

Activities of the Hungarian Competition Authority for the purpose of developing competition culture

As an authority representing public interests, it is a responsibility of the Hungarian Competition Authority (GVH, the Authority) to ensure protection of free and fair competition on the market enforcing economic efficiency. The competition protection activities of the GVH can be classified based on three pillars: *as a competition supervisory agency*, it safeguards compliance with the Hungarian and Community competition regulations but *competition advocacy* and *development of competition culture* are also equally important among its activities. Using all instruments available for competition advocacy, the Authority is trying to influence, in favour of competition, government decisions; in addition to participation in the development of public policies from the aspects of competition, it also tries to influence the individual administrative measures adopted by the government and other public agencies.

Below we will describe the third pillar of the core activities of the Hungarian Competition Authority, i.e. the development of competition culture.

The concept of competition culture comprises general information about competition, competition policy and competition law, the general attitude to competition, as well as competition-related legal and economic activities of public interest.

General information about competition, competition policy and competition law includes not only having basic knowledge related to competition and the recognition of its positive impacts (e.g. that competition generally results in lower prices, better quality and bigger choice rather than higher prices, lower quality and more limited choice), but also awareness and understanding of the functions of competition regulation and the competition authority (e.g. that the purpose of the competition authority is to protect competition instead of protecting domestic companies from the 'excessive competition' generated by foreign companies).

The *general attitude to competition* reflects the extent to which the society and its particular groups (companies, public administration employees, political decision-makers, the population and the media) accept competition as a basic feature of the market economy, and to which they attach positive associations and expectations to it. Naturally, this is in connection with the basic knowledge persons have about competition because if this knowledge is erroneous, the concept of competition may also be distorted (e.g. the belief that competition leads to reduction of competitiveness and loss of jobs), which may even lead to its rejection.

The *scientific works about competition policy and the related activities* are connected to researchers and tutors, university departments and subjects, research programmes, institutions, journals and articles, books and technical events etc. focusing on the issues of competition policy, both in terms of law and economics. By keeping competition policy issues on the agenda, science contributes to a creative approach to various problems and the applicable responses, and it also improves the general level of understanding of competition policy issues.

Competition culture in a wider sense means *'the culture of competing'*. Using an analogy, this indicates a kind of

sportsmanlike conduct on the market but, as competition policy focuses on long-term consumer welfare, the 'culture of competing' by no means suggests inclination towards 'friendly', less intensive competition (in which the interests of participants are not infringed), but in fact it means strong, sometimes aggressive competition respecting the competition rules though, averse to any collusion with other competitors. Any other understanding of 'fair' competition in fact indicates lack of competition culture and may clearly lead to competition restriction (e.g. in the case of certain professional organisations which tend to encourage, and often even oblige, their members to refrain from competition by introducing ethical rules, and referring to the interests of 'fair' competition).

Using all instruments within its competence, the GVH has always tried to have a fair share in the actions related to the development of competition culture. In this context, the Authority primarily has provided and still provides general information and performs PR activities, including information on the advantages of competition, the nature and provisions of the competition law as well as the description of the general activities and responsibilities or particular decisions of the Authority and their





results in the form of various brochures, leaflets and other publications, press releases and press conferences as well with the help of its enquiries. Participation of the members of staff of the GVH and their presentations delivered in various professional events also form part of the same category. Another aspect of the same activity is that the decisions of the GVH and its major competition advocacy documents are available for the general public. Similarly, the Authority tries to summarise its general experiences and approaches related to its law enforcement practice in the form of public communications, and that the Competition Council of the GVH also publishes its conclusions relating to principles crystallised in its legal practices in the form of position statements. As the Authority tries to involve into its work, as much as possible, the participants in competition-related legal and economic activities of public interest, it does not only inspire scientific research, but also generates a demand for it. On the other hand, we must also see that it is also in the interest of the GVH to improve the condition of competition culture, because it assists competition, the enforcement of the competition policy and competition law, as well as the activities of the Authority (i.e. it also has an impact on the competition supervision and competition advocacy activities of the Authority).

The activities of the GVH focusing on the development of competition culture have become increasingly determined and target oriented in the last five years. It was also supported by a series of surveys conducted by TÁRKI Társadalomkutató Zrt.¹ upon an OEC assignment for three years starting in 2002. The purpose of the surveys was to pre-

pare an empirical overview of competition culture in Hungary for the GVH enabling it to take the result into account in its activities and various decisions and to define the actions required for developing competition culture. The research focused primarily on the awareness of and opinion about the competition rules and the GVH, as well as the assessment of the accuracy and depth of the knowledge of the competition law. The surveys repeated yearly among the population, companies, lawyers (attorneys-at-law, company lawyers, public administration lawyers), as well as economic journalists clearly indicated that many actions were still required in the area of developing competition culture, in which process the GVH would have to play the role of a catalyst as a 'knowledge centre' of competition law and competition policy. In order to regularly monitor the condition of competition culture and development trends as well as identify current problems, the Authority would like to continue these surveys in the future as well, using them as a kind of indicative measurement of its activities in this area without forgetting though that any perceptible change will occur and can be detected in the survey only on a longer term.

Since November 2005, the Competition Act² has also expressly defined the responsibility of the Authority and its president in the development of competition culture, outlining also the content of this responsibility. Within the framework of development of competi-

tion culture, the Act defines dissemination of competition policy information to increase the acceptance of competition within the society (including information about advantages arising from competition and for the purpose of promoting compliance with law and development of a competition-friendly regulatory environment), as well as contribution to the development of competition-related economic and legal activities of public interest as the main tasks of the GVH. At the same time, the amendment of the Competition Act has also created a financial basis for the increased participation of the GVH in the dissemination of competition culture, as a result of which the efforts of the Authority in this area can now reach a wider target audience and, in addition to the activities of the GVH in this field, it can also support other organisations participating in the development and dissemination of competition culture. In contrast with the other two core responsibilities of the Authority, i.e. competition supervision proceedings and competition advocacy, in which the GVH has a leading or even exclusive role, the role of the GVH, similarly to any other competition authorities, is significantly more limited in the development of competition culture. The development and maintenance of an advanced competition culture depends on numerous individuals and organisations from participants in science and education, through the civilian sector and economic stakeholders all the way to political decision-makers and of course it cannot be achieved without the involvement of the GVH. The degree and nature of this involvement will necessarily decrease as competition culture is developing and the number and role of the organisations involved in the dissemination of competition culture are increasing, but at the current level of competition culture development, the involvement of the GVH is still crucial.

Within the framework of development of competition culture, the president of the Authority established a separate organisational unit within the General Secretariat in 2005 for the pur-

¹ The survey documents (including the summaries, detailed research reports and methodology description) can be found on the website under the "Analyses".

² Article 36(1) point f) of Act LVII of 1996 on the prohibition of unfair and restrictive market practices, inserted by Act LXVIII of 2005 effective from 1 November 2005.

pose of the in-house coordination and execution of the tasks of the Authority. This unit is the **Competition Culture Centre** (CCC, Centre), which is headed by the general secretary. The CCC has its own budget within the Authority, the disbursements of which are earmarked in accordance with the statutory objectives indicated above.

The tasks of the CCC are defined in its **annual work plan**. Apart from the activities focusing on the development of competition culture with the technical support of the GVH, the work plan also contains programmes in the implementation of which the GVH relies on the contribution of other organisations to which it provides financial and, as circumstances may require, also technical support from its available budget. Apart from the experiences collected by the GVH in its competition supervision and competition advocacy work, the tasks deemed necessary are defined with the help of the surveys on the condition of competition culture, indicated above. Consequently, apart from the tasks to be performed by the CCC on behalf of the Authority, the programmes through which the CCC intends to focus, complementing its own role, on the involvement of a large number of external organisations in the development of competition culture, the promotion of the integration of commitments to the development of competition culture in the society and the establishment and strengthening of the bases of competition culture development outside the competition authority, are equally important in achieving the set targets.

The CCC opened a public discussion about its draft work plan for 2006/2007 in May 2006, enabling the professional public to extend by its ideas and suggestions the range of the tasks defined by the Authority. The work plan was finalised taking into account the received proposals and remarks and was published at the end of September outlining the tasks for nearly eighteen months (September 2006 – December 2007), the actions related to the performance of those tasks, as well as the general operational principles of the Centre. The **tasks projected for 2006/2007** include

– translation and publication of a foreign specialist book (Massimo Motta: Competition Policy – Theory and Practice);

- compilation of general educational publications describing the institutions of competition law in general, and focusing on certain markets and the phenomena experienced on them;
- organisation/support of professional events;
- support of development of libraries (in terms of professional literature);
- invitation of research tenders focusing on competition law, competition policy and market theory issues;
- support of scientific and educational projects;
- development of cooperation with consumer protection NGOs and supporting their work, and
- elaboration of the ‘day of competition’ and ‘competition culture award’ concepts.

As it is clear from these tasks, the work plan intends to reach, through its specific activities, a **very large target audience**, including students and tutors of higher education institutions, teachers and students in primary and secondary education, dealing with/interested in competition law or competition-related economic analysis; theoretical experts and researchers, small and medium-sized enterprises having any contact with the proceedings and competition supervision activities of the Authority, NGOs performing an important role in the development of consumer culture and information supply to consumers as well as public administration employees and decision-makers engaged in one way or another in competition-related issues during their work, including members of Parliament and their consultants too.

The **main operational principles** of the CCC focus on regulated and transparent operation, in which the power of publicity is an important guarantee. The CCC can achieve it by making available to the public its work plan, the presidential directives setting out the internal organisation and operation of the Centre, the major data and use of any support paid from the CCC’s budget (name of the supported organisation, programme, support amount followed by a technical report), as well as the annual report describing the activities of the CCC on its website.

In order to control the use of its available financial resources, the CCC has

developed a **tendering system** within the framework of which applicants with sufficient references may receive support for their projects that have a good professional basis and a reasonable budget.

The first specific invitations for tendering were issued on the GVH’s website in October 2006 in relation to four points of the CCC’s work plan. Accordingly, support may be requested for

- the organisation of various professional events promoting the development of competition culture and dealing with competition law and competition policy issues (presentations, conferences, training programmes, seminars, technical fora, etc.) as well as participation in such professional events (tender invitation VKK/3/2006);
- competition law, competition policy and market theory research defined by the CCC, covering both timely economic and legal issues related to competition (tender invitation VKK/4/2006);
- other competition law, competition policy and market theory research that the applicant considers justified for the purpose of developing competition culture (tender invitation VKK/5/2006);
- activities and programmes of NGOs focusing on consumer protection and the development of consumer culture (tender invitation VKK/7/2006).

The CCC can grant support only based on the principles defined in its work plan by means of tenders submitted by using the appropriately completed tender documentation. This documentation can be downloaded from the GVH website. The tenders received are formally checked by the staff members the CCC and then the tender offers are technically and financially evaluated by a three-member evaluation committee. The members of the evaluation committee are mainly executive officers of the GVH, but occasionally external experts may also be involved. The CCC enters into a support contract with the winner based on the decision of the evaluation committee. This contract defines in detail the terms and conditions of the use of support, the time schedule of implementation and financing, as well as the controlling and settlement procedures. The non-repayable support is disbursed in the form of post-financing but, if it is requested, it

can also be made available in instalments, following the approval of the technical and financial report.

The initial principles of the CCC also included that the CCC would provide support to tenderers as a co-financier, therefore tenderers had to provide a certain amount of own funds in order to gain the support. However, on the basis of the experiences of the first months, the CCC modified the invitations for tendering on 1 January 2007 and tenders submitted after that date and satisfying the objectives announced may receive even full support (up to 100% of the cost budget) should need arise. However, the highest amount available for one application has not been changed by the modifications. The modifications were introduced in order that the difficulties of raising own funds should not impose any barriers on the submission of tenders, yet applicants should not feel encouraged to request support in a higher amount than it is justified.

The activities and tendering opportunities of the CCC have been accompanied by increased attention and interest from the very beginning. The CCC staff has received a large number of questions in writing and by phone and approximately 40 tenders were submitted in three months after the issue of the first invitations for tenders.

The CCC achieved important **results** in 2006 in some other areas too, not only in the issue of tender invitations and the evaluation of the first tenders.

By contacting Hungarian **higher educational institutions** providing training in competition law, competition policy and market theory (15 universities and colleges as well as libraries) and supporting their purchases of academic and professional books and periodicals in Hungarian and foreign languages, the CCC has made a valuable contribution to the extension of their specialist library providing a wide access to background material needed for the educational work in various specialised higher educational institutions. Each contacted library used the opportunity offered by the CCC and appreciated the support. The CCC intends to contact specialist colleges engaged in competition law and competition policy subjects soon too.

Another important objective, expressly mentioned in the CCC's work plan, is the dissemination of knowledge

on competition policy aspects to **public administration employees** which may help experts involved in legislative activities in taking into account and appropriately enforcing competition aspects in their activities in drafting legislation and law application, especially in those sectors where the market is currently being opened. Within the framework of this activity, the CCC supported participation of public administration experts in foreign professional events, including the participation of members of staff of the Ministry of Health and the Hungarian Energy Office in events in which the connections between their respective areas (sectors) and competition policy were dealt with. The experts prepare a report on the events in question sharing their experiences gained on their study tours not only with their own colleagues, but also with staff members of the GVH as well as with other interested persons.

By issuing various **publications**, the CCC intends to increase awareness of competition law: apart from a booklet describing the GVH and the effective Competition Act published in Hungarian and in English, in 2006 the CCC prepared an illustrative and well understandable booklet about the issues of substantive and procedural law related primarily to cartels. This may assist mainly public administration employees whose work includes procurement and the invitation of offers, in recognising and avoiding potential infringements of law, as the booklet describes the suspicious signs of bid-rigging in public procurement procedures. Although there is increasing press coverage, if the GVH launches its proceedings with a site inspection without a preliminary notice (generally known as a 'dawn-raid'), the undertakings concerned and their legal representatives are very often unfamiliar with the rights of the investigators of the Authority during a site inspection, therefore a separate booklet describes the applicable investigative powers of them.

The CCC does not only issue one-time publications, it also launched a competition law-competition policy periodical in September 2005 under the title of **Mirror of Competition ("Versenytüskör")**. The majority of the authors of the quarterly Mirror are staff members of the GVH, but the periodical applies a wider

approach to competition policy and therefore, apart from the issues of the activities of the GVH and the courts in relation to law enforcement, it also introduces adjacent subjects influencing the functioning of competition, based on studies prepared by experts of the given subject. The Mirror of Competition always reports on the major decisions made by the Competition Council and the courts in the last quarter, the competition advocacy activities of the Authority and the latest developments in Community competition law; each number of the periodical contains also news and reports relating to the GVH. Naturally, the periodical also covers the latest events of the CCC and the OECD-Hungary Regional Centre for Competition in Budapest. The CCC distributes the periodical free of charge a. o. to undertakings, legal buros engaged in competition law, representatives of the professional press, trade associations, municipalities, public administrative authorities, educational institutions and libraries, but the articles will also be available on the CCC's website to be launched soon.

The CCC has established an **Award 'For Competition Culture'** to recognise the activities of experts working outside the Competition Authority but making major contributions to the development of competition culture. This award was presented for the first time on 1 December 2006 by GVH president Zoltán Nagy to Éva Voszka, doctor of the Hungarian Academy of Science and scientific collaborator of Péntzügykutató Rt. in a ceremonial framework. The recent works by Éva Voszka, focusing on issues related to competition, reflect outstanding professional qualities and also satisfy the requirements of dissemination of competition culture.

The CCC will soon launch its own website presenting its results in the development of competition culture and providing easier access to all information concerning its operation. Until then, should you need information about the activities or tender invitations of the CCC, you can contact staff members of the CCC by e-mail at the following address: versenykultura@oec.hu.