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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

## **Working Party No. 2 on Competition and Regulation**

### **Competition and Regulation in the Healthcare Sector – Note by Hungary**

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## *Hungary*

### 1. Introduction

1. In recent years, the Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH) has addressed competition-related issues within the healthcare sector in the context of two accelerated sector inquiries.<sup>1</sup> The first inquiry, conducted in 2022, focused on Covid-19 antigen rapid self-tests and aimed to identify the reasons of their relatively high prices in Hungary. The second inquiry, conducted in 2025, examined medical imaging devices to understand the reasons of the prevalence of single-bid tenders among Hungarian public procurements. Both inquiries resulted in proposals by the GVH aimed at enhancing competition.

2. Earlier, the GVH investigated several cartels involving suppliers of various medical inputs – such as medicines, devices, and equipment – to hospitals and other healthcare service providers. Beyond bid rigging by suppliers (which falls outside of the scope of this note), these cases also revealed that tenders in the healthcare sector are sometimes not designed to minimise the risk of bid rigging and to facilitate competition – a common theme with the accelerated sector inquiry on the public procurement of medical imaging devices.

3. In addition, in 2019 the GVH addressed an allegation of exploitative refusal to deal by a monopolistic supplier of a crucial pharmaceutical substance, highlighting the potential of market forces, regulation, and competition law enforcement, as well as their interplay, in healthcare “emergency”.

### 2. Covid-19 antigen rapid self-tests<sup>2</sup>

4. From late 2021 antigen rapid self-tests had a crucial role in Hungary, as a rough-and-ready mass diagnostic tool, in fighting the Covid-19 epidemic. Their consumer prices, however, were higher in Hungary than in most neighbouring and other European countries. Therefore, the GVH launched an accelerated sector inquiry to examine the market characteristics and developments, the range of market players at different levels of the supply chain and the prices they applied. The GVH also contacted the ECN competition authorities to learn and utilise their experiences.

5. The inquiry revealed that consumers could purchase antigen rapid self-tests only in pharmacies and specialised medical device stores in Hungary, due to regulatory entry barriers. Additionally, the Hungarian supply chain of antigen self-tests was particularly long in some cases, with products moving from producers to consumers through multiple

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<sup>1</sup> Accelerated sectoral inquiries are similar to “regular” sector inquiries, however, they have a more streamlined procedural framework, as they must be completed in a month after their launch (this deadline can be extended by no more than two months). Accordingly, the GVH employs simplified information gathering and analysis in its accelerated sector inquiries, producing insight of reasonable accuracy in matters of interest. More on accelerated sector inquiries of the GVH can be found in our contribution of the GVH to the 2022 roundtable of the Competition Committee on competition and inflation (DAF/COMP/WD(2022)91).

<sup>2</sup> Jelentés a COVID-19 antigén gyorsesztek magyarországi piacon lefolytatott gyorsított ágazati vizsgálatról, Gazdasági Versenyhivatal, Budapest, 04.02.2022 (AL/478/2021). (Available in Hungarian only.)

intermediaries. Each level of the supply chain added its own margin, ultimately leading to higher retail prices.

6. Based on these findings, the GVH recommended reducing the length of the supply chain by allowing drugstores, retail chains, and petrol stations to sell these products. These retail formats often procure products directly from the producers or Hungarian importers, and their involvement could thus shorten the supply chain.

7. An almost immediate legislative change permitted the sale of Covid-19 antigen rapid self-tests through retail chains, drugstores, and petrol stations. The government's action,<sup>3</sup> following the GVH's proposal, led to a sharp increase in the number of outlets and a reduction of the retail price of antigen rapid self-tests. After the pandemic faded away, the government reestablished the original regulatory entry barriers effective from the beginning of 2024.

8. Later, the GVH produced a rough estimate of the consumer savings from the temporary liberalisation of retail sales in 2022-2023<sup>4</sup> by adapting the methodological framework of its *ex-ante* impact assessments.<sup>5</sup> This simplified calculation relied on press reports detailing the amount of the price reduction and on conservative assumptions, such as the relationship between the consumption of rapid self-tests and the number of daily confirmed new cases, in the absence of sales data.

9. The results showed that the amount of consumer savings was comparable to those achieved in major enforcement cases of the GVH. They also showed that the consumer savings could have been more than twice as much, had the retail of the rapid self-tests been liberalised from the outset (i.e. never been restricted to pharmacies and specialised medical device stores).

### 3. Public procurement in the healthcare sector<sup>6</sup>

10. As a result of a government initiative stemming from Hungary's anti-corruption commitments made to the EU, the GVH launched sector inquiries in 2024–2025 into those public procurement markets where analyses indicated that the proportion of single-bid tenders<sup>7</sup> was high compared to the national average. One such sector was the supply of diagnostic medical imaging equipment (i.e. MR, CT, UH and radiology), where an accelerated sector inquiry was conducted at the end of 2024. The objective of the inquiry was to assess the competitive conditions in the sector, identify the reasons for the low level

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<sup>3</sup> Government Decree 34/2022 of 8 February 2021.

<sup>4</sup> Simplified quantification of the consumer savings from the 2022 temporary market opening in the Covid-19 rapid self-test retail distribution in Hungary, Hungarian Competition Authority, 28.11.2024.

<sup>5</sup> This framework is in line with the respective OECD Guide (Guide for helping competition authorities assess the expected impact of their activities, OECD (2014)).

<sup>6</sup> Jelentés a képkalkotó diagnosztikai eszközök beszerzésének magyarországi piacon lefolytatott gyorsított ágazati vizsgálatról, Gazdasági Versenyhivatal, Budapest, 17.03.2025 (AL/849/2024). (Available in Hungarian only.)

<sup>7</sup> Single-bid tenders – according to the methodology of the European Commission's Single Market Scoreboard – include any contract awarded in a public procurement procedure in which only one market player submitted a bid.

of competition in public procurement, and determine any potential distortions or barriers to competition.

11. The GVH found that the Hungarian public procurement market for medical imaging equipment is quite concentrated. The market shares of the leading suppliers accounted for nearly 72% of the total market in terms of the value of contracts won, with the three largest suppliers holding more than 50% of the market share.

12. The inquiry also identified some factors that may have limited the number of public procurement bids and the GVH issued recommendations to address them.

13. One such factor was the use of “package tenders”. It is generally easier for procurers to acquire all the equipment needed for their projects through a single, complex tender – for example when setting up a new operating room, procure the furniture and construction work in a single tender along with the built-in medical imaging equipment or purchasing the equipment as part of a joint list of consumables and smaller medical devices required. However, the market for diagnostic medical imaging equipment is highly specialized, so requiring bids for additional products, may discourage many players from participating. Therefore, the GVH recommended that procurers either separate the procurement of imaging equipment from other assets or allow distributors to submit partial bids that exclude other products.

14. The GVH also recommended that public procurement supervisory bodies prioritize monitoring compliance with the law, as combined tenders of unrelated products are also prohibited under certain circumstances by public procurement regulations.

15. Another factor was that, in some cases, information asymmetry between the procurer and the potential bidders discouraged participation, by creating substantive uncertainties that make costs-benefits assessment difficult for them, thereby narrowing competition or leading to single-bid public procurement. This issue can be mitigated through extensive pre-procurement consultations.

16. A third factor was technical over-specification of products and services in tenders. According to the inquiry, procurers are often reluctant to switch brands, as they believe it may imply significant additional resource costs, such as staff training time. As a result, they over-specify the tender requirements in order to prevent alternative brand from winning.

17. Furthermore, medical imaging devices are special and long-lasting equipment that healthcare institutions procure relatively rarely – usually every few years. Consequently, due to a lack of up-to-date market knowledge and sufficient experience, sometimes they simply copy the data from the description of a particular product – for example their own device in use – when drafting the technical specifications. As a result, they unintentionally impose over-specified criteria that products from other brands cannot meet.

18. Therefore, GVH also recommended that procurers draft technical specifications in a more inclusive way, ensuring that otherwise competitive manufacturers and distributors are not excluded by unreasonably narrow, inflexible or outdated specifications. In addition, the GVH proposed the use of appropriate pre-procurement consultations (mentioned above) also in this context, as well as their more active supervision by the regulatory authority.

19. Pre-procurement consultation with potential bidders is mandatory in certain cases before issuing a tender, therefore the GVH also recommended that public procurement supervisory bodies monitor compliance with this requirement. While involvement of certain bidders may, in some cases, result in tenders that by design limit the opportunities of others to participate – for example through over-specification (see section 4 below) – a

transparent procedure involving all potential bidders is expected to yield a more inclusive and procompetitive outcome.

#### 4. Cartel cases in the healthcare sector

20. Over the last decade, the GVH has investigated several cartel cases in the healthcare sector. A common feature of these cases is that bidders not only aimed at the allocation of public procurement tenders but also sought to influence the tender design in order to exclude other competitors, or to justify the success of their own bids.

21. In the Neuropacemaker case,<sup>8</sup> the GVH found that three companies had divided tenders for neuromodulation medical devices among themselves. The three companies jointly determined their bid prices and the winning bidders. Among other things, the companies contributed – in parallel with each other – to the over-specification of the tender, meaning that requests for proposals limited or excluded the launch of each other’s products, thus giving them a similar chance of winning the tenders. The companies also coordinated their activities during the bidding phase in order to execute their plan to divide the market. The three companies were fined a total of approximately HUF 660million.<sup>9</sup>

22. In medical imaging devices case<sup>10</sup> the GVH found that ten companies manufacturing and distributing medical imaging devices had divided certain public procurement tenders among themselves, jointly developing their bidding strategies. Some members of the cartel participated in designing the tender, namely in determining its product specifications, which they typically submitted to procurers through their distributors. While the other members recognized that the tenders were unreasonably over-specified, they did not challenge them, thereby acquiescing to the market allocation. The GVH imposed a fine of more than HUF 1600 million in 2019.<sup>11</sup>

23. In another case, the GVH found that five manufacturers and distributors of surgical sutures and surgical sewing machines had colluded in the public procurement procedures of four hospitals in order to influence the tender process, allocate the market and fix prices.<sup>12</sup> One of the companies was asked by the procurer to provide preliminary feedback on the tender specifications. Taking advantage of this role, some of the participants in the cartel sought to have the procurer to shape the tender in such a way that no one else would be able to participate, so that they could determine the winner among themselves. The GVH imposed a total fine of nearly HUF 270 million on them in 2016.<sup>13</sup>

24. In the Budapest hospitals medicine purchase case,<sup>14</sup> the GVH revealed that three pharmaceutical wholesalers, with the assistance of two consulting firms, influenced a joint public procurement tender of 12 hospitals’ purchase of medicines. The companies jointly achieved the modification of the tender so that no other potential bidders could meet the tender conditions. They then divided the 919 types of medicines (active pharmaceutical

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<sup>8</sup> Case No. VJ/80/2016.

<sup>9</sup> EUR 1.8 million in current exchange rate.

<sup>10</sup> Case No. VJ/19/2016.

<sup>11</sup> EUR 4,3 million in current exchange rate.

<sup>12</sup> Case No. Vj/79/2013.

<sup>13</sup> Case No. EUR 0,7 million in current exchange rate.

<sup>14</sup> Case No. Vj/28/2013.

ingredients) covered by the tender among themselves and coordinated their prices to ensure that they would win the tender in the predetermined proportions. The GVH imposed a fine of almost HUF 2500 million in 2015.<sup>15</sup>

25. Experience gained from these cartel cases contributed to the selection of the medical imaging equipments as a subject of the accelerated sector inquiry, detailed above. The same experience shows that the healthcare sector is not only vulnerable and, in certain cases, exposed to cartels, but also procurers may involve potential bidders to shape their tenders which leads to restricted competition – for example through over-specification. Transparent and inclusive pre-procurement consultations could mitigate this latter problem.

## 5. Exploitative abuse allegation

26. In 2019, the GVH received a complaint from NEAK,<sup>16</sup> the state agency responsible for subsidies and co-financing of certain medicines, alleging that a pharmaceutical company refused to supply a certain (generative) substance to Hungary, causing shortages. The company was the sole supplier of the substance in Hungary at the time, and the substance is critical and mandatorily used in certain common medical situations.

27. The alleged refusal to deal of the supplier was the consequence of NEAK's inability to accept the price rise of the supplier, due to its inconsistency with the rules governing pharmaceutical subsidies and co-financing in Hungary at the time, as the new price would have been higher than in certain benchmark countries.

28. As it turned out, the complaint was only one of the several responses of regulators to the shortage, including regulatory and administrative measures enabling pharmacies to produce the same substance on their own as compounded product and inviting other foreign suppliers to sell in Hungary. The same substance, produced by the same supplier was available in Hungary through "parallel" imports (the intention of disincentivising parallel imports from Hungary, i.e. the other way around, was one of the declared reasons behind the attempted price rise).

29. These alternative measures and market developments addressed the supply-side issue posed by the originally sole supplier and indicated certain constraints on its market power in the longer run. As they seemed to be effective in dealing with the shortage, the GVH did not see any reason to launch a formal investigation.

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<sup>15</sup> EUR 6,8 million in current exchange rates.

<sup>16</sup> Nemzeti Egészségbiztosítási Alapkezelő (NEAK).