, which comprises about 400 dental mechanics, is unequivocally considered the most significant professional association on the dental mechanics services market.

The Recommendation investigated by the GVH, was prepared by the professional management of the National Dental Mechanics Guild and it was later disclosed for consultation to the members at the membership meetings where they could make their comments on the price list. The first version was prepared on the basis of the calculations, market analysis and experiences of the members of the Guild in 1991. Later, until 2008, by modifying the fees the Guild had updated the first version on a yearly basis "taking into consideration the experiences of the previous year and expectable processes". The Recommendation was published in the professional journal of the Guild and on its website.

According to the Competition Act, agreements or concerted practices between undertakings and decisions by social organisations of undertakings, public corporations, associations or other similar organisations, which have as their object or potential or actual effect the prevention, restriction or distortion of competition, shall be prohibited. This competition law prohibition does not only concern agreements between undertakings, but also the decisions made by social organisations of undertakings if the object or effect of the decisions are deemed unlawful.

In the opinion of the GVH, the decisions made by professional interest groups established by undertakings are capable of influencing their market behaviour, irrespectively whether the

decisions are meant to be recommendations or obligations. This standpoint is not even influenced by the fact whether the association of undertakings is a non-profit organisation or not. The Guild, based on the provisions of the Competition Act, is considered a group of undertakings, since its members are those dental mechanics experts and undertakings of the private sector who charge fees for providing services, i.e. they are engaged in economic activities and take their own financial risks; they are hereby subject to the general laws of market demand and supply. The acceptance and the disclosure of recommended minimal prices qualify as decisions of group of undertakings, and hereby they infringe the provisions of the Competition Act. As a consequence of recommended prices, different prices prevail on the market than otherwise without the Recommendation. Recommended prices mean a certainty for all the parties concerned about the prices prevailing on the market and they hereby are able to foresee the pricing policies of the market players. As a result of the orientation effect of the recommended prices, prices may become uniform irrespectively of the individual costs, performance or quality of the undertakings.

According to the GVH, the mere existence of the Recommendation implies that the aim of the Guild was to influence prices on the market and orientate the market players. Comparing the recommended prices in 2007 and in 2008, there was a significant rise in prices (that was of 30% in several cases). It is undisputable that the undertakings, besides their own cost structure, may be aware of the prices prevailing on the market. They may be able to estimate the market prices in a given – static – moment. However, it is less probable from an economic point of view that they are able to foresee the competitors' prices for the future (for a longer period e.g. half a year or one year). This is exactly why it cannot be economically justified that the undertakings determine – in the form of a recommendation from the association – the price levels which they intend to apply in the future. Therefore the anticompetitive object is the only reasonable explanation for the establishment of the Recommendation.

The fact that the Guild published the Recommendation on the Internet and in its professional journal for a wide public and the fact that the Guild renewed it all suggest that the aim of the Guild was to influence the dental mechanics' market behaviour. This suggestion is confirmed by one of the circular letters of the Guild sent to the members. In this letter it disapproved that one of the dental mechanics from Debrecen had concluded an agreement with the Hungarian Health Insurance Found about lower prices than those recommended by the Guild, and called upon all the members for a professional collaboration in order to avoid this kind of situations.

In the standpoint of the GVH the Recommendation of the Guild was capable of restricting competition. In order that competition can prevail on the market it is of high importance that market players are not be aware of each other's future cost and price strategy and other market policies. Only this way can it be ensured that the undertakings really compete for the demands by striving for maximum of efficiency and beating down their operational costs. However, if they are aware of the future price levels applied by their competitors, they, motivated by higher profits, will evidently tend to apply the price level published in the Recommendation. Irrespectively of the individual costs and performance of each undertaking, as a result of the recommended prices, prices may become uniform. This may result in the phenomenon that even the undertakings that can operate with lower self-costs are not obliged to decrease the prices either. As a consequence, these price levels uniformly applied on the market do not reflect or distort the differences in proficiency, business reliability and efficiency between the undertakings, which have a significant role in competition between the undertakings. The Recommendation concerned is able to orient the

price policy of the market players, and conveys the message that it is not worth striving for efficiency since the competitors apply the same recommended prices, too.

Considering all the above mentioned, the GVH has established that the Guild violated the prohibition of restrictive market practices and hereby received a fine of HUF 3 million. The GVH considered as aggravating circumstances that the infringement lasted more than 10 years and that the Guild is the professional representation association with the biggest membership on the relevant market. At the same time, the GVH also considered as a mitigating circumstance that after the initiation of the proceeding the association under investigation did not make and publish recommendations regarding minimum prices, and also drew the attention of its members to this fact.

Besides imposing a fine, the GVH also obliged the Guild to publish the decision of the GVH on its homepage for at least three months. The Guild was also ordered to draw the attention of the readers and its members concerned - in the next edition of its professional journal and in a registered letter addressed to its members - not to apply the minimal prices previously published by the Guild.

Case number: **Vj-51/2008**.

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Hungarian Competition Authority  
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