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## Global Forum on Competition

# Exploitative Abuses – Contribution from the Slovak Republic

**- Session III -**

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This contribution is submitted by the Slovak Republic under Session III of the Global Forum on Competition to be held to be held on 10-11 December 2026.

More documentation related to this discussion can be found at: oe.cd/gfc26.

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# *Slovak Republic*

1. In recent years, the Antimonopoly Office of the Slovak Republic (AMO) has seen a growing number of investigations and cases concerning exploitative conduct by dominant players. This short contribution presents the legal framework and enforcement practice of the AMO concerning exploitative abuses of a dominant position.

## 1. Exploitative practices – legal framework

2. Exploitative practices are practices that directly harm the customers of a dominant undertaking or consumers. In these cases, the undertaking uses its dominant position on a given relevant market to impose either excessive prices or unfair trading conditions on its customers.

3. The AMO's power to assess exploitative practices is laid down directly in the Act on Protection of Competition no. 187/2021 Coll. (the Act). Under the Act, the imposition of excessive prices and unfair trading conditions is also considered an abuse of a dominant position.

### 1.1. Excessive prices

4. In connection with excessive pricing, AMO has in practice encountered the question of whether competition authorities, which are not price regulators, should be dealing with prices and assessing their fairness at all.

5. First, it must be emphasised that competition law does not serve as a general tool for price regulation, and a competition authority is not a regulator that sets prices. There are, however, situations in which AMO considers intervention against excessive prices to be justified. These are mainly cases where the prices of a product are significantly higher than the undertaking's costs or the economic value of that product, and where the markets concerned have high barriers to entry. On such markets, there is no likelihood of new players entering these markets, which could otherwise lead to a natural decrease in prices.

6. To assess excessive pricing cases, AMO applies the two-step test established by case law in United Brands.

7. In the first step, where possible and appropriate, the undertaking's revenues from sales of the product concerned are compared with the costs of producing it. If it is shown that the difference between revenues and costs (i.e. the profit margin) is excessive, the assessment proceeds to the second step.

8. In the second step, it is examined whether there are legitimate reasons for the existence of excessive profits. It is verified whether the price is unfair in itself or when compared with other products. This step therefore assesses whether the price bears a reasonable relation to the economic value of the product, either by comparing the prices of the product under examination with those of competing products (the price of a competing product serving as a benchmark for the economic value of the product under examination) or, where no suitable product for price comparison exists, by directly estimating the economic value of the product. At the same time, it is examined whether the product may have a value to consumers for which they are willing to pay, or whether there is something

that consumers consider valuable which is not necessarily reflected in costs (this may include high quality, an innovative product, etc.).

### 1.2. Unfair trading conditions

9. The second category of exploitative abuses is the imposition of unfair trading conditions. This is a broad concept covering various contractual, commercial or other conditions that a dominant undertaking unilaterally and unfairly imposes on its customers.

10. Unlike excessive prices, where the competition assessment focuses directly on the level of the price charged for a product or service, unfair trading conditions involve examining the manner in which, or the conditions under which, the dominant undertaking conducts its business relationship with customers. However, the assessment of these conditions cannot be entirely separated from a certain evaluation of prices, since unfair trading conditions may affect various parameters of competition: in addition to potentially restricting choice or quality, they may lead to price increases, as was the case in all cases assessed by AMO.

11. Although there are still relatively few decisions and judgments on unfair trading conditions, a legal test can be derived from the existing case law, i.e. the conditions or criteria that should be met for trading conditions to be considered unfair from a competition perspective. In its practice, AMO has considered trading conditions to be unfair if they:

- are imposed by a dominant undertaking on its trading partners,
- are not necessary to achieve the legitimate objectives of the business relationship and are disproportionate in the sense that they go beyond what is genuinely necessary,
- are unfavourable or detrimental to the interests of the dominant undertaking's trading partners or of third parties.

## 2. AMO case law

12. In recent years, AMO has increasingly dealt with exploitative cases in the area of abuse of a dominant position. Over the past five years, AMO has issued three decisions concerning excessive prices and three decisions concerning unfair trading conditions.

### 2.1. Excessive prices

13. In February 2022, AMO issued a decision assessing the conduct of LITA, an organisation active in the collective management of rights. In these administrative proceedings, AMO examined the level of fees that LITA charged for the use of audiovisual works in public broadcasting via television and radio sets in accommodation facilities (hotels and guesthouses). AMO found that these hotels and guesthouses were paying excessively high licence fees for the broadcasting of copyrighted audiovisual works. The first-instance decision was upheld by the Council of the Office in October 2023. The party to the proceedings appealed, and the case is currently before the court.

14. In June 2024, AMO issued two decisions assessing the level of fees charged by bus station operators to bus carriers for the use of the bus stations. The bus stations are used primarily for suburban and urban public transport provided in the public interest. The increased costs of bus carriers are ultimately borne by the public contracting authorities for these transport services (regions and municipalities), as they compensate the carriers for

losses incurred in operating suburban bus services and urban public transport. The first-instance decisions were upheld by the Council of the Office in October 2025, the parties to the proceedings appealed and the cases are currently before the court.

15. In all three cases, AMO concluded that the undertakings concerned held a monopoly position on the relevant markets and operated on the markets with practically insuperable barriers to entry, while their customers had no significant bargaining power. None of the markets was subject to price regulation. In its assessment of the anticompetitive conduct, AMO also found that the difference between the prices and the costs of the undertakings concerned (or the relevant benchmark in LITA case), was substantial, ranging from tens to hundreds of percent.

### 2.2. Unfair trading conditions

16. In September 2021, AMO issued a decision assessing the conditions under which Chemes, the industrial park manager, supplied utilities (electricity, gas, water, compressed air, cooling, etc.) to companies located in the industrial park. Chemes obliged the undertakings in the industrial park to purchase all utilities from it, while preventing them from purchasing utilities from third parties or generating it themselves. The first-instance decision was upheld by the Council of the Office in December 2022. The party to the proceedings appealed, and the case is currently before the court.

17. In January 2022, AMO issued a decision concerning the conduct of Brantner Fatra in waste management area, specifically the conditions under which Brantner Fatra provided landfill services to municipalities. The decision was upheld by the Council of the Office in June 2025. The party to the proceedings appealed, and the case is currently before the court.

18. The most recent decision concerning the imposition of unfair trading conditions was issued in February 2025 against United Classifieds. In this case, AMO assessed a change in United Classifieds' product portfolio for classified advertising services on its online real estate portals offered to its business customers, primarily real estate agencies and real estate agents. AMO concluded that these changes led to a restriction of choice and an increase in business customers' costs for online real estate advertising. The undertaking appealed the decision, and the case is being assessed by the Council of the Office.

19. In all three cases, according to the AMO's assessment, the undertaking concerned held a strong dominant position (in two cases a 100% market share). The dominant undertaking was an unavoidable trading partner for its customers, who depended on the service provided and had no effective alternative to it. At the same time, the dominant player unilaterally imposed certain exploitative conditions on the customers that were not objectively justified and that in all cases resulted in increased costs for customers or higher prices for the products or services provided.

## 3. Challenges

20. As regards the challenges, it should be noted that, compared with cases of exclusionary conduct, there is still insufficient case law in the area of abuse of a dominant position in the form of exploitative practices, and, unlike for exclusionary practices, no European Commission guidelines are available either.

21. It must also be acknowledged that some steps in establishing exploitative practices are demanding in terms of both time and expertise (for example, such cases often require complex cost calculations). The design and implementation of appropriate remedies

intended to eliminate the anticompetitive situation, particularly in cases of excessive pricing, also remain a challenge.

22. However, AMO does not consider these circumstances to be a reason not to intervene against exploitative practices. Such practices do exist on markets, complainants perceive them as unfair, and they have a direct and visible impact on consumers.