



The GVH has once again withdrawn its authorisation of a concentration due to misleading information and has imposed a fine of more than 75 million HUF

The Hungarian Competition Authority has withdrawn its decision in which it authorised Infineon Technologies AG to obtain acquisition of control over Cree Fayetteville, Inc. and for the capacity and radio frequency semiconductor business branch of Cree, Inc. and Cree Sweden AB to become part of Infineon Technologies AG; furthermore, it has imposed a procedural fine of 75 million and 850 thousand HUF due to the misleading and incomplete statements provided by Infineon Technologies AG relating to the markets affected by the concentration

On 10 January 2017 the GVH authorised in 8 days that Infineon Technologies AG could obtain direct and sole control above Cree Fayetteville, Inc.; furthermore, it authorised that the capacity and radio frequency semiconductor business branch of Cree, Inc. and the Cree Sweden AB could become part of Infineon Technologies AG based on the information that was provided in the application by Infineon Technologies AG.

However, based on the warning of the American competition authority (Federal Trade Commission), the GVH later became aware of the fact that in the competition supervision procedure (No. VJ/1/2017) which was launched as a result of the application of Infineon Technologies AG, the latter mentioned company had supposedly provided incomplete and misleading information relating to the size of the markets affected by the concentration, and consequently also about the market shares of the groups of undertakings affected by the concentration. Therefore the Competition Council of the GVH withdrew its authorisation decision which was made on 10 of January 2017.

Simultaneously with the withdrawal of the decision, the Competition Council of the GVH ordered a full investigation of the concentration, which resulted in a procedural fine of 75 million and 850 thousand HUF being imposed on Infineon Technologies AG. The decision imposing the procedural fine may be appealed.

This is the second proceeding ([the first being the case Vj/14/2017](#)) within a short period of time in which the GVH has had to withdraw a previously granted merger authorisation due to the provision of misleading information. In recent years the GVH has made significant efforts in order to be able to provide authorisations as fast as possible in case of concentrations that can be regarded as simple, and to also reduce the administrative burdens faced by undertakings in connection with the concentrations.

Nevertheless, in the quest to accelerate merger proceedings, it is also important that such acceleration must not prevail to the detriment of the merger control proceedings, the purpose of which is to enforce the public interest. Given that the GVH makes its decisions about transactions primary based on the data that is supplied by merging parties; the accurate provision of data from clients is of paramount importance. The international cooperation between the competition authorities also contributes to ensuring that this requirement is fulfilled, and the present case is a good example of this. The GVH would again like to highlight the fact that in order to acquire accurate data, since the beginning of 2017, the legislator has empowered the GVH to conduct dawn raids without prior notice in order to avoid infringements related to merger cases. However, in the present case no such dawn raid was conducted.