

Template pursuant to Section 3 (a) of the
ICN Framework on Competition Agency Procedures

Hungarian Competition Authority (Gazdasági Versenyhivatal)

5 November 2019

The following template is submitted by the **Hungarian Competition Authority (Gazdasági Versenyhivatal, GVH)** pursuant to Section 3(a) of the ICN Framework on Competition Agency Procedures ("CAP").

I. Introduction

Please add brief presentation/link to agency website.

The Hungarian Competition Authority (Gazdasági Versenyhivatal, GVH) was established by Act LXXXVI of 1990 on the prohibition of unfair market practices and began its operation on 1 January 1991. The enactment of the law prohibiting anticompetitive behaviour and establishing the authority was motivated by the desire to protect the freedom and fairness of competition. The [Competition Act](#), which is currently in force, is Act LVII of 1996 on the prohibition of unfair and restrictive market practices. Besides the provisions on competition, the Competition Act determines the legal status of the GVH and regulates its basic structure and operation, including the procedures that it conducts. As a result of Hungary's accession to the European Union, the GVH is required to apply EC competition law under.

The [Code of General Administrative Procedure](#), namely the Act CL of 2016 on the Code of General Administrative Procedure – together with a number of special rules contained in the Competition Act – sets out the basic procedural rules for administrative proceedings.

The activities of the GVH in connection with the safeguarding of competition rest on the following three pillars: 1) competition supervision proceedings – the enforcement of national and European competition law; 2) competition advocacy – the GVH tries to influence state decisions; 3) competition culture – the objective of the GVH is to contribute to the development of competition culture through the dissemination of knowledge about competition policy with the aim of raising public awareness of competition issues, and through the promotion of the development of competition-related legal and economic activities in the public interest.

Within the GVH there is a separate decision-making body, the Competition Council, which brings the decisions of the GVH on the merits of the case and the decisions ordering enforcement, then – in case a remedy is sought against a decision – it provides legal representation before the court. The members of the Competition Council are appointed and exonerated by the President of the Republic for six years upon the suggestion of the President of the GVH. After the termination of the 6 years, the Member of the Council may be re-appointed one time.

The website of the GVH: <http://www.gvh.hu>.

II. Laws, Regulations, and Policies relevant for the implementation of the CAP

For each CAP Principle below, please explain how your competition law investigation and enforcement procedures meet the Principle. Please highlight important features relevant for the implementation of the CAP and explain limitations, if applicable. Feel free to include links or other references to related materials such as relevant legislation, implementing rules and regulations, and guidelines where helpful and appropriate.

Please update your Template reflecting significant changes as they relate to the CAP, as needed.

b) Non-Discrimination

Each Participant will ensure that its investigation and enforcement policies and Procedural Rules afford Persons of another jurisdiction treatment no less favourable than Persons of its jurisdiction in like circumstances.

In Hungary, the basic principles of administrative proceedings, such as legality, officiality and effectiveness – are laid down in the Code of General Administrative Procedure.

Pursuant to Section 2 [Principle of legality] of the Code of General Administrative Procedure, the administrative authority – in exercising its powers – shall handle cases in due observation of the right to equality before the law and the principle of equal treatment, without undue discrimination, bias or prejudice.

Code of General Administrative Procedure - Section 2 [Principle of legality]

(1) The administrative authority (hereinafter “authority”) shall act on the basis of authorisation by law, exercising its powers within the framework of the law and according to their purpose.

(2) When exercising its powers, the authority shall act

a) in compliance with the requirements of professionalism, simplicity, cooperation with the party and the principle of good faith,

b) in compliance with the requirements of equality before the law and equal treatment, without undue discrimination and partiality,

c) within the time limit specified by law, within a reasonable time.

The Competition Act expressly states that the provisions of the Code of General Administrative Procedure shall apply to the fundamental principles of the procedure [Article 46 (2) of the Competition Act].

c) Transparency and Predictability

- i. Each Participant will ensure that Competition Laws and regulations that apply to Investigations and Enforcement Proceedings in its jurisdiction are publicly available.*
- ii. Each Participant with the authority to adopt Procedural Rules will have in place such rules applicable to Investigations and Enforcement Proceedings in its jurisdiction.*
- iii. Each Participant will ensure that Procedural Rules that apply to Investigations and Enforcement Proceedings in its jurisdiction are publicly available.*
- iv. Each Participant will follow applicable Procedural Rules in conducting Investigations and in participating in Enforcement Proceedings in its jurisdiction.*

- v. *Each Participant is encouraged to have publicly available guidance or other statements, clarifying or explaining its Investigations and Enforcement Proceedings, as appropriate.*

- i. In Hungary, all laws and regulations, including competition laws, regulations and related procedural rules are published in the Hungarian Official Journal, which is divided into an official section containing legislation (legal gazette) and a supplement containing legal notices and other official texts (official gazette). Aside from this, all relevant laws and regulations are available on the website of the GVH.
- ii. As a general rule, the provisions of the Competition Act shall apply to competition supervision proceedings, while the provisions of the Code of General Administrative Procedure shall apply to competition supervision proceedings if expressly provided for in the Competition Act. Aside from this, pursuant to Article 36 (1) c) of the Competition Act, the President of the GVH shall establish the organisational and operational rules of the GVH, approve the organisational and operational rules of the Competition Council, set the number of allocated posts and the procedure for the issuance of official copies. Moreover, the President of the GVH and the Chair of the Competition Council may jointly issue notices describing the basic principles of the law enforcement practice [Article 36 (6)]. Notices have no binding force; their sole function is to increase the predictability of law enforcement.
- iii. See answer i.
- iv. Competition supervision proceedings shall mean the official proceedings aimed at establishing an infringement of the provisions of the Competition Act, excluding Chapter II (on prohibition of unfair competition), or at the investigation of concentrations of undertakings pursuant to the Competition Act, as well as those proceedings specified as such in separate acts of law. Competition supervision proceedings shall be conducted by the GVH, which cannot be deprived of its competence to deal with cases falling within its jurisdiction. As a general rule, the provisions of the Competition Act shall apply to competition supervision proceedings, while the provisions of the Code of General Administrative Procedure shall apply to competition supervision proceedings if expressly provided for in the Competition Act.
- v. The Competition Act empowers the President of the GVH, together with the Chair of the Competition Council to issue notices [Article 36 (6) of the Competition Act], which describe the basic principles of the law enforcement practice of the GVH. These notices have no binding force; their sole function is to provide substance to the provisions of the law that are applied by the GVH, whilst also providing summaries of the well-established past practice and outlining the practice that is to be followed when applying legal provisions in the future. The Notices draw on the experience gained from past decisions; however, independently from concrete cases, these also reflect the understanding of the GVH and, as guidelines, provide information about the potential law enforcement approaches.

All notices issued are available on the [website](#) of the GVH.

d) Investigative Process

- i. *Participants will inform any Person that is the subject of an Investigation as soon as practical and legally permissible of that Investigation, according to the status and specific needs (e.g.,*

forensic considerations) of the Investigation. This information will include the legal basis for the Investigation and the conduct or action under Investigation.

- ii. Participants will provide any Person that has been informed that it is the subject of an Investigation, or that has notified a merger or other transaction or conduct, with reasonable opportunities for meaningful and timely engagement on significant and relevant factual, legal, economic, and procedural issues, according to the status and specific needs of the Investigation.*
- iii. Participants will focus investigative requests on information that they deem may be relevant to the competition issues under review as part of the Investigation. Participants will provide reasonable time for Persons to respond to requests during Investigations, considering the needs to conduct informed Investigations and avoid unnecessary delay.*

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| <ul style="list-style-type: none">i. Pursuant to Article 67 of the Competition Act, competition supervision proceedings shall commence ex officio on the day on which the injunction on the initiation of the investigation is issued. The case handler shall issue an injunction initiating an investigation upon the observation of a conduct 1/ falling within the competence of the GVH 2/ that is likely to constitute an infringement, 3/ if the protection of the public interest necessitates the conducting of a competition supervision proceeding. According to the Code of General Administrative Procedure, the ex officio procedure shall commence on the day of conducting the first formal investigative measure; the authority shall notify the known party of such commencement. The notification shall include a) the subject matter of the case, including the circumstances which served as the underlying reasons for the commencement of the procedure, the case number, the date of commencement of the procedure and the administrative time limit, the periods not to be included in the administrative time limit, the name of the case administrator and his/her contact information at the authority, and b) information on the rights and obligations of parties [Section 104 (3-4) Code of General Administrative Procedure]. If the competition supervision proceeding is initiated simultaneously with the commencement of an unannounced inspection, the injunction ordering the investigation shall be serviced at the scene to the party present, including the party's employee present, and shall be serviced to other parties also by telephone or fax. The person affected, including the party's employee present and the affected person's family member of legal age, shall be informed verbally about the unannounced inspection at the time of the beginning of the search, and the court order authorising the unannounced inspection as well as the purpose of the investigative measure shall be communicated to the person affected before the investigative measure is initiated. If during the unannounced inspection it is impossible to inspect electronically stored data on-site without interfering with the normal course of activities of the person affected for a disproportionate length of time, or otherwise if the person affected agrees, the case handler shall make a copy of the data and documents found on the data storage devices (forensic copy) [Articles 65/A-65/B Competition Act].ii. In relation to the clarification of the facts of the case, upon the summons of the case handler (or the competition council proceeding in the case), the parties – including third parties – shall be obliged to supply information, disclose data and/or submit document(s) that are necessary for the clarification the facts of the case and for the successful completion of the proceeding, including personal data and – unless |
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- precluded by the act of law governing the protection of the data concerned – privileged information as well [Articles 64/A-64/B Competition Act].
- iii. According to the Competition Act, any evidence that is suitable for the clarification of the facts of the case may be used in competition supervision proceedings. The case handler and the competition council proceeding in the case shall choose the mode of proof at their discretion and assess the available evidence by free deliberation. With the exception of the data necessary for the identification of the party, a party shall not be invited to submit data that are public or which must be included in a public register established by law. Parties shall not be obliged to make statements admitting an infringement of the law; they must, however, not refuse to supply incriminating evidence, data or documents of any other kind [Articles 64/A-64/B Competition Act].

e) Timing of Investigations and Enforcement Proceedings

Each Participant will endeavour to conclude its Investigations and aspects of Enforcement Proceedings under its control within a reasonable time period, taking into account the nature and complexity of the case.

The Competition Act specifies the time limits applicable for the different types of procedures (abuse of dominance/anticompetitive agreements, concentrations), which may be extended where justified. Additionally, the GVH shall seek to conclude the investigations within a reasonable period of time given the nature of the case in question.

f) Confidentiality

- i. *Each Participant will have publicly available rules, policies, or guidance regarding the identification and treatment of confidential information.*
- ii. *Each Participant will protect from unlawful disclosure all confidential information obtained or used by the Participant during Investigations and Enforcement Proceedings.*
- iii. *Each Participant will take into consideration both the interests of the Persons concerned and of the public in fair, effective, and transparent enforcement regarding the disclosure of confidential information during an Enforcement Proceeding.*

- i. As a general rule the Competition Act, together with the Code of General Administrative Procedure, regulates data management in the course of competition supervision proceedings. Nevertheless, it should be noted that there are several related regulations, such as the Civil Code and the Protection of Business Secrets Act, which contain provisions on the protection of trade or business secrets. Furthermore, the GVH published a communication on the requirements that must be met when submitting a request for data to be treated as a business or private secret and when providing a version of the document that does not contain the concerned business or private secret. The applicable regulations allow the GVH to develop a classification framework and to define various types of data.
- ii. On the basis of the applicable rules, the GVH is entitled to both access and manage business secrets, personal identification data and any further personal data of the parties and other participants of the competition supervision proceeding that has been proven necessary for the clarification of the facts of the case. As a general

- rule, the GVH – except for the case of classified information and information under LPP – is authorised by law to have access to all restricted access data that is necessary in order to conduct a given proceeding. If non-relevant information cannot be separated, the GVH is allowed to treat the totality of the data according to related statutory provisions. The use of data in another procedure is also possible taking into account the related provisions. Upon a reasoned request of the party or any other participants to the proceeding, the GVH can order the confidential treatment of personal identification data, including home address, if those submitting the request prove presumptively that they are likely to suffer significant adverse consequences as a result of their participation in the competition supervision proceeding.
- iii. Except for the disclosure prescribed by legislative acts, the GVH is obliged to retain non-public data and restricted access data obtained in connection with its activities and by discharging its obligations. This data cannot be published and disclosed to a third party not even after the conclusion of the procedure. The Competition Act specifies the scope of restricted access data, such as professionally acquired secrets or qualified as other types of secrets by separate acts of law (privileged information), as well as personal data and other information to which access is restricted by virtue of the Competition Act in the course of access to file.

g) Conflicts of Interest

Officials, including decision makers, of the Participants will be objective and impartial and will not have material personal or financial conflicts of interest in the Investigations and Enforcement Proceedings in which they participate or oversee. Each Participant is encouraged to have rules, policies, or guidelines regarding the identification and prevention or handling of such conflicts.

Objectivity and impartiality, including conflict of interest are regulated under the Competition Act, as follows.

The President and Vice-Presidents of the GVH, the members of the Competition Council, the Secretary General and the case handlers shall not enter into any legal relationship other than legal relationships relating to scientific, educational, artistic, copy editing, editorial activities, legal relationships relating to intellectual activities protected by copyright, voluntary work in the public interest and foster family employment (conflict of interest) [Article 40 (1) Competition Act].

The powers relating to the verification of compliance with the requirements of appointment, calling for presentation of proof of the fulfilment of the requirements of appointment, the reporting of reasons giving rise to conflicts of interest and the elimination of conflicts of interest are exercised by the Prime Minister as regards to the President, and by the President as regards to the Vice-Presidents and the members of the Competition Council [Article 41 (1) Competition Act].

Persons who cannot be expected to form an objective opinion of the case may not participate in the handling of the case. In particular, those persons may not participate in the handling of the case (a) whose rights or legitimate interests are directly affected by the case; (b) who have made a witness statement in the case or who have been ordered to be interviewed as a witness; (c) who have acted as an expert in the case or who have been ordered to be interviewed as an expert; (d) who have acted as an official witness in the

case, are the holders of the subject matter of an inspection or are advocates. The following persons shall not participate in the handling of a particular case:

- (a) representatives of persons excluded from the handling of the case, and
- (b) relatives as defined in the Civil Code and former spouses of persons excluded from the handling of the case. [Article 49 Competition Act]

Case handlers and members of the competition council proceeding in the case shall, forthwith after becoming aware of a reason for exclusion, notify the President of the GVH and the Chair of the Competition Council, respectively, if any of the above reasons for their exclusion from the proceeding exists. Case handlers and members of the competition council proceeding in the case shall be subject to disciplinary action and financially liable for failure to make such a notification or for any delay in making such a notification. Reasons for exclusion may also be notified by a party; however, in the course of the proceeding of the Competition Council the party may only rely on such reasons if he or she immediately proves presumptively that he or she acquired knowledge of the fact justifying such notification at the time in question [Article 50 (1) Competition Act].

h) Notice and Opportunity to Defend

- i. Each Participant will provide Persons subject to an Enforcement Proceeding timely notice of the alleged violations or claims against them, if not otherwise notified by another governmental entity. To allow for the preparation of an adequate defense, parties should be informed of facts and relevant legal and economic reasoning relied upon by the Participant to support such allegations or claims.*
- ii. Each Participant will provide Persons subject to a contested Enforcement Proceeding with reasonable and timely access to the information related to the matter in the Participant's possession that is necessary to prepare an adequate defense, in accordance with the requirements of applicable administrative, civil, or criminal procedures and subject to applicable legal exceptions.*
- iii. Each Participant will provide Persons subject to an Administrative Proceeding with reasonable opportunities to defend, including the opportunity to be heard and to present, respond to, and challenge evidence.*

- i. The parties are informed about the subject matter of the case in many phases of the investigations, specifically.

Commencement of the case. The notification on the commencement of the proceeding shall include a) the subject matter of the case, including the circumstances which served as the underlying reasons for the commencement of the procedure, the case number, the date of commencement of the procedure and the administrative time limit, the periods not to be included in the administrative time limit, the name of the case administrator and his/her contact information at the authority, and b) the information on the rights and obligations of parties [Section 104 (3-4) Code of General Administrative Procedure].

Report of the case handler. If the competition council proceeding in the case deems it necessary with a view to the successful completion of the proceeding, it may send the report of the case handler to the party for comments or to solicit a statement and set a time limit therefor [Article 73 (3) Competition Act].

Statement of objection. The competition council proceeding in the case sends to the party its preliminary position about the case, which contains the facts of the case as established,

the evidence in support thereof, the assessment of the facts, and the description of the substance of the considerations and conclusions used to arrive at the decision and the description of the considerations intended to be taken into account for the purpose of the imposition of a fine where relevant. The party may make statements or comments in response to the preliminary position within the time limit set by the competition council proceeding in the case [Article 73 (1) Competition Act].

- ii. According to the Competition Act, parties have the right to access documents generated in the course of the proceeding; they may make copies, or for a fee may have copies or certified copies made, all of which may then be used in the case in question. Persons entitled to access to the file may exercise such right of access to the files of the competition supervision proceeding only after the completion of the investigation, once the preliminary position of the competition council proceeding in the case or, if it has already been delivered, the report completing the investigation, is delivered to the parties, with the proviso that parties entitled to access the documents may have access before such time to documents the knowledge of which is essential to the exercise of their right to a legal remedy against an injunction adopted during the proceeding against which a separate legal remedy may be sought. Upon the party's request, the competition council proceeding in the case may authorise access to specific documents before the delivery to parties of the report completing the investigation or of the preliminary position if this does not jeopardise the effectiveness of the proceeding. As of October 2017, the GVH – due to opening a Virtual Data Room – provides electronic access to files through an online access opportunity and interface for those clients that have been approved as access-entitled users in relation to individual cases of the GVH or to the persons authorised by the clients (for example legal representatives or counsel). The login users will be identified through the system of the Client Site. The persons mentioned above in connection with the respective documents will be entitled
- to view and download a copy with a watermark and to print the documents generated in their cases and the connecting files;
 - to search in the individual documents and in the files;
 - to subscribe to the e-mail alerts related to the process of access to the file;
 - to view the various system messages;
 - to order a simple copy or a certified copy of particular documents and files;
 - to schedule an appointment for access to the file, in the event that due a technical reason (for example a file size that is too big or an improper file format) a document is inaccessible and
 - to mark the documents with markers only visible by the client group.

The practice shows that the Virtual Data Room system further strengthens the client friendly nature of the GVH's activities.

Aside from this, the GVH published a [communication on the right to access to files](#) (available only in Hungarian).

- iii. According to the Code of General Administrative Procedure, the GVH ensures that the parties subject to the proceeding and other participants in the proceeding are aware of their rights and obligations and shall promote the exercise of parties' rights,

including the right of defence and the right to due process. On the summons of the case handler or the competition council proceeding in the case, the parties shall be obliged to disclose the data necessary for the clarification of the facts of the case and for the successful completion of the proceeding, however, parties shall not be obliged to make statements admitting an infringement of the law; they must, however, not refuse to supply incriminating evidence, data or documents of any other kind. The party may make statements or comments in response to the preliminary position of the Competition Council within the time limit set by the competition council proceeding in the case. Furthermore, a party may make an objection to any irregularities in the investigation proceeding, within eight days of the adoption of the alleged irregular measure.

i) Representation by Counsel and Privilege

- i. No Participant will deny, without due cause, the request of a Person to be represented by qualified legal counsel of its choosing.*
- ii. Each Participant will provide a Person a reasonable opportunity to present views regarding substantive and procedural issues via counsel in accordance with applicable law. Notwithstanding the foregoing, Persons may be required to provide direct evidence.*
- iii. Each Participant will recognize applicable privileges in accordance with legal norms in its jurisdiction governing legal privileges, including privileges for lawful confidential communications between Persons and their legal counsel relating to the solicitation or rendering of legal advice. Each Participant is encouraged to have rules, policies, or guidelines on the treatment of privileged information.*

i.-ii. The Code of General Administrative Procedure defines the general rules of representation, according to which, the representative of the party may proceed in his/her stead, where the party is not required to proceed in person. See the relevant provisions below:

Code of General Administrative Procedure - Section 13 [General rules of representation]
(1) Where the party is not required by an Act to proceed in person, a) his/her statutory representative or the person authorised by him/her or by his/her statutory representative may proceed in his/her stead, or b) the party and his/her representative may proceed jointly.

The party can make statements or present views in any phase of the proceeding. Additionally, the Competition Act explicitly states that the party may make statements or comments in response to the preliminary position within the time limit set by the competition council proceeding in the case.

With regard to certain investigative measures, the party may make an objection to any irregularities in the investigation proceeding, within eight days of the adoption of the alleged irregular measure. The case handler or the competition council proceeding in the case shall explain the reasons for disregarding the objection in the report or in its resolution concluding the proceeding, respectively [Article 81 Competition Act].

The party is obliged to cooperate in the establishment of the facts of the case. In this context, the party shall not be obliged to make statements admitting an infringement of the

law; it must, however, not refuse to supply incriminating evidence, data or documents of any other kind [Article 64/B (3) Competition Act].

- iii. In principle, any document prepared for the purpose of defence shall not be used as evidence in competition supervision proceedings.¹ If, in the context of a search copy, there is a possibility that the copy may contain any document prepared for the purpose of defence, the search copy containing the document shall be deposited in a sealed container which prevents access to the data and their subsequent manipulation and which is signed by the person concerned and the case handler in a manner which prevents the container from being opened without the seal being damaged. The party affected shall be invited to make a statement about whether any of the documents taken into physical possession should be qualified as a document prepared for the purpose of defence, and to clearly indicate the document or part of document affected. If according to the statement of the party the documents include documents prepared for the purpose of defence, such documents shall be separated in the presence of the party affected. In the case of search copies this shall be carried out by using a copy enabling the separation of data (hereinafter referred to as 'interim working copy'), and an investigation working copy not containing the document prepared for the purpose of defence shall be made of the interim working copy and subsequently the interim working copy shall be destroyed without delay by the physical destruction of the data storage devices containing the copy or by the erasure of the data using a procedure rendering the data irrecoverable.

In 2019, the GVH published an [informative notice on unannounced inspections](#) carried out by the GVH, which provides information – among others – on the treatment of privileged information (available only in Hungarian).

j) Decisions in Writing

- i. *Each Participant in charge of issuing decisions or orders will issue in writing its final decisions or orders in which it finds a violation of, or imposes a prohibition, remedy, or sanction under applicable Competition Laws. Such final decisions or orders will set out the findings of fact and conclusions of law on which they are based, as well as describe any remedies or sanctions. Each Participant will ensure that all final decisions are publicly available, subject to confidentiality rules and applicable legal exceptions.*
- ii. *Each Participant will ensure that all commitments it accepts to resolve competition concerns are in writing. Subject to confidentiality rules and applicable legal exceptions, each Participant will (i) make public the commitments it accepts, and (1) describe the basis for the competition concerns or (2) reference public materials in which those concerns are*

¹ Pursuant to Article 65/C (2) of the Competition Act 'a document prepared for the purpose of defence shall mean a document or a part thereof that was created in the course of communications between the person acting as a lawyer and the party as the client of the former, for the purposes or in the framework of the exercise of the rights of defence in the proceeding of any public authority, or that is a record of the contents of such communications, provided that such character of the document is apparent from the document itself. A document not in the possession of the party or the person acting as a lawyer concerned shall not qualify as a document prepared for the purpose of defence unless such party or lawyer is able to prove that the document was removed from their possession illegally or in the course of criminal proceedings.'

expressed, or (ii) provide a summary explanation of the commitments and the reasons for them.

Competition supervision proceedings shall comprise the phases of the investigation and the proceeding of the Competition Council. As a general rule, the GVH communicates with parties and participants involved in competition proceedings in writing. The investigation phase ends when the case handler's report is submitted to the Competition Council. The report contains (a) the subject matter of the investigation; (b) the established facts of the case and the supporting evidence; and (c) the proposal of the case handler relating to the further course of the proceeding and the ordering of interim measures where necessary [Articles 47, 53/A, 71 Competition Act].

If the competition council proceeding in the case deems it necessary with a view to the successful completion of the proceeding, it may send the report of the case handler to the party for comments or to solicit a statement and set a time limit therefor, and it shall then formulate its preliminary position and send it to the party [Article 73 (3) Competition Act].

If, based on the report completing the investigation, it cannot be established that the conduct does not constitute an infringement, the competition council proceeding in the case shall send to the party its preliminary position about the case, which shall contain the facts of the case as established, the evidence in support thereof, the assessment of the facts, and the description of the substance of the considerations and conclusions used to arrive at the decision and the description of the considerations intended to be taken into account for the purpose of the imposition of a fine where relevant. The party may make statements or comments in response to the preliminary position within the time limit set by the competition council proceeding in the case [Article 73 (1) Competition Act].

The final decision – in line with the preliminary position – contains the facts of the case as established, the evidence in support thereof, the assessment of the facts, and the description of the substance of the considerations and conclusions used to arrive at the decision and the description of the considerations taken into account for the purpose of the imposition of a fine where relevant.

The GVH shall, after rendering restricted access data unrecognisable, publish on its website the definitive decision [Article 80 Competition Act].

ii. With regard to commitments, the Competition Act contains the following provisions:

Article 75 (1): Where, regarding a conduct investigated in a competition supervision proceeding initiated pursuant to Article 67 2), the party offers commitments to bring its conduct in a specified way in line with the applicable legal provisions and if the efficient protection of the public interest can be ensured in this manner, the competition council proceeding in the case may, in its decision, oblige the party to abide by such commitments without establishing the existence or the absence of an infringement in such decision. If the party has in the meantime ceased the conduct investigated, a commitment may be undertaken to comply with transparent and verifiable rules of conduct which assure that such conduct is not repeated.

Article 75/A (1): The competition council proceeding in the case [...] (b) before adopting a decision making the commitments pursuant to Article 75 obligatory may, where it deems it necessary, **initiate consultations with stakeholders by way of posting, simultaneously with sending the preliminary position to the parties, on the website of the Hungarian Competition Authority the condition or obligation which it plans to adopt, and/or the commitments with restricted access data removed, together with an invitation requesting the stakeholders to submit their comments, with a view to obtaining their**

views in particular those of undertakings operating in the relevant market and of other persons affected by the case. (2) Within twenty days from the date of publication of the invitation pursuant to paragraph (1), any person may present his/her views, recommendations or comments concerning the envisaged decision in writing to the Hungarian Competition Authority.

As a general rule, the final commitment decision contains the facts of the case as established, the evidence in support thereof, the assessment of the facts, and the description of the considerations to be taken into account for the acceptance of the commitments.

k) Independent Review

No Participant will impose on a Person a prohibition, remedy, or sanction in a contested Enforcement Proceeding for violation of applicable Competition Laws unless there is an opportunity for the Person to seek review by an independent, impartial adjudicative body (e.g. court, tribunal, or appellate body).

As for the review of competition cases, an administrative system of judicial review exists in Hungary. As of 1 January 2018, there are two instances of court review for competition cases, the first instance court is the Regional Court of Budapest, which possesses exclusive competence in competition law matters, while the second instance court is the Hungarian Supreme Court (also known as *Curia*), which is the presiding appellate court.

The Hungarian administrative review courts carry out a full review in competition cases. This review takes the form of a comprehensive assessment of both the findings of fact and conclusions of law.

Both on the merits and procedural decisions of the Competition Council may be challenged before administrative courts. On the merits decisions can be challenged within 30 days of the decision being received. The undertakings must file their action electronically and must have legal representation throughout the administrative review process. The GVH is the recipient of the action and is responsible for submitting the action with the administrative files of the case, along with its document of defence, to the Regional Court of Budapest. In antitrust cases, the GVH must forward the abovementioned documents within 30 days.

The Competition Act expressly details which procedural decisions of the Competition Council may be subject to administrative review. These procedural decisions may be challenged within 8 or 15 days upon the decision being received. The decision must communicate the availability of court review proceedings and the time limit upon which an action may be brought. Such procedural decisions are, for example, the imposition of an administrative penalty, the qualification of information as a business secret or the termination of such protection, and the termination of competition supervision proceedings.