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**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN HUNGARY**

-- 2009 --

*This report is submitted by Hungary to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 27-28 October 2010.*

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## **1. Changes to competition laws and policies, proposed or adopted**

1. In 2009 several provisions, amending several parts of the Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (the Competition Act) came into force.

2. On 23 March 2009 the Hungarian Parliament adopted the amendments of the Competition Act. The amendments were adopted in 2008 for the first time, but after a constitutional veto of the President of the Republic the Constitutional Court (CC) annulled certain elements of the amendments. Now the amending Act had to be readopted with the exception of the provision concerning the disqualification of the company CEOs (which was quashed by the CC).

3. Until this latest amendment of the Competition Act the GVH's leniency policy was based on the Leniency Notice of the GVH issued in 2003 (GVH: Gazdasági Versenyhivatal – the Hungarian competition authority). But the desire to increase legal certainty motivated the leniency rules to be regulated in the Competition Act. European tendencies also motivated the modifications of the leniency rules, namely the alignment of the Hungarian leniency regime to the Model Leniency Program of the European Competition Network (ECN), which was duly considered when the GVH worked out the new leniency rules. As a consequence of the amendment, the GVH's leniency rules are laid down in three documents: the Competition Act, the leniency application form, and the leniency guideline. The Competition Act regulates the basic rules (conditions of leniency, basic procedural rules etc.), the leniency application form lists the requirements of form and content of leniency applications and the leniency guideline gives detailed information on the leniency process. All of the documents are available on the GVH's homepage.

4. The new leniency system is very much similar to the previous rules, but it also contains several new solutions, which are beneficial for market participants. These rules follow the solutions of the ECN Model Programme. For instance: while abolishing hypothetical applications, the GVH introduced a non-discretionary marker system, a summary application system and the possibility of submitting oral applications. In addition, the leniency application form gives detailed information on what type and quality of information should be submitted with the leniency application. The leniency guideline details the cooperation of the leniency applicant. According to the new provisions, a business entity which coerced another business entity to participate in a cartel, is not excluded in the future from getting reduction. There are detailed rules on how the GVH uses the submitted information until it makes a conditional decision on immunity and on what happens the application and the submitted information if the applicant withdraws the applications or it is refused by the GVH. In the new regime, the Competition Council (decision-making body of the GVH) will be responsible for making both the conditional and the final decision on leniency.

5. The new rules increase the transparency and legal certainty concerning the lodging and handling of leniency applications and as a result – according to the hopes of the GVH – they will increase the number of the applications. The incorporation of leniency rules into the Competition Act would also raise public awareness of the instrument of leniency.

6. Other changes concerning cartels established by this latest amendment of the Competition Act set up more favourable liability rules for the firms taking advantage of the leniency policy, as they do not have to pay compensation in private enforcement situations until it can be collected from other cartel members. Furthermore, new rules are expected to facilitate the proving of the damage caused by a cartel in private enforcement, for example by introducing the (refutable) presumption that, the cartel raised prices by 10% as well as better discovery rules in damages actions.

1. Concerning mergers, the new rules replace the dominance test with the SLC / SIEC test. The merger procedural fees and the amount of fine payable in the case of a failure to apply for authorisation are increased by the amendments.

2. The amendments also affected the competition culture developing activities and possibilities of the GVH, the new rules put at the GVH's disposal ten per cent of the total average amount of the fines collected in the two previous years (it has been five per cent of the previous year's fines so far) and extend the scope of activities to the support of EU related competition culture and of consumer culture. Further amendments affected the competences, tasks, structure and internal procedures of the GVH (e.g.: possibility of extending the time limit two times instead of one in consumer protection-related cases, possibility for the applicant to challenge GVH decisions).

3. In 2009 the President of the GVH together with the Chair of the Competition Council (Vice President of the GVH) withdrew two notices that were issued earlier. The withdrawal of the Leniency Notice<sup>1</sup> was purely consequential, since the rules it originally contained, were modified and moved to the Competition Act as part of the law amendment described above. The Fining Notice<sup>2</sup> was withdrawn with having prospective revision in mind, due to the accumulated experience in terms both practical application of the notice and judicial review of GVH decisions relying on the notice.

## **2. Enforcement of competition laws and policies**

### **2.1 *Action against anticompetitive practices, including agreements and abuses of dominant positions***

#### **2.1.1 *Summary of activities of: - competition authorities; - courts***

4. In 2009 the GVH conducted 137 competition supervision proceedings, out of which 93 cases were finished by the decision of the Competition Council (including orders imposing commitments).<sup>3</sup> 51 of the latter related to unfair manipulation of consumer choice while 42 of them to antitrust. The total number of the interventions of the GVH was 59, they majority were made in consumer fraud cases (48 cases), and the rest were in cases with antitrust relevance (11 cases). The GVH terminated two of the antitrust proceedings after it had made, by its orders, commitments offered by parties to those cases to remedy competitive problems, binding to the parties.

5. The GVH imposed fines in 53 decisions in 2009. The amount of the fines imposed was HUF 6 025.275 million (approx. EUR 21.5 million), including HUF 38.475 million imposed for the missing of the deadline set for the submission merger-notifications. The fines imposed for substantive infringements in 2009 were mainly related to cartels (HUF 5 080 million), the rest was related to unfair manipulation of consumer choice cases (HUF 906.8 million). No fine was imposed in abuse of dominant position cases by the GVH in 2009.

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<sup>1</sup> Notice No 3/2003 of the President of the Hungarian Competition Authority and the Chair of the Competition Council on the application of leniency policy in order to facilitate cartel detection, as amended by Notices Nos 1/2006 and 2/2009.

<sup>2</sup> Notice No 2/2003 and No 2/2005 of the President of the Hungarian Competition Authority and the Chair of the Competition Council on setting fines in antitrust cases, as amended by Notice No 2/2005.

<sup>3</sup> This number does not include those decisions of the Competition Council which resulted in the termination of proceedings in absence of evidence proving the existence of an infringement of the law or in absence of public interest. Neither does this number include the decisions brought in proceedings terminated for administrative reasons.

6. Decisions of the GVH can be reviewed by the Municipal Court of Budapest, the judgements of which can be further appealed before the Court of Appeal Budapest. At a third level the Supreme Court can also make a judgement should one appeal the judgement of the Appeal Court in the form of a request for exceptional review. According to the Act on Civil Procedures a decision can be appealed by any party to the proceeding, or by anybody whose rights and obligations are directly affected by the case underlying the decision. Such a person might be e.g. the complainant or other participants of the proceeding. The reviewing court may alter the decision or dismiss it and order the initiation of a new proceeding.

7. The rate of decisions appealed in 2009 was 43%, which about the level of recent years, except for 2008 where the same ratio was less than 20%.

8. By the end of 2009 more than 80% of the 459 appeals of the decisions brought under the present Competition Act have become final (since 1997). Judicial proceedings have been accelerated in recent years. The underlying decisions of the GVH were altered in part or in its entirety in 25 cases. In another 32 cases the amount of the fine was reduced to certain extent. This shows that there is still harmony in the application of the competition law between the GVH and the courts.

9. The judgment of the Supreme Court brought in a national highway construction cartel case, fully confirming the decision of the GVH, has to be highlighted among the final court judgments. Furthermore it is also worth mentioning that the Supreme Court made its judgment in the case that was related to a public procurement cartel case concerning the construction of the metropolitan metro line 4, and in which the GVH found three construction companies engaged in cartel activity in 2004. The Appeal Court of Budapest confirmed the findings of the GVH's decision. It positive about the procedural issues approved the proceeding of the GVH and the findings in its decision. Following a subsequent challenge of the decision by the parties in 2009, the Supreme Court's judgment upheld the original decision, except the amount of fine imposed on one of the cartel members.

10. The Supreme Court accepted the market definition of the GVH in the public procurement cartel case in which the Hungarian Pensions Insurance Authority invited tenders in an open pre-qualification process for the complete reconstruction, renovation, building contractors and sub-construction works of its seat in 2001.

11. The Budapest Metropolitan Court partially changed the GVH's decision that established the infringement of the Hungarian Bar Association. Final judgment was brought in the so-called 'insurance cartel' case: while the first instance review court did not share the GVH's assessment concerning brokerage contracts but otherwise approved the decision, on the second instance the Appeal Court of Budapest rejected the review requests of the plaintiffs in their entirety.

12. In 2009 final judgment was delivered in an abuse of dominant case in which in its original decision the GVH found that the Magyar Államvasutak Zrt. (Hungarian Railways Zrt.) had abused its dominant position requiring the provision of an unconditional bank guarantee from potential entrants, in the contracts concluded for 2005, for the use of its track railway infrastructure and hereby imposing unjustified disadvantageous market conditions on these potential competitors. As regards the violation, the conclusive judgement confirmed the GVH's decision, however the review court found the amount of the fine excessive and reduced it. Another market opening related decision of the GVH, the one brought in an abusive case against Dél-magyarországi Áramszolgáltató Zrt. was also confirmed by the Supreme Court.

### *2.1.2 Description of significant restrictive agreement cases*

13. The Competition Council made seven decisions concerning anticompetitive agreements in 2009. Intervention was needed in all of the seven cases. Six cases were terminated with the prohibition of the

unlawful conduct while one proceedings ended with commitments. Four of the investigated agreements were concluded between competitors, two agreements involved both horizontal and vertical issues, and one case concerned a vertical agreement.

14. It seems that due to the GVH's firm and persistent activity, resulting serious consequences to cartel members, they have become more watchful in recent years; therefore detecting secret cartels is an increasingly difficult challenge. The fight against cartels remained one of the most accentuated objectives of the GVH. In the past years, the authority condemned several firms participating in cartel and imposed deterrent fines. Thus the GVH imposed a fine amounting to almost HUF 2,906 billion (approx. EUR 10.3 million) on three road construction companies (Strabag Építő Zrt., Egút Egri Útépítő Zrt. And Colas Dunántúli Zrt.) for cartel activity. Cartel participants colluded in the public procurement tenders published for road and bridge construction and reconstruction works in Heves and Nógrád counties, Northern-Hungary between 2002 and 2006. They allocated the market among themselves, agreed on prices and picked up winners. Another participant of the cartel did not receive a fine since it cooperated with the GVH in the proceeding within the framework of leniency policy, also admitting its participation, which helped the thorough discovery and proving of the infringement. The aggregate value of the project was HUF 1 billion (approx. EUR 3,6 million).

15. Another significant case involving restrictive horizontal agreement was the multilateral interchange fee case, involving Hungarian payment card issuing banks and payment card schemes of Visa and MasterCard. The case concerned interchange fees applied in four-sided card payment systems which was fixed by the horizontal agreement of the Hungarian banks – they set uniform interchange fees in transactions by payment cards of Visa and MasterCard. The practice of the payment card schemes also infringed competition since it enabled the banks to conclude agreements that hindered competition. The commitments offered by the parties in the proceeding were insufficient therefore the GVH did not accept them. The GVH imposed a total fine of HUF 1.992 billion (approx. EUR 7 million).

16. The GVH established the violation of the Competition Act and imposed a serious fine amounting HUF 103 million (approx. EUR 367 thousand) on a Taiwanese firm, MITAC and its three Hungarian distributors, for fixing the minimum retail prices of GPS navigation devices and threatened with sanctions those retailers who offered them at lower prices.

17. In spite of previous cases in the bakery sector, the GVH found a cartel also in 2009 involving Magyar Pékszövetség (Hungarian Association of Bakers) and 23 bakeries. The association coordinated its members price increases in August 2006 and February 2007. The authority made a condemnatory decision.

18. The GVH continued in 2009 the investigation and evaluation of the recommended prices issued by chambers and associations of professions. A condemnatory decision was delivered concerning the setting of recommended minimum prices by the association of dental mechanics. The competition authority terminated the proceeding against Békés Megyei Ügyvédi Kamara (Bar Association of Békés County) for excessive and discriminatory registration fees since the Association undertook commitments.

### *2.1.3 Description of significant abuse of dominant position cases*

19. In 2009 the Competition Council adopted one decision related to abuse of dominance. In this case the GVH accepted commitments. The case concerned the limitation of early repayment opportunities (related to loans) of clients by Raiffeisen Bank.

## 2.2 *Mergers and acquisitions*

### 2.2.1 *Statistics on number, size and type of mergers notified and/or controlled under competition laws*

20. In 2009, the Competition Council adopted 34 merger decisions. Of the 34 cases that ended with a final decision 29 were initiated upon the notification of the parties, while in the five remaining cases the GVH opened proceedings ex officio due to a failure to apply for an authorization. Out of the 34 cases 18 resulted in horizontal mergers, three were of vertical nature, while the remaining 13 produced both horizontal and vertical effects or neither of them. The GVH intervened in three cases, namely it prohibited one of the planned mergers and imposed obligations on the parties as a precondition for the authorization of the transaction in the two remaining cases. In two cases, there was no need to apply for an authorization or the notified transaction did not qualify as a concentration under the Competition Act. In 29 cases the merger was authorized without conditions.

21. The GVH still applied the dominance test when assessing transactions in the case of mergers implemented before 1 June 2009. As a result of the amendment of the Competition Act, from that date the GVH applies the SLC / SIEC (substantial lessening of competition / significant impediment of effective competition test) – thus, may not refuse to grant authorisation for a transaction where the merger would not substantially reduce competition – in particular as a result of the creation or strengthening of a dominant position – on the relevant market. Otherwise, on the basis of assessing advantages and disadvantages effects on competition the concentration can be prohibited. Because the merger notifications' particular distribution in time, all of the merger control interventions of the GVH in 2009 were based still on the dominance test.

### 2.2.2 *Summary of significant cases*

22. The prohibited merger concerned the attempt by Magyar Telekom to acquire sole control over ViDaNeT Kábeltelevíziós Szolgáltató Zrt. (a CATV provider). The competitive concern of the GVH was that the merged entity (a group of firms belonging to the same economic unit post merger) would have controlled both fixed line telephone and cable television networks – pledges of effective infrastructure-based competition – on the relevant geographic market.

23. In the construction industry, the GVH approved the acquisition of control over Cemex Austria AG by Strabag SE on the structural condition of divesting the Cemex ready-mix concrete plant in the city of Salgótarján to an independent entity.

24. The GVH also approved a merger of two pharmacy chains with condition. In this case the intervention was based on a sector regulation rather than pure competition policy considerations. According to an explicit provision of the Pharmaceutical Distribution Act a merger involving pharmacies cannot be approved if the combined share of the merging parties would own more than a quarter of all pharmacies within any area with a 5 km radius around any of their existing pharmacies. Since this criteria was fulfilled in one area in the city of Győr, the parties committed themselves to close one of their pharmacies within the area in question, in this way going below the statutory threshold and making possible for the GVH to approve their.

25. Beyond the 34 final merger decisions, there was a merger case worth mentioning, since it did not end a final decision prohibiting the merger only because the parties withdrew their notification (and dropped the merger) after receiving the GVH document outlining the preliminary position of the Competition Council, and therefore the proceedings was terminated. The case concerned the printed media industry, more accurately the field of tabloids, gossip newspapers and gossip weeklies. The GVH carried out a careful, extensive and rigorous market definition analysis and found that the printed daily tabloids /

gossip journalism market was separate relevant market on which the merged entity (the parties post merger) would be in a dominant position.

### **3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies**

26. Within the framework of competition advocacy the GVH tries to influence state decisions in favour of competition. In these efforts the GVH uses its rights granted to it by the Competition Act, relies on the right for free competition provided by the Constitution, and raises the awareness of general public. State decisions in this context include the designing public policies and the individual measures either by the government or other bodies representing the state or public power, including among others, municipalities.

27. The most frequent form of competition advocacy is the opining of draft legislation. However, other tools are also available; e.g. the GVH may also submit proposals and its role is not restricted to mere reactions to others' initiatives. Moreover certain forms of competition advocacy might be and sometimes are mixed with each other.

#### **3.1 *Opining draft pieces of legislation***

28. In 2009 283 proposals and drafts were submitted for opining to the GVH, this number was by 20% less than it was in the previous year. The downward trend of the number of received drafts and proposals that could be already observed in 2008 seems to remain constant due to the negligence of those involved in designing public policies in Hungary who fail to submit the drafts and proposals that might affect the tasks and competences of the GVH. The GVH tries to call the attention of the codifiers to this problem and prepares and submits its opinion even if it is only informed about the piece of legislation after it has been adopted. Similarly to the rates observed last year, every sixth of the submitted drafts and regulations (48 pieces) required a detailed analysis from a competition perspective, while one quarter of the received drafts was completely irrelevant to market competition. In contrast to that, 77 laws were adopted by the Parliament that were not submitted to the GVH for prior opining, although the laws concerned would have been relevant from a competition perspective. In 2009 the GVH also put a special emphasis on the efficiency of its reviews on draft legislation and on the enforcement of its advocacy on competition policy. In the form of public administrative reviews, the GVH regularly requests the administrative agency that does not comply with the GVH's opinion to publish with the proposal the authority's dissenting opinion and also a summary that collects the reasons of the rejection of observations and proposals. As the GVH's experiences show the those who makes the proposal rarely undertake this. In most of the cases the GVH can only observe the effectiveness of its reviews after the adoption of the laws concerned.

29. One of the greatest legislative tasks of the last year was the implementation of the European Directive 2006/123/EC on services in the internal market that affected competition policy positively. When negotiating the draft on the development of anticorruption measures and governmental anti-corruption strategy, the GVH held several meetings with the experts of the Ministry of Justice and Law Enforcement and expressed its comments on the establishment of the Anti-corruption Coordination Committee ("Közérdekvédelmi Hivatal") and on the procedures to be followed if the provisions of fair trial were violated. Within the framework of competition supervision proceedings and investigations conducted by the GVH during the recent years, the authority suggested many times that in order to ensure effective competition there is a need to re-regulate the current regulation on the credit market. In its annual reports that were submitted to the Parliament, the President of the GVH indicated many times the above-mentioned problem to the members of the Parliament. Two reports (2005, 2007) contained proposals regard with the re-regulation of the exceptionable provisions. According to the opinion of the GVH, the

unrestricted possibilities of banks to unilaterally modify long-term agreements eliminated competition on this market, and underpinned the notion that without an effective regulatory environment there are no safeguards that other proposals aiming the promotion of competition would materialize at some point.

30. On March 2009 the President of the GVH raised also the attention of members of the Parliament with its letter on the significance of the legislation in relation to unilateral modifications of contracts by emphasising that this might enhance effective competition without actually endangering the stability of the banking system. Those banks that function effectively do not have to face the massive loss of their clients because if disadvantageous conditions in the credit agreements are the neutral consequence of the amendments of the regulatory environment, clients will not terminate their credit agreements to switch to competitors considering that other banks will be affected by the amendments too.

31. Act CLXII of 2009 on credit agreements for consumers has implemented the European Directive 2008/48/EC on credit agreements for consumers in Hungary. The first draft of the bill that was successfully challenged by the GVH did not extend the scope of the bill to mortgage loans with regard to the beneficial regulations for consumers concerning early repayments and exit costs. Nevertheless, the similar recommendation concerning state subsidies was rejected, however it is very probable that with the possibility of early repayments state expenses could have been diminished too. The proposal of the GVH that intended to furnish the long-term agreements with a retroactive approach was also rejected although the authority pointed out that it would have affected consumers beneficially and in addition, it would have standardized the agreement-structure of banks.

32. The draft of the ministerial decree on the operation of electronic public services assigned the operation of the central electronic system to a firm that is 100% controlled by Nemzeti Vagyongazdálkodási Zrt. (Hungarian State Holding Company). The GVH disapproved the assignment since it would grant a questionable exclusivity. Moreover, the GVH raised serious concerns with regard to the lack of legal basis for the assignment.

33. The GVH submitted its general as well as its specific comments on several drafts amending the ministerial decree on construction investments. Since the GVH assumes that the building sector is highly infected with cartel activity and presumable with corruption too, it is not surprising that competition in the building sector is eliminated, which consequently leads to inefficient utilization of sources and to fragmentation.

34. Concerning the ministerial decree on wholesale and retail trade of pharmaceutical products the GVH signalled that though the Act on Pharmaceutical Products and also the ministerial decree contain provisions relating to the service supply obligation, they fail to define it. In addition, the GVH also drew the attention to the fact that regulations do not compel marketing licensees to supply self-produced products to wholesale traders. Therefore there was a contradiction between the vertical participants of the sector, which was eliminated due to the incorporation of the accepted proposal submitted by the GVH. Moreover, the GVH pointed out several provisions concerning the amendment of the ministerial decree on the distribution of pharmaceutical products that might infringe the principle of competition neutrality and aggravate the conditions of distribution.

35. The GVH only had the chance to propose its reviews on the ministerial decree on cross board transportation of electric energy after it was adopted. It served as a great astonishment for the GVH that in December 2009 significant amendments took place in the regulation of the compulsory originality control of motor vehicles. After the adoption of the amendments, the President of the GVH turned to the responsible ministries with its public letter that contained objections with regard to the amendments that instead of improving the supply of public services, will put presumable harmful affects on them. The GVH had already signalled in its previous annual report that the system of compulsory originality control of

motor vehicles needed to be re-regulated, while in November 2008 the authority published a sector analysis concerning the regulation of compulsory originality control of motor vehicles. As a consequence of the amendments during 2009, the costliness of the system did not change positively, and the GVH could not make the codifiers and the participating authorities replace the current regulation with amendments that would be beneficial both to citizens and to entrepreneurs.

#### 4. Resources of the competition authority

##### 4.1 Resources overall (current numbers and change over previous year)

###### 4.1.1 Annual budget (in HUF and EUR)

<b>2001</b>	million HUF	950.2
	million EUR	3.8
<b>2002</b>	million HUF	1179
	million EUR	4.7
<b>2003</b>	million HUF	1196
	million EUR	4.8
<b>2004</b>	million HUF	1164
	million EUR	4.7
<b>2005</b>	million HUF	1522
	million EUR	5.8
<b>2006</b>	million HUF	1787
	million EUR	7.1
<b>2007</b>	million HUF	2294.4
	million EUR	9.1
<b>2008</b>	million HUF	2399
	million EUR	8.9
<b>2009</b>	million HUF	2121.3
	million EUR	7.6

###### 4.1.2 Number of employees (person-years)

###### Economists

2001	2002	2003	2004	2005	2006	2007	2008	2009
27	32	31	31	28	27	31	33	35

###### Lawyers

2001	2002	2003	2004	2005	2006	2007	2008	2009
36	43	49	49	49	39	44	47	47

###### Other professionals

2001	2002	2003	2004	2005	2006	2007	2008	2009
21	18	19	18	18	14	14	11	11

###### All staff combined

2001	2002	2003	2004	2005	2006	2007	2008	2009
120	120	120	119	116	114	114	120	125

## 4.2 *Human resources (person-years) applied to*

### 4.2.1 *Enforcement against anticompetitive practices, merger review and enforcement*

36. Approx. 60 person-years including merger review<sup>4</sup> but excluding consumer protection (unfair competition). Professionals at theoretical sections (legal, international, competition policy) were counted as 0,5 person-years.

### 4.2.2 *Advocacy efforts*

37. Approx. 10 person-years. There is no explicitly dedicated staff for this task, but a number of employees participate in the shaping of the views of the GVH on draft legislation submitted for opinion and on the assessment of existing norms.

## 5. **Summaries of or references to new reports and studies on competition policy issues**

38. In 2009 the GVH finished two sector inquiries: one in the financial sector dealing with switching, and another in the media sector.

39. The inquiry into financial services, more precisely retail banking and the possibilities of bank switching for consumers ended at the beginning of 2009. According to the GVH, shortcomings of the regulation in relation to switching may substantially distort the decisions of consumers, as a result of which competition in the markets concerned cannot deliver all the benefits. For the enhancement of effective competition the GVH made recommendations for the re-regulation of unilateral contract modifications, the maximisation of closing charges, the comparability of prices and the portability of state subsidies received by customers.

40. Based on the conclusions of the inquiry, with regard to state subsidies, due to the developments of the market and the often-changing legislation on state subsidies, financial service providers can easily segment distinct group of consumers and differentiate them. Due to the spread of foreign currency loans and their subsequent domination on the market, the frequent changes in the system of state subsidies and the limited portability of subsidies received by consumers, there are several segments of consumers that do not have the same availability of favourable financial products at the time of credit refinancing than at the time when submitting their credit request for the first time. Given the lack of portability of state subsidies, consumers willing to switch have to take into account not only the direct switching costs but also the loss of their subsidies.

41. The GVH believes that closing charges (exit fees, switching costs) in current-account market competition are not significant neither in the retail, nor in the small business sector, and the difficulties of the switching can mostly be traced back to the absence of the comparability of offers and problems of the related administration. When consumers make their decisions concerning current account services, there are no clearly understandable pieces of information of the kind which would enable an easy comparison of the products, and thereby the adoption of rational decisions. Therefore, the improvement of price comparability is likely to result in significant efficiencies. Consequently, the GVH recommended that a product comparison website relating to current account products (similar to that the operation of which is recommended in the case of loan products) should be operated. Furthermore, to facilitate switching-related administration, the GVH believes it would be justified to realize the automatic transfer of direct debits in the cases of switching the financial operator.

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<sup>4</sup> There is no dedicated staff for merger review.

42. Following the completion of the sector inquiry, several authorities and organizations, including the Hungarian National Bank and the Hungarian Association of Banks, made their comments on the GVH's recommendations, out of which they supported the portability of state subsidies received by consumers. Even the 2009 country report on Hungary, prepared by the OECD, indicated that the non-portability of state subsidies received by the consumers, restricts competition for the refinancing of existing loan products. Although none of the stakeholders expressed any opposition against the issue of portability, so far no further steps have been realised. Following the publication of the sector inquiry's results, the President of the GVH raised also the attention of the members of the Parliament with its letter on the significance of the legislation in relation to unilateral modifications of contracts by emphasizing that this might enhance effective competition without actually endangering the stability of the banking system.

43. During the sector inquiry into the electronic media sector, the GVH examined the access possibilities of programme providers to the cable television platform because the success of their entry into the market seemed to depend only on their appearance on cable TV networks, especially considering that the programme providers, relying primarily on advertisement revenues, are typically not present in Hungary at the moment, therefore programme fees received from programme distributors could be important for any new entrant. On the other hand, it could also be assumed that the fact that programme packages of the cable networks may be purchased only from platform providers, integrated vertically to a certain degree also makes the entry into the market more difficult for programme providers, and may also reduce the intensity of competition. The third issue examined was the assumed disproportionality of the viewing and advertising market share of programme providers, in relation to which it was suggested that this phenomenon might be the result of the advertisement sales practice of the national commercial channels or a potential competition distorting effect of some other market condition.

44. In relation to the distribution and the advertising markets, the sector inquiry revealed several conditions connected indirectly to circumstances that justified the initiation of the inquiry, which were taken into account in the GVH's opinion given during the re-regulation process of the electronic media sector. Concerning one of the issues related to the distribution markets, namely the access of programme providers to the cable television networks, the GVH drew the conclusion that due to the intensification of competition between platforms, the unjustified reluctance of cable providers to distribute programmes would become less and less probable. The other problem raised by the sector inquiry in relation to the cable TV broadcasting was that the lack of independent content packagers, the integration of content packaging and transmission might have a detrimental impact on competition. In its sector inquiry, the GVH concluded that at present the appearance of independent content packagers on the cable networks was objectively hindered and, on the other hand, integrated packaging itself did not hinder the broadcasting competition.

45. In relation to the TV advertising market, the GVH analysed the disproportion between the share on the advertising market and the viewing of the two national commercial channels, as a condition potentially distorting competition. In relation to this, the GVH concluded that the assumed disproportion might be observed only with regard to the most popular national commercial channel, RTL Klub. Nevertheless, on the basis of the information obtained in the sector inquiry, the degree of this disproportion cannot be criticised in comparison to the adequate viewing indicators, due to the specificities of the advertising market and the advertising efficiency advantages of the channel.

46. The sector inquiry revealed two important factors that were not foreseen as problematic issues during the initiation phase of the inquiry, and that might have a significance in relation to programme providing and distributing competition: digital terrestrial broadcasting and the measurement of audience. Based on the conclusions of the sector inquiry the digital terrestrial platform has a significance mainly in terms of the competition of broadcasters, since it can contribute to the intensification of the broadcasting competition and thereby to the disciplining effect on broadcaster in relation to programme providers.

According to the information obtained in the sector inquiry in relation to the audience measurement, the selling mechanisms on the advertising market strongly rely on audience measurement, and it could not be excluded that the lack of reliable data concerning smaller channels and smaller target groups made it difficult for the thematic channels to expand on the market. In addition, reliable data on the number of viewers are also required by the state for regulatory purposes. Therefore the GVH concluded that companies have to be selected for performing measurements in particular periods based on regular applications, because this solution could be the best for resolving market problems and that the state, which becomes the user of the service, should have access to the service under the most favourable terms and conditions.