

Unclassified

English - Or. English

7 January 2022

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Hungary

-- 2020 --

This report is submitted by Hungary to the Competition Committee FOR INFORMATION.

JT03487993

Table of contents

Hungary	3
1. Changes to competition laws and policies, proposed or adopted	3
1.1. Summary of new legal provisions of competition law and related legislation	3
1.2. Other relevant measures, including new guidelines	3
2. Enforcement of competition laws and policies	5
2.1. Overview	5
2.2. Action against anticompetitive practices; agreements and abuse of dominance	6
2.3. Mergers & acquisitions	8
2.4. Consumer protection	10
2.5. Judicial review of the GVH's decisions	11
3. Competition advocacy & competition culture	11
3.1. Competition advocacy	11
3.2. Competition culture	13
4. International relations	14
4.1. Activity of the OECD-GVH Regional Centre for Competition	16
5. Resources of the Competition Authority	18
6. Summaries to new reports and studies on competition policy issues	18

Tables

Table 1. Table Annual budget	18
Table 2. Table Number of employees	18

Figures

Figure 1. Proceedings in 2020	6
Figure 2.	8
Figure 3. Unfair commercial practices broken down by cases closed in 2020	10

Hungary

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

1.1. Summary of new legal provisions of competition law and related legislation

1.1.1. Legislative changes affecting the competence of the GVH

1. Following the amendment of the Act CLXIV of 2005 on Trade, the GVH was given with a new competence, the purpose of which is to reduce exclusive distribution agreements commonly used in the HoReCa (hotel-restaurant-café) sector, including ensuring a level playing field for small breweries. In the event of a breach of the respective provisions of the Act on Trade, the GVH will launch a competition supervision proceeding.

1.1.2. Legislative changes affecting the proceedings of the GVH

2. The Government Decree 40/2020 (III. 11.) on the declaration of state of emergency, in which the Government of Hungary declared an emergency in the whole territory of Hungary, affected the application of the Competition Act.

3. In the framework of the Economic Protection Action Plan, from 21 April 2020 until the end of the state of emergency, merger notification rules do not apply to a concentration that is implemented through an equity scheme set up for that purpose, by way of financing transaction required as a result of COVID-19 coronavirus with the involvement of a venture capital fund or private equity fund under direct or indirect majority state ownership.¹ With effect from 18 June 2020 this exception was transposed into the Competition Act.

1.2. Other relevant measures, including new guidelines

4. In order to increase the predictability of law enforcement, the President of the Hungarian Competition Authority and the Chair of the Competition Council may jointly issue notices describing the basic principles of the law enforcement practice of the GVH (see Article 36 (6) of the Competition Act). Such notices have no binding force; their function is to lay down the principles that the law enforcement authority follows when applying legal provisions, whilst also providing summaries of well-established past practice and outlining the practice that is to be followed in the future. These notices are based on the experience of the decisions already made, but separately from specific cases they also reflect the GVH's perception on competition and expected direction of law enforcement.

5. Based on the experience of law enforcement in recent years, it has become necessary to reconsider the GVH's fining principles applied in antitrust cases, in order to make the fining practice of the GVH even more in line with international trends and the expectations of national courts. As a result of this, on 18 December 2020 the GVH published its new fine setting notice – Notice No 1/2020.²

¹ Government Decree 137/2020. (20 April) on different provisions for certain loan, capital and guarantee products

² https://www.gvh.hu/pfile/file?path=/en/for_professional_users/notices/1_2020_antitroszt-kozlemeny_egyseges-szerkezetben_1_2021_modositassal_a&inline=true (available in English)

6. It has also become timely to review notices relating to merger proceedings. As a result, a new notice was published that applies to mergers implemented after 1 January 2021, and the notice applicable to the initiation of the merger investigation procedure and the conditions for classifying a procedure a full-scale investigation (Phase II.)³, as well as the notice on the requirement for the imposition of conditions or obligations in merger proceedings⁴ have also been amended.

7. In 2020, the GVH revised its notice on the treatment of business secrets and the submission of non-classified documents.⁵ The notice was complemented with a table-based template, which may facilitate the identification, marking, and justification of data that include business secrets, and thus their treatment as business secrets as well. By improving the accuracy of the notice and developing this template, the GVH aims to help those who submit data, especially parties less familiar with procedural law practices, with the submission of business secret statements.

8. In April 2020, taking the global pandemic into consideration, the GVH reviewed its procedural priorities and also adjusted the priority criteria applicable to consumer protection, antitrust, and cartel procedures.⁶ Due to increased interest on the part of consumers, the investigation of commercial practices related to the coronavirus pandemic were treated as priority. The effective detection of infringements related to the pandemic became an important objective, together with the investigation of the vertical agreement and behaviours infringing the prohibition of abuse of a dominant market position associated with COVID-19⁷.

9. Among the new objectives set in 2020, **digitalisation** and the development of a **green authority** worth highlighting. Within the framework of these, a secure home office environment was created for the duration of the pandemic and environmentally friendly solutions were implemented, such as the introduction of electronic signatures (GOV CA) for the employees and the wider use of electronic administration. Selective collection of waste was also introduced in 2020, and the green strategy of the Authority is expected to be approved during 2021.

10. The GVH also revised its procurement policy in order to improve the transparency and integrity of procurement processes in 2020. The requirements set out in the new policy are more strictly defined than in any previous policy; the policy clearly defines the tasks and scopes of competence of the organisational sections participating in the procurement process.

11. With respect to the types of decisions related to certain procedural measures and adopted in competition supervision proceedings or in proceedings related to formal and informal complaints, – in order to ensure the legal requirements applicable to such

³ https://www.gvh.hu/pfile/file?path=/szakmai_felhasznaloknak/kozlemenyek/7_2017_egyseges-a-modositoval_2021re&inline=true (available in Hungarian)

⁴ https://www.gvh.hu/pfile/file?path=/szakmai_felhasznaloknak/kozlemenyek/8_2017_egyseges-a-modositoval_2021re&inline=true (available in Hungarian)

⁵ https://www.gvh.hu/pfile/file?path=/szakmai_felhasznaloknak/tajekoztatok/szakmai_felhasznaloknak_tajekoztatok_ut_2020_10_26&inline=true (available in Hungarian)

⁶ Article 33 (5) of the Competition Act

⁷ Primarily products and services affected by increased demand, shortages, increased prices, logistical and supply difficulties caused by the COVID-19 pandemic.

decisions – new document templates were developed, which facilitate the preparation of uniform and quick investigative decisions that comply with the respective requirements.

12. On 4 December 2020, the Hungarian Competition Authority won the title of ‘**Family-Friendly Workplace**’ in a contest held by the Ministry of Human Resources.⁸ This title recognises not only the results achieved by the Authority so far in ensuring its family-friendliness (childbirth and schooling support, family programme awards for Children’s Day) but also its future development plans (introduction of family day, development of child-friendly office workstations, work-life balance, coaching programme, information leaflet about family-friendly support options and discounts). The GVH has already provided its staff with numerous opportunities to strike an appropriate balance between their work and family life, regardless of which stage of their career or private life they are in.

13. In line with the restructuring of the organisation of the Authority, the image and the official logo of the GVH were also renewed in 2020, further emphasising the elements of the uniform national image included therein.

2. Enforcement of competition laws and policies

2.1. Overview

14. In 2020, the **GVH initiated a total of 96 proceedings**. Out of all proceedings initiated:

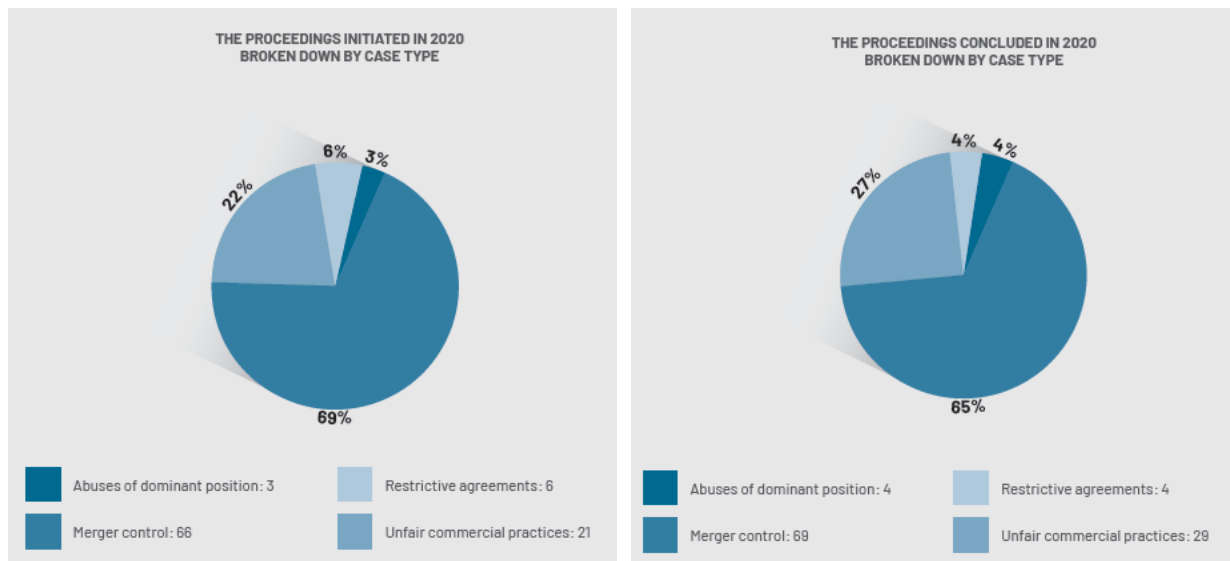
- **66** were merger control investigations (12 competition supervision proceedings and 54 merger notifications),
- **21** cases concerned unfair commercial practices,
- **6** concerned restrictive agreements,
- **3** concerned abuses of dominant position.

15. With regard to the proceedings concluded, **the GVH concluded a total on 106 proceedings** in 2020. Out of all proceedings concluded:

- **69** were merger control investigations (14 competition supervision proceedings and 54 merger notifications and 1 rejected notification),
- **29** cases concerned unfair commercial practices,
- **4** concerned restrictive agreements,
- **4** were decisions concerning abuses of dominant position.

⁸ https://gvh.hu/en/press_room/press_releases/press-releases-2020/the-hungarian-competition-authority-is-a-family-friendly-workplace

Figure 1. Proceedings in 2020



2.2. Action against anticompetitive practices; agreements and abuse of dominance

2.2.1. Anticompetitive practices

16. In 2020, the GVH adopted decisions as part of proceedings initiated due to the alleged infringement of the provisions of the Competition Act concerning **restrictive agreements** in a total of 4 cases:

- 1 case resulted in an infringement being established by the competition council and in a fine being imposed;
- 1 case was closed upon a commitment being accepted;
- 1 case required a follow-up investigation to be performed in order to monitor whether the undertaking had complied with the obligations specified in the decision of the Authority;
- 1 case was closed by the case handler.

Significant cases

17. In the case against the **Association of Hungarian HR Consulting Agencies**⁹ due to the gravity and the duration of the infringement the competition council imposed a fine of HUF 1 billion. In addition to the professional association, the proceeding was against 23 undertakings, including undertakings with foreign and Hungarian background. In its decision, the GVH imposed a fine of HUF 1 billion on the Association of Hungarian HR Consulting Agencies. However, if the fine cannot be enforced upon the Association, its members will be jointly and severally liable for it in the form of secondary liability in proportion to their revenues in the previous year. This was the first time that the GVH took the approach to ensure that the fines imposed are not only proportionate to the unlawful conduct, but also accurately reflect the financial capacity of the various undertakings.

⁹ Official registration number of the case: **VJ/61/2017**.

18. The GVH found that certain provisions contained in the ethical code of the Association of Hungarian HR Consulting Agencies, such as minimum fees for labour-hire and recruitment services, and the prohibition on members enticing the employees of fellow members to switch employers ('no-poaching clause'), to be unlawful since they aimed to restrict competition among the members of the association. These provisions were applicable for a period of seven years starting in 2011. Price fixing is the most severe restriction of competition, as it indirectly imposes a significant additional burden on the society, while no-poaching clause aimed at sharing the sector and hindering the free movement of workers on the market. Market sharing was also found to be the motive behind the provisions of the internal rules which prohibited members from recruiting employees who had previously worked with another member. These restrictions were disadvantageous for the recruited employees as well since they prevented them from finding better employment and higher wages. Furthermore, the professional association also infringed the law by limiting the cases where its members were permitted to submit tenders using the data and CVs of employees working for another undertaking in the context of public procurement procedures concerning labour-hire arrangements. The aim of this provision was to allocate the sources of supply among members and restrict competition between them.

2.2.2. Abuse of dominance

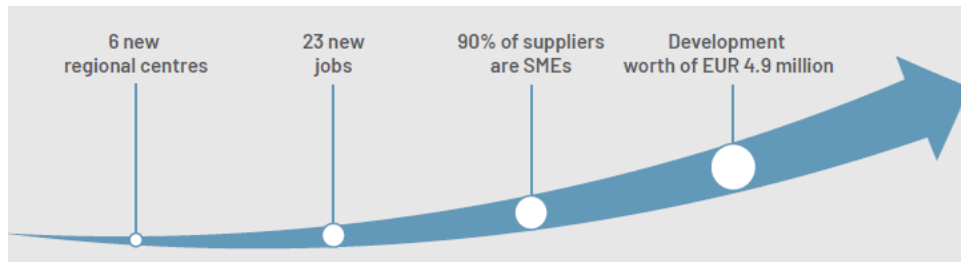
19. In 2020, the GVH adopted decisions regarding the infringement of the provisions of the Hungarian Competition Act on abuses of dominant market position in a total of 4 cases, out of which follow-up investigations were performed in 2 cases, the competition authority of another Member State was contacted to enforce a decision in 1 case, and the Authority established the existence of an infringement without imposing a fine (but imposing obligations) in 1 case.

Significant cases

20. The GVH took action against **SPAR Magyarország Kft.**¹⁰ due to an infringement of the Trade Act. In this case, SPAR abused its dominant position by requiring its suppliers to pay so-called progressive bonuses, thereby infringing the law. (This was not the first time either since the GVH had already warned SPAR with respect to similar practices 8 years prior.) The practices used by SPAR placed an unjustified and unilateral burden on a significant portion (80%) of the suppliers that entered into an agreement requiring the payment of a progressive bonus. In addition to establishing the fact of the infringement, the GVH – instead of imposing a fine – required SPAR to comply with obligations that took into account the interests of the suppliers who suffered damages as a result of its practices. SPAR is required to establish **6 regional supply centres** aimed at improving the opportunities of local domestic small producers, thus contributing to the development of the local economy and stimulating demand for local goods. **For the implementation of the programme**, SPAR calculated with an audited **budget of HUF 1.7 billion (EUR 4.9 million)**. Ninety per cent (90%) of the opportunities created by this regional system will be offered to **micro, small and medium-sized suppliers** and the system will simultaneously increase the amount of goods procured from the existing small producer partners of the supermarket chain; last but not least, it will result in the **creation of 23 jobs**. The GVH expects that the decision will serve as guidance for other multinational retail chains as well.

¹⁰ Official registration number of the case: **VJ/43/2016**.

Figure 2.



2.3. Mergers & acquisitions

21. In 2020, 69 merger proceedings were closed – including notification proceedings – out of which 55 cases were closed in notification proceedings, 14 cases were closed in competition supervision proceedings.

22. In 2020, the administrative time limit for merger cases was reduced further; 55 merger cases were closed within the 8-day processing time, within 4 days on average, of which 4 transactions were assessed within 1-2 business days within the framework of accelerated proceedings. Similarly to previous years, the administrative time limit of easy-to-evaluate merger cases was 4 days on average in 2020. Within the framework of the simplified competition supervision proceedings initiated on the basis of merger notifications, the decisions of the GVH were adopted within 17 days on average, while full-scale proceedings were concluded after 71 days on average.

2.3.1. Significant cases

23. At the end of 2018, the GVH revoked its decision clearing **DIGI's takeover of Invitel** due to the fact that the decision was based on misleading information provided by the parties. Consequently, the GVH reopened the case. In 2020, the GVH closed the reopened case with the imposition of conditions and obligations concerning 82 municipalities.¹¹

24. The content of the conditions and obligations and the geographical scope of impact of them are broader this time than in the case of the previously revoked decision. One of the reasons for this is that the misleading information provided by the parties concerned the list of affected municipalities and that the GVH also took into account the market changes that had taken place in the meantime.

25. The GVH assessed the potential harmful effects on competition in two areas: on the one hand where DIGI's and Invitel's networks overlap, and on the other hand in those municipalities covered by the Invitel network where i-TV Digitális Távközlési Zrt., which belongs to the same group as DIGI, provides television service on a network leased from another operator (i-TV service).

- There was an overlap between the telecommunication networks of the parties concerned regarding 34 municipalities, from among which in the case of 15 municipalities, the investigation of the GVH established that the transaction would result in a significant reduction of competition. In this area, in order to remedy the competition concerns, DIGI undertook to sell Invitel networks (included their infrastructure and existing subscriber contracts at the time of the sale) to a buyer approved by the GVH, namely to TM IT Services Kft. Within the framework of the

¹¹ Official registration number of the case is: **VJ/42/2018**.

divestiture process, DIGI is obliged to maintain the economic functioning and competitiveness of the networks and at the same time to refrain from attracting subscribers. In order to ensure that Digi fulfils the obligations mentioned above, the GVH appointed a monitoring trustee. The obligation related to divestiture also stipulates that DIGI may not take back the networks within 10 years and may only provide wholesale services to the customer in the future that do not jeopardize the company's operation in the retail market independent of DIGI.

- The GVH concluded that in the area covered by the Invitel network, where the DIGI Group's i-TV broadcasting service is also available, the merger would lead to a significant reduction of competition in 67 municipalities, as only the broadcasting services of these two players would be available after the merger, or their combined share would be very high. According to the obligations imposed to address the competition concerns, the DIGI Group will terminate its lease contracts relating to wired telecommunications networks in the affected municipalities by the end of 2023, while the network operators may terminate even earlier. This timeframe is sufficient for network operators that instead of i-TV they could find a competitive solution for fixed-line broadcasting on their network or for other uses of their network that are acceptable to them (e.g., full leasing, sales). The GVH also ordered other measures to prevent competition concerns (e.g., in relation to the pricing of the i-TV service) for the period until the end of 2023.

26. Pursuant to the decision of the GVH, the significant reduction of competition resulting from the merger can be eliminated by the implementation of the above measures.

27. In September 2020, The GVH has conditionally cleared the **OTP Group's acquisition of the NAGISZ group**, active in the agriculture and food industry markets.¹² The conditions imposed are able to handle the situation arising from the overlap between chief executives of OTP and the Csányi Group in a competition-neutral manner.

28. The proceeding of the competition authority aimed at investigating the acquisition of control over Csillag Csemege Kereskedelmi Kft. by ZA-Invest Béta Kft. ZA-Invest Béta Kft. is owned by the PortfoLion Zöld Magántőke Alap private equity fund, belonging to the OTP Group, while the target company is a holding company of NAGISZ Mezőgazdasági Termelő és Szolgáltató Zrt. and its subsidiaries. It is this group of companies that produces, among others, the dairy and meat products using the Nádudvari brand. Although the GVH has not identified adverse effects on competition with regard to the two parties, the transaction gave rise to the possibility of the so-called coordinated effect in the relationship between the OTP Group and the Csányi Group, which is also active on the agricultural and food markets, on the basis of which the two agricultural group of companies could coordinate their behaviour on the market. In order to prevent it, the parties, having consulted with the GVH, have offered commitments to remedy the competition concern. On the basis of the commitments, all information and decisions regarding PortfoLion Zöld Magántőke Alap within the OTP Group are transferred to chief executives other than those related to the Csányi Group – the separation achieved through internal rules. Separating the decision making in this way appropriately addresses the competition concerns that have arisen. The internal rules undertaken will also apply to subsequent investments of the private equity fund. The GVH found that the content and level of detail of the OTP's commitments appropriately remedies the competition concern that may arise. The fulfilment of the commitments is ensured by the fact that the GVH shall conduct a follow-up investigation in order to monitor compliance with the decision.

¹² Official registration number of the case is: **VJ/26/2020**.

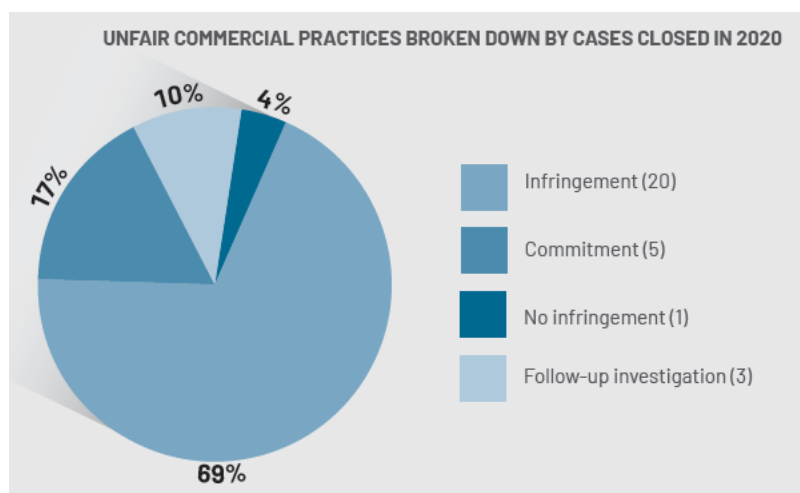
29. In 2020, the GVH has terminated its investigation of the merger of **Magyar RTL Televízió Zrt. and Central Digitális Média Kft.** During the investigation, the GVH has become aware that the parties are no longer in agreement with regard to the merger, thus the proceeding is no longer necessary.¹³ In September 2016, Magyar RTL Televízió Zrt. (M-RTL) entered into an agreement regarding the acquisition of 30% of Central Digitális Média Kft., however, this merger was not authorised by the GVH in accordance with the special administrative resolution of the Media Council. Following this decision, M-RTL took the case to court, where the competition authority was ordered to conduct a new procedure. During the repeated proceeding of the competition authority, it has found that the vendor, i.e., Central Group no longer intends to execute the transaction. Since the proceeding is no longer necessary given the lack of agreement between the parties, the competition authority has terminated its investigation.

2.4. Consumer protection

30. In 2020, the GVH concluded a total of **29** competition supervision proceedings related to **unfair commercial practices**:

- **20** cases, that is 69% of all cases, resulted in the fact of an infringement being established;
- **5** cases, that is 17% of all cases, involved the competition council accepting commitments;
- **1** case, that is 4% of all cases, resulted in no infringing behaviour being found;
- **3** cases, that is 10% of all cases, required follow-up investigations to be performed (out of which the proceedings were terminated by the competition council in 2 cases).

Figure 3. Unfair commercial practices broken down by cases closed in 2020



¹³ Official registration number of the case: **VJ/8/2020**.

2.4.1. Significant cases

31. Within the framework of competition supervision proceeding, the GVH imposed a fine of **HUF 2.5 billion (EUR 7.1 million) on Booking.com B.V.**¹⁴, the operator of an online accommodation reservation portal booking.com due to its unfair commercial practices against consumers, while simultaneously prohibiting the continuation of the aggressive sales methods of the Dutch undertaking. Booking.com explicitly advertised the ability to ‘cancel reservations for free’ in the television and online advertisements of its booking service. However, consumers could in fact only use this option for a limited period in the case of several accommodation providers even though they paid a higher price than they would have paid for the same reservation without the ‘free cancellation’ option, meaning that the price of the free cancellation was incorporated into the fees of the given bookings by the undertaking.

32. The GVH conducted a proceeding against **Tesco-Global Áruházak Zrt.**¹⁵ for its failure to make it clear that its website operated as an online shopping service and not as a webshop. The grocery chain failed to clarify the significant differences between the two and it did not assume liability for the delivery of the products it was offering. During the proceeding, the GVH accepted a voluntary commitment by Tesco worth HUF 407 million (EUR 1.2 million) aimed at remedying the identified competition concern. The undertaking has undertaken to expand its service in a unique manner across Hungary, which is particularly useful for rural customers in the current pandemic situation. Based on its commitments, the supermarket chain will begin operating a true webshop (with a courier service) offering 3000 long-life products, gradually expanded to cover the entire country; it has also agreed to clarify its communication towards consumers.

2.5. Judicial review of the GVH’s decisions

33. The amendment of the Act I of 2017 on the Code of Administrative Court Procedure, which was entered into force on 1 April 2020, significantly affected the judicial review of the decisions adopted by the GVH. According to the amendment, in cases falling within the exclusive jurisdiction of the Budapest-Capital Regional Court, in case of an initiation of an extraordinary appeal against the decision, instead of an appeal submitted to the Hungarian Supreme Court (‘Curia’), the revision of the case was introduced. This means that the Budapest-Capital Regional Court will adopt a final legally binding decision in the GVH cases in the first instance, against which the parties may initiate an extraordinary appeal before the Curia.

34. With regard to the decisions adopted by the GVH in 2020, out of the 66 parties concerned, court review was initiated only by 19 parties affecting 74% of the fines imposed.

3. Competition advocacy & competition culture

3.1. Competition advocacy

35. In addition to competition supervision, the second pillar of the tasks of the GVH consists of the so-called competition advocacy activities. Within the framework of these activities, the GVH publishes its opinions on regulatory concepts and draft legislation that include provisions concerning its scope of tasks and competence, competition, the

¹⁴ Official registration number of the case: **VJ/17/2018**.

¹⁵ Official registration number of the case: **VJ/65/2017**.

conditions for market entry, prices, or the relevant evaluation criteria, with the exception of municipal decrees. As part of its competition advocacy activities, the GVH attempts to use the tools at its disposal to influence the legislative process and public administrative decisions in a way that allows the enforcement of important public interest principles in the form of market competition. Public administrative decisions include the development and enforcement of public policies, governmental economic policy, as well as the individual administrative measures and interventions of other state agencies.

36. The activities related to competition advocacy includes on the one hand reactive measures, i.e., responses to direct or indirect external requests (e.g., draft legislations published on a government portal, responses to other external requests). On the other hand, it covers proactive measures based on its own initiatives, either in the context of competition supervision or on the basis of legislative anomalies, other findings or priorities identified in sector inquiries, market analyses.

37. In order to increase the effectiveness of protection against the economic effects of the coronavirus pandemic, the Hungarian Government decided to set up an *Economic Protection Operational Group* (hereinafter referred to as ‘Operational Group’), in which it also invited the President of the GVH as a participant. The primary task of the Operational Group is to identify and eliminate the administrative and regulatory obstacles that hinder the relaunch of the economy. In 2020, the President of the GVH sent proposals to the Operational Group/Minister of Finance in 23 cases, while the GVH sent its written comments on proposals of other authorities in 12 cases.

38. In response to the exceptional situation, the President of the GVH founded the Workshop for Economic Development and Competition Advocacy (hereinafter referred to as Workshop),¹⁶ the purpose of which is to formulate professional recommendations for the promotion of fair competition, as well as to comment on the proposals received from the Government and other state agencies as part of its competition advocacy activity – in a way that supports the development of a competition-friendly regulatory environment. The experts of the Workshop support the President of the GVH in performing his work in the committees established as part of state initiatives to help relaunch the economy.

39. The GVH is also involved in the work of the Digital Success Programme Working Group, launched by the Government of Hungary. Within the framework of this programme draft legislations were discussed.

40. In addition to the intensive work in the dedicated working groups, in 2020, in view of the accelerated legislative processes due to the pandemic, the number of draft pieces of legislation received by the GVH (11) and the number of draft pieces of legislation uploaded on the government’s homepage (4) was low. Out of these drafts the GVH sent its comments in 3 cases. Aside from this, the GVH intervened in 4 cases in relation to the anomalies of the legal background identified in the course of competition supervision proceedings or during the investigation of complaints. The GVH sent requests for information in 3 cases in order to have information on the considerations taken into account by the legislator.

41. Within the framework of proactive competition advocacy, the GVH played an active role in the transposition of the ECN+ Directive¹⁷, including the formulation of proposals and participation in the legislative process. Furthermore, since the end of 2020,

¹⁶ https://gvh.hu/en/press_room/press_releases/press-releases-2020/the-president-of-the-gvh-established-a-workshop-for-economic-development-and-competition-advocacy

¹⁷ Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market, OJ L 11, 14.1.2019, p. 3–33.

the GVH, in cooperation with the competent departments of the Ministry of Justice, has been continuously participating in sending comments on two legislative initiatives to upgrade rules governing digital services in the EU: the Digital Services Act (DSA) and the Digital Markets Act (DMA).

3.2. Competition culture

42. The Hungarian Competition Act also specifies the role and responsibility of the GVH related to the development and promotion of a culture of competition and conscious consumer decision-making, which constitutes the third pillar of the activities performed by the GVH in order to protect economic competition. During the development of Hungarian competition and consumer culture, the primary tasks of the GVH are to promote the social acceptance of competition and compliance with the law, the development of a regulatory environment that favours competition and ensures conscious consumer decision-making, and the improvement of consumer awareness. As part of these activities, the GVH takes measures to (i) increase awareness related to competition policy, consumer decision-making and its protection, and (ii) contribute to the work of the professional community responsible for the economic and legal issues related to competition and consumer decision-making.

43. In 2020, the GVH also placed significant emphasis on the importance of communication, organising professional events and being a partner in the realisation of these events. In addition, it continued to pursue actions that foster competition and raise public awareness. Such actions are aimed, firstly, at inciting consumers to think through decisions before making transactions and, secondly, at encouraging undertakings to comply with competition law rules. In this framework, among others, the following activities and events took place in 2020.

- **Communication.** The GVH kept the public informed of its decisions, the events involving the Authority, and issues of particular interest primarily via press releases and its social media channels during the past year, similarly to the previous years. In 2020, the GVH published 86 press releases, and 174 social media posts, while received 103 inquiries from the press. Together with the National Institute of Pharmacy and Nutrition, the GVH held a press conference on the topic of *'False health products, misleading advertisements - enhanced action to protect consumers'*.
- **Publications.** At the end of 2020, the GVH started the preparation of its publication titled 'About the Hungarian Market Competition in Plain Language, Flash Report on the Activities of the Hungarian Competition Authority – 2020'¹⁸ in both Hungarian and English, using 26 thematic graphs to demonstrate and emphasise how the GVH strengthens market competition and helps enforce the rights of Hungarian consumers. Future Flash Report publications will be issued on a regular basis (every six months) and will complement the existing communication channels used by the GVH to keep stakeholders – that is undertakings, professionals, decision-makers, and the public – informed. In 2020, the GVH also published a Guidance document on Green marketing¹⁹, and added a new publication to its

¹⁸ <https://gvh.hu/en/gvh/flash-reports/flash-reports>

¹⁹ https://www.gvh.hu/pfile/file?path=/en/for_professional_users/guidance-documents/szakmai_felhaszn_tajekoztatok_zold-iranymutatas_2020_a&inline=true

consumer information series entitled ‘Think it over calmly’ on means of protection against the coronavirus.

- In 2020, the GVH announced its **academic competition** titled ‘Competition law in Hungary and in the EU’ to attract the interest of the younger generations to the topics of competition law, competition policy, industrial organisation and conscious consumer decision-making. The year 2020 marks the 21st occasion that the GVH organises its academic competition, in which any Hungarian or foreign university student may participate with an entry submitted in Hungarian.
- The *Competition Policy Advisory Bureau Network* continues its operation in five big cities (Debrecen, Eger, Szeged, Pécs and Győr) in Hungary. The Network assists the GVH in the area of consumer protection and enhances the messages/principles of the GVH through its communication activity.
- As part of the Cultural Heritage Days the GVH opened its building to the public ‘*Open GVH*’ for the sixth time in 2020. Compared to previous years, a larger number of visitors showed an interest in the history of the building and the daily work of the GVH and were also able to ask questions informally from the colleagues of the GVH.

4. International relations

44. The international relations of the GVH focused mainly on cooperation with the European Commission and the national competition authorities of the EU Member States, cooperation within the framework of the Competition Committee of the Organisation for Economic Cooperation and Development (OECD) and the International Competition Network (ICN), as well as on bilateral cooperation.

45. Similarly to the practice of previous years, the case-related cooperation within the European Competition Network (ECN) in respect of the application of the competition rules of the EU continued to be one of the main fields of the international relations.

46. The GVH’s contribution to the work of the OECD Competition Committee and to its working groups continued to be of uppermost importance also in 2020, and in this year the GVH sent submissions to OECD roundtables held on the following topics: ‘*Conglomerate effects of mergers*’, ‘*Criminalisation of cartels and bid rigging conspiracies*’ and ‘*Economic Analysis in Merger Investigations*’.

47. In 2020, the GVH also remained an active participant in the International Competition Network (ICN), in particular in the work of the Cartel Working Group. The GVH remained responsible for the coordination of the project on the ‘Anti-Cartel Enforcement Template’. In addition to this, since April 2016 the GVH has held the position of co-chair of Subgroup 1 of the Cartel Working Group of the ICN and in this capacity it has also been responsible for several other ICN CWG projects (e.g., the project on leniency incentives and the organisation of several webinars on various topics).

48. The GVH’s international professional recognition over the past three decades is indicated by the fact that Hungary has been granted the right to organise the 20th annual conference of the ICN. In view of the situation that emerged as a result of the COVID-19 pandemic, the President of the GVH, and the Steering Group of the ICN decided that the conference on 13-15 October 2021 will be held in a virtual form. The virtual format allows competition law professionals, competition authority experts, lawyers, judges, academics

from all over the world to join and follow the professional lectures and discourses in a much greater number than before.

49. In the field of consumer protection, in the European Economic Area, the Consumer Protection Cooperation Network (CPC Network) provides the framework for cooperation, especially related to the rapidly evolving digital sphere. In addition to providing information to each other and requesting assistance from each other to carry out investigative measures, the members seek to take joint action to address problems that are occurring in several Member States. The framework of the cooperation regulated by 2017/2394 EU Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004²⁰, which is applicable from 17 January 2020.

50. The GVH is actively involved in the CPC Network, and in 2020 it sent requests for information in 1 case, sent alerts in 2 cases, and participated in the development of a joint action against Expedia. Following dialogue with the European Commission and national consumer authorities, Expedia has committed to make changes in the way it presents offers, discounts and prices to consumers.²¹ Furthermore, colleagues of the GVH participated in several workshops organised by the CPC Network, sometimes as lecturers.

51. On **20 March 2020**, the GVH as a member of the consumer protection (CPC) authorities of the Member States, with the support of the Commission, issued CPC Common Position COVID19 on the most reported scams and unfair practices in this context.²² The objective is to ask and help online platform operators to better identify such illegal practices, take them down and prevent similar ones to reappear.

52. On **30 April 2020**, the CPC network, under the coordination of the Commission, launched a broad screening (“sweep”) of coronavirus related products advertised on websites and online platforms. More details on the sweep can be found in the summary document below. The **main findings** show that rogue traders continue to mislead consumers with a variety of illegal practices, but online platforms are taking measures to address this. The Commission will continue to keep consumers informed whenever necessary with updated advice to consumers and traders. The high-level sweep of online platforms was repeated by the CPC network in June and its latest results show that CPC authorities, including the GVH, in a number of instances, still found a significant number of potentially misleading offers and advertisements related to COVID-19 on platforms. Among 73 checks of major platforms, one-third (23 checks) found a significant number of dubious offers and advertisements. While reports from the major platform operators suggest that the number of such offers has declined, CPC authorities continue the close dialogue with these online platforms and remain on guard.²³

²⁰ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 *OJ L 345, 27.12.2017, p. 1–26*

1. ²¹ https://ec.europa.eu/commission/presscorner/detail/hu/ip_20_2444

²² https://ec.europa.eu/commission/presscorner/detail/en/MEX_20_489

²³ https://ec.europa.eu/info/news/coronavirus-eu-consumer-protection-authorities-and-commission-complete-checks-protect-consumers-scams-online-2020-jul-29_hu

53. The GVH is also a member of the International Consumer Protection Enforcement Network (ICPEN), an umbrella organisation consisting of 65 consumer protection law enforcement authorities.

54. In 2020, the European COVID-19 working group of the ICPEN appointed the representative of the GVH to describe the experiences of the continent at the annual conference of the organisation.²⁴ The invitation constitutes a recognition of the action taken by Hungary to provide protection for consumers amidst the COVID-19 pandemic. During the three-day conference of the global organisation, Hungary presented the consumer protection challenges posed by the pandemic situation in Europe. The representatives of consumer protection and competition authorities discussed the current issues of this field of law, including law enforcement during the COVID-19 pandemic, digital platforms, and artificial intelligence.

55. The GVH did not only play a role in the COVID-19 working group of the ICPEN: it also participates in the work of the working groups dealing with misleading environmental-friendly – ‘green’ - advertising claims, digital platforms and the enforcement possibilities in relation to the digital economy.

56. In addition to the above, the GVH is an active member of the United Nations Conference on Trade and Development (UNCTAD), and of the OECD Committee on Consumer Policy.²⁵

4.1. Activity of the OECD-GVH Regional Centre for Competition

57. The OECD-GVH Regional Centre for Competition in Budapest (RCC) was established by the OECD and the GVH on 16 February 2005. Relying on the professional background of the Competition Division of the OECD and the GVH, the Centre provides capacity building assistance and policy advice for the competition authorities of the Central, East and South-East European region, namely for Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, FYR of Macedonia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, Moldova, Montenegro, Romania, the Russian Federation, Serbia and Ukraine. The RCC is financially supported by the Hungarian Government.

58. The programmes of the RCC, besides others, deal with the following topics: building blocks of competition policy, analysis of competition cases, investigative techniques, training of judges, law enforcement priorities, framework for the cooperation of the competition authorities of the region, competition advocacy, cooperation between competition authorities and regulatory bodies, and other general issues falling under competition law and policy.

59. As part of its annual program, in 2020 the RCC organized five (5) competition-themed events, one in person and four virtual seminars for the competition authorities of the primary beneficiaries of its activities. On its events the RCC hosted 404 participants from 21 economies and 46 speakers from 16 countries.

60. In 2020, the RCC organised the following seminars:

- 18-20 February – **Competition Enforcement and Advocacy in the Banking and Insurance Sector.** The main object of this seminar was to introduce the financial

²⁴ https://www.gvh.hu/en/press_room/press_releases/press-releases-2020/hungary-will-represent-europe

²⁵ <http://www.oecd.org/sti/consumer/>

sector, which is characterised by a number of specific features that competition authorities have to consider, including extensive regulation and concerns about financial stability and systemic effects. Furthermore, the banking and insurance sectors were explored since they have been confronted with digital disruption resulting from the emergence of FinTech operators in the provision of financial services. Expert speakers and participants shared their experience on competition enforcement and advocacy in the financial sector and discussed current and future challenges.

- 1-2 July – **Virtual Seminar on Competition Policy Responses to the Crisis.** The Covid-19 pandemic has set in motion a major economic crisis that will burden our societies for years to come. Sound competition policy is important in moments of crisis to prevent anti-competitive practices and pave the way to a quick and sustained economic recovery. This requires competition authorities to be vigilant and proactive. The objective of this seminar was to foster a discussion on how competition policy can help address the immediate challenges raised by the crisis while preparing for the post-pandemic future.
- 22-24 September – **Virtual Introductory Seminar for Young Staff on Competition Law Principles and Procedures.** The aim of this seminar was to provide staff members of competition authorities with an opportunity to deepen their knowledge of key notions and procedures in competition law enforcement. Experienced practitioners from OECD countries shared their knowledge and engaged in lively exchanges with the participants on cartels, mergers and abuse of dominance. They discussed basic legal and economic theories as well as the relevant case law. Participants also had a chance to face and discuss procedural issues through practical exercises.
- 27-29 October – **Virtual RCC-FAS Seminar on Enforcement Cooperation in cross-border cases.** The topic in question was globalisation and the digital economy, as well as the increasing significance of emerging economies and the proliferation of competition regimes which have increased the complexity of cross-border competition law enforcement cooperation. Several initiatives by international organisations were discussed such as the OECD Recommendation on International Co-operation on Competition Investigations and Proceedings, the ICN-led Framework to Promote Fair and Effective Agency Process and the UNCTAD Guiding Policies and Procedures under Section F of the UN Set on Competition aim to explore the ways in which costs can be reduced, inconsistencies can be avoided, and procedural fairness can be guaranteed in parallel proceedings. This seminar explored best practices for formal and informal enforcement cooperation.
- 15-16 December – **Virtual seminar on Competition Policy to ensure a level playing field between private and public firms.** The seminar explored the fundamental principle of competition law and policy that firms should compete on their merits and should not benefit from undue advantages due to their ownership or nationality. In particular, this seminar addressed the challenges of enforcing competition rules against state-owned enterprises and the advocacy actions that can help governments to achieve competitive neutrality between publicly owned and privately-owned competitors.

5. Resources of the Competition Authority

61. The Hungarian Parliament approved the planned amount of the budget of the GVH for 2020, which was initially calculated as 2,556.9 million HUF, including the sum to be used for the activities of the OECD-GVH Regional Centre for Competition in Budapest, which was initially calculated as 167,2 million HUF for 2020. Following the modification of the planned amount, the available budget for the GVH and the RCC was 4,312.1 million HUF, including the outstanding amounts of 2019.

62. The annual finances of the budget chapter were balanced, with no liquidity issues arising; the GVH honoured its payment obligations in time.

Table 1. Table Annual budget

	2020
million HUF	4.312,1
million EUR	11.8

63. The total number of staff in the GVH was 125 as of 31 December 2020.

Table 2. Table Number of employees

	2020
Economists	12
Lawyers	61
Lawyer-economists	7
Other professionals	8
Support staff	37
All staff combined (actual)	125

64. The total number of staff in the main categories of activity (antitrust, mergers, consumer protection, and advocacy) in 2020 was 72.

6. Summaries to new reports and studies on competition policy issues

65. In June 2020, the GVH launched a sector inquiry into the television broadcasting market. The reason for this is that according to market signals received by the GVH, television broadcasters provide their services to larger television distributors at lower fees than to smaller distributors. As a result, smaller distributors incur higher costs and are likely to be placed at a competitive disadvantage, thereby potentially leading to distortions or restrictions of competition (supply). This may ultimately lead to the choice of domestic consumers being limited to a smaller number of service providers and lower value-for-money programme packages.

66. Television distributors (such as companies operating cable networks or other technologies) compile content purchased from broadcasters into programme packages and then sell these packages to consumers. The level of the fees paid by the television distributors for content therefore has a significant impact on the price at which they can offer their services to consumers. The higher costs borne by smaller distributors may have an impact on the supply of television programmes and consumer prices. At the same time, the increased price and quality competition generated by larger distributors and the increase

in efficiency of some telecommunications service providers may even have positive effects for consumers. Therefore, the sector inquiry will also cover the impact of market developments on consumer welfare.

67. With the aim of clarifying all of the above, as regards to the development of the pricing relations between television broadcasting and distribution companies, in the sector inquiry the GVH will assess the characteristics and the contexts of television broadcasting and distribution markets, the impact of these on the strategies of the market participants and on prices in the wholesale market, and how economies of scale apply.

68. On the conclusion of the sector inquiry, which is expected in Summer of 2021, the GVH shall prepare a report presenting the issues investigated, the facts discovered and the findings, any further measure that needs to be taken and the methodology employed, and it shall publish this report on its website. Market players operating on the relevant market will have opportunity to submit written comments regarding the document. If the sector inquiry detects market distortions, the GVH may initiate a competition supervision proceeding, publish recommendations for market participants or initiate the enactment or amendment of legislation.

69. In October 2020 the GVH has launched a sector inquiry to analyse the beverage procurement practices of domestic restaurants, pubs, and catering units, collectively known as the HoReCa sector. The market processes of the past years suggest that domestic players are especially hesitant to work with new supply partners and the expansion of their beverage product ranges is a cumbersome process. This phenomenon may lead to limited choice and higher consumer prices, thus causing harm to guests in the long run.

70. Based on the information available to the Competition Authority with respect to the HoReCa sector, the industry is tangled in a web of supplier agreements containing clauses that encourage catering units to offer the products of only a single or a limited number of undertakings to their guests. This phenomenon is typically advantageous only for beverage suppliers with a large portfolio and significant capital strengths, while serving as a barrier to entry for new suppliers and limiting the expansion of smaller Hungarian players. The Competition Authority has previously investigated such clauses in the beer market, and it is currently conducting a competition supervision proceeding in the market of soft drinks and other beverage products due to an alleged abuse of dominant position.

71. These processes may ultimately limit consumer choice and increase prices in Hungarian catering units. Such market practices may even prove harmful to the catering units themselves on the long term since the suppression of alternative sources of supply may reduce their ability to switch and increase their vulnerability. The COVID-19 pandemic, which is severely affecting domestic restaurants, pubs, and catering units, lends special significance to the issues in question.

72. In the course of the sector enquiry, the GVH will gain insight into the framework and system of conditions of the business relationships among beverage suppliers and domestic catering units, as well as the typical characteristics of the distribution practices prevalent in the HoReCa sector. The Competition Authority will explore the strategies and business practices of the market players, as well as the effect of these strategies and practices on consumer welfare and the prices applied. The sector inquiry, which will be based on mandatory submission of data, will cover the distribution of both the alcoholic and non-alcoholic beverage categories within the HoReCa sector.