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## **GVH conference: Market and regulation for a competitive media**

**On 4 November the Competition Culture Centre (CCC) of the Hungarian Competition Authority and the authority itself organised a conference together with Média Content Consulting. Among the participants there were market players, affected authorities, representatives of the academic life and those of the consumers. For the first time in the history of Hungarian media conferences the conference analysed the competition law and competition policy related questions of television programme providing. Besides that the conference sought solutions for creating a modern media market in Hungary in line with the up-to-date European norms.**

By recalling the results and main observations of the electronic media sector inquiry pursued between 2007-2009 by the GVH, the conference aimed at launching an open professional debate among the stakeholders. The GVH is hoping that the lessons of the conversation will contribute to the establishment of the long overdue media regulation reform.

The conference was opened by the speech of Zoltán Nagy, president of the GVH. Regarding the main lessons of the sector inquiry, he called the attention of the stakeholders to the importance of fair functioning, moderation, competence and compliance with the laws. He elaborated that lawmakers, law enforcement authorities and market players as well could make use of the results of the sector inquiry and those of the related professional debate. The lawmakers hold the responsibility that further rethinking of the media sector regulation should be guaranteed and that a reasonably necessary and proportional regulation should be accepted assuring the development of the sector. Getting acquainted with the processes and the problems of the sector before a possible intervention, law enforcement authorities have to proceed in effective cooperation with each other. Market players are expected to voluntarily comply with the laws; by now they can see better what competition law provisions they have to respect when shaping their market practices. Finally the president of the GVH named the two current problems identified in the course of the sector analysis; in order to solve these problems market players have to make efforts. One of them is restricted competition in choosing an undertaking providing uniform audience measurement services for the market concerned. The other problem is that the digital terrestrial platform has unsuccessfully contributed to the increase of efficiency of competition on the broadcasting market so far.

These two problems were discussed by two different sections of the conference. After the opening presentation about the functioning, development of the television advertising market and the importance of TV audience measurements, those who made comments all agreed that digitalisation in itself will not turn the television advertising market upside down, however the world economic crisis has caused significant decline. Market-based regular tendering of audience measurement got in the focus of roundtable discussions. This latter was proposed

by the GVH, since in the opinion of the authority this would be the optimal solution for properly assuring the needs and requirements of the consumers, and for assuring the prevailing efficiency-increasing effects of competition.

It turned out from the discussions that the main buyers of audience measurements, the TV program providers have launched a harmonising process in order to define their expectations in connection with audience measurements and to review the practice of audience measurements. The GVH deems the latter a very positive development, and also the fact that the undertaking currently providing audience measurements and the two possible future providers had the possibility to share their arguments in the discussions. All these convey hope for a market-based, efficient solution concerning television audience measurements.

The participants of the roundtable discussion about the effects of the digital switchover on the broadcasting and programme providing market all agreed that this market is on the threshold of an overall economic-functional model change resulting from the digitalisation of broadcasting systems. The change affects all transfer platforms, none of them can be exempted from it. Though this process does not only concern digital terrestrial switchover, the digital terrestrial (DTT) platform may have a significant role in the competition between platforms. Mostly according to the representatives of the authorities taking part in the section, the DTT provider has a lot to do in this field especially with respect to the proper content and the business model necessary for acquiring it. In connection with the terrestrial switchover even the incumbent DTT provider admitted that several factors have delayed the successful functioning of the service since its launching. In the opinion of the provider, some of the concerns answered in the meantime; as for the others – for instance concerning first of all the access to proper free contents – the delay can be explained by circumstances outside his control. Market players were highly critical about the fact that the new media act has not been adopted. Most of the participants agreed that several provisions of the current media regulation have become dead letters that hinder the market players from adapting to new opportunities in a fast, efficient way while complying with the laws. The fact that numerous TV channels for Hungarian audience are seated outside the territory of Hungary (and the current channels wishing to enter the market are considering the same solution) proves plainly that the Hungarian regulation contains barriers without justification. The new media regulation is mostly aiming to cease or decrease these barriers to a reasonable extent. Hereby it is very important that the barriers to channel foundation and expansion hitting the national-wide commercial televisions be dissolved; authority fees and expenses related to program providing be proportional; rules concerning the content, structure and production of programmes ensure the development of the Hungarian programme providers and inspire programme production in Hungary. The active participants of the section stated that they were hoping that the lawmaker would rely on the merits on the professional arguments of the market players. The representatives of the leading commercial channels also mentioned as a sore spot in connection with programme fees the repulsive attitude of cable TV companies.

The conference also discussed the relationship between media regulation and competition law, and consumer protection on the broadcasting market.

Besides the dominance of economic competition resulting in efficiency and consumer welfare in the media sector, it is also desirable to ensure competition (variety) between the available contents and opinions. According to the section discussions, careful review and harmonisation of these two goals and the related professional tools are considered some of the most difficult and non the less inevitable tasks of media regulation.

It was mentioned at the roundtable about consumer protection aspects and unfair commercial practices that programme providers have a double role: on the one hand they provide space for other undertakings' advertisements for consumers and on the other hand they pursue commercial practices themselves. The development of the media market – which is basically welcome – provides bigger space for interactivity, for the involvement of media consumers. Hereby it will be more and more typical that broadcasting companies appear on their own surface by their commercial practices, which may generate new consumer protection concerns and state tasks. It was mentioned by the market players (mentioning as positive examples the cases of the GVH against interactive television games that were closed by accepting commitments) that it is a favourable solution especially in such dynamically changing circumstances if law enforcement authorities proceeding in the scope of their expertise strive for shepherding market players towards the right direction.

The documents of the sector analysis of the GVH are available in Hungarian at the following link:

<http://www.gvh.hu/domain2/files/modules/module25/8861812657FCEDC8.pdf>

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