



GAZDASÁGI
VERSENYHIVATAL

Dental mechanics association fined for price recommendations

The GVH initiated competition supervision proceedings on 2 April 2008 against the Magyar Országos és Budapesti Fodrász, Fogtechnikus, Kéz-, Lábápoló és Műkörömépítő, Szíkvíz készítő, Kelmefestő-Vegytisztító Szakmai Ipartestület (Hungarian and Budapest Guild of Hairdressers, Dental Mechanics, Cosmeticians, Manicurists and Pedicurists, Artificial Nail Builders, Soda-makers, Dyers and Dry-Cleaners, hereinafter: the Guild) because it published recommended minimum prices for dental mechanics (hereinafter Recommendation).

The Guild's main task is to represent the interests of its members in the relevant professional fields and furthermore to organize fairs, conferences, educational events and courses. The Guild is a self-regulatory body with voluntary membership, consisting of six professional sub-guilds, one of which is the National Dental Mechanics Guild (hereinafter: dental mechanics guild or referred to as included in Guild).

The Recommendation was first prepared in 1991 by the Guild's professional management on the basis of calculations, market analysis and experiences. It was published for consultation to the members who could opine on the price list. Later, it was updated on a yearly basis according to the past year's experiences and the upcoming economic context. The Recommendation was addressed to the Guild members, which is equivalent to nearly half of all Hungarian dental mechanics operating across the country. The Recommendation is a simple list of prices (in both Hungarian and European currency) named as "recommended minimum prices" for all the available categories of dental mechanics works. The Recommendation was published in the dental mechanics guild's professional journal, and on the Guild's website.

The Recommendation covered the whole territory of the Republic of Hungary. The effect on trade between Member States was further enhanced by the fact that the Recommendation had an indirect influence on the prices of cross-border dental services (dental tourism) that make an appreciable proportion of all dental services in Hungary.

According to the Competition Council (the decision-making body of the GVH), the aim of the Recommendation was to influence the prices on the market and to give a kind of orientation to the market players. Although single undertakings may be able to estimate the market prices in a given moment, but it is less probable that they are able to foresee their competitors' prices for the future (for a longer period of time, e.g. a year). This is why it cannot be economically justified that the undertakings determine – in the form of a recommendation from the association – the price levels which they intend to apply in the future. Therefore the anticompetitive object is the only reasonable explanation for the creation of the Recommendation.

In its decision the Competition Council of the GVH established that the Guild's conduct was unlawful since it infringed point a) of Article 11(2) of the Hungarian Competition Act with its

recommendations published between 1997 and 2008. It also infringed Article 81(1) EC with its behaviour from 1 May 2004. Besides the establishment of the infringement the Competition Council did not consider necessary to prohibit the continuation of the conduct because the Guild has already (until the closing of the competition supervision proceeding) stopped to continue the unlawful conduct. The Competition Council imposed a HUF 3 million (approx. EUR 11 thousand) fine on the Guild. The Competition Council considered as an aggravating circumstance that the infringement lasted more than 10 years and the Guild is the professional representation association with the biggest membership on the relevant market. At the same time it was taken into consideration as a mitigating circumstance that after the initiation of the proceeding the Guild has not made and published recommendations regarding minimum prices, furthermore it drew its members' attention to this fact, referring to the procedure of the GVH. The Competition Council obliged the Guild to publish the Council's entire decision without any comments on its website for at least three months (the decision must be well visible and accessible from the opening page). The Guild is also obliged to draw the attention of the readers and its members – with quoting the operative part of the decision in the next edition of the professional journal called "Dental Dialógus" (Dental Dialogue) and in a letter to be sent to its members – that they should disregard (disapply) the Recommendation in their future activities.