

OVERVIEW: HUNGARY

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In Hungary, the agency entrusted with competition enforcement is the Hungarian Competition Office (Gazdasági Versenyhivatal, HCO). The HCO is an independent central state budgetary organ which is subject only to parliament in relation to its budget, tasks (ie, new tasks may be assigned to the HCO only by legislation) and its obligation to report on its activities annually.

Tasks

The HCO's basic tasks are threefold, as prescribed by Act LVII of 1996 on the Prohibition of Unfair Market Behaviour and the Restriction of Competition, as amended (the Competition Act), and as expressly declared by the HCO: (i) enforcing competition law, including both domestic and EC competition law; (ii) promoting competition in the course of opining on state decision-making procedures; and (iii) developing a competition culture.

Concerning enforcement, it is the HCO's primary duty, as the public enforcer of competition law in the public interest, to enforce the provisions of the Competition Act for the prohibition of agreements containing horizontal or vertical restraints and abuse of dominance. In recent years, the HCO has also placed more emphasis on its role of enforcing the prohibition of unfairly influencing consumer decisions. In addition, the HCO has exclusive competence in merger control procedures with a Hungarian dimension.

Except for merger control and reviewing practices that unfairly mislead consumers, other state organs are also engaged in domestic competition law enforcement. In certain sectors, for example, the sectoral regulator may have competence in relation to competition issues. Furthermore, as of 1 November 2005, within the framework of the private enforcement of competition law, national courts are also permitted and obligated to apply the rules regarding cartels and abuse of dominance (in which case the HCO will act as an *amicus curiae*), and criminal law enforcement organs may be involved in cartel cases concerning tender procedures in connection with public

procurements or concession activities – cartels in such procedures are criminalised under the Criminal Code (1978). The HCO actively strives to build and develop its cooperation with other state organs that may support the HCO's enforcement role; for example, the HCO has already concluded a cooperation agreement with the Hungarian Financial Supervisory Authority.

In addition to the above, the HCO may pursue sectoral investigations in order to determine the circumstances and status of market competition in the given sector – such an investigation was recently conducted into housing loans in the financial sector.

As far as the enforcement of EC competition law is concerned, the HCO, as a member of the European Competition Network, enforces articles 81 and 82 of the EC Treaty, and often takes part in merger control cases that may affect competition in Hungary. In its practice, the HCO endeavours, where possible, to actively apply EC competition law parallel to the application of domestic competition law.

The HCO's tasks are not, however, exclusively prescribed by the Competition Act: the HCO is also the enforcer of the recently introduced prohibition of the abuse of significant market power under Act CLXIV of 2005 on Trade, which penalises the abuse of buyer power against suppliers in the commercial sector. The HCO also has competence in protecting the fairness of commercial advertisements and certain pricing levels.

With regard to the HCO's other two tasks, ie, promoting competition and developing a competition culture, briefly, it is statutorily required to opine on bills and other measures that may affect competition and it regularly holds competitions open to the public on topics within this area of law in order to enhance competition culture and awareness.

Organisation

The HCO is a vertically organised independent government organ headed by the president, presently Zoltán Nagy. There are two vice presidents: Tihamér Tóth, is responsible for the operation of the Competition Council, which hands down competition decisions, and Márta Nagy is responsible for the operation of the specialised sections, such as the Consumer Protection, the Info-communication, the Industry

and Food Industry and the Services Sections and the Cartel Unit. These specialised sections are supported in their operations by the Competition Policy, the Legal and the International Sections. Based on other European examples, the HCO in 2006 introduced the position of chief economist, who is responsible for providing the HCO's conceptual approach to economics and is also involved in particular cases.

The HCO's website – www.gvh.hu – has a sizeable English-language content that provides a detailed description of the HCO's organisation, operation and practice, including relevant court practice.

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Szabó Kelemen & Partners Attorneys is a full-service law firm that traces its origins back to Szabó & Partners Attorneys, which was established in 1996. The firm was the Hungarian member of the Ernst & Young Law Alliance from 1996 to 2003, and from 2004 worked in cooperation with Salans for two-and-a-half years. The firm's impressive client base consists of multinationals, as well as large and medium-sized Hungarian companies.

The firm is particularly strong in tax, competition and merger and acquisition work, as well as in various industry sectors, including financial services and real estate. Many of the firm's Hungarian lawyers have worked in law offices or barristers' chambers abroad, and many hold postgraduate qualifications from foreign institutions. The working languages of the firm are Hungarian, English and German.

The firm's core practice areas are:

- Antitrust/competition law
- Banking and securities
- Corporate and commercial, including company group financing and royalty payment structures
- Corporate restructuring, mergers and acquisitions
- Employment
- Insurance
- Litigation and arbitration
- Public procurement
- Real estate and commercial property