[HU] “Must Offer” Obligation Imposed by the Competition Council

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In a decision issued on 28 August 2006 the Hungarian Competition Council (*Versenytanács*) authorised a merger involving Chellomedia Programming B.V. and Sport1 TV Műsorszolgáltató Zrt. The authorisation is subject to a “must offer” obligation.

Chellomedia Programming B. V. is an undertaking linked to Liberty Global Inc. and its affiliates provide, *inter alia,* cable programme distribution services for approximately 30.5 million households in 19 countries. There are two affiliates of Liberty Global present in the Hungarian media market:

UPC Magyarország Kft., the largest cable television company with 731,000 subscribers, and Monor Telefon Társaság Rt., distributor of the digital satellite DTH service called “UPC Direct”, available to approximately 150,000 Hungarian households.

With these two companies Liberty Global has a 35% share of the Hungarian cable and satellite programme distribution market. Liberty Global is also present in the Hungarian media market as a television programme service provider via its thematic channels such as Reality TV and Romantica Channel.

Sport1 TV Zrt. is the provider of two thematic channels (Sport1, Sport2). According to the findings of the competition authority the Sport1 TV Zrt. has an approximately 70% share in the market of thematic sports channels available in the Hungarian language.

In April 2006 Chellomedia acquired control over Sport1 TV. However, under the rules of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (Competition Act) the transaction was subject to authorisation by the Competition Council.

In its related enquiry the competition authority found that the merger created a vertically integrated structure in the Hungarian media market. As a consequence of this integration Sport1 TV Zrt. might be uninterested in granting access to its programmes for enterprises who are competitors of the Liberty-affiliate UPC in the Hungarian market. Since there are a number of new broadcast distribution services, (i.e. IPTV) expected to be introduced into the Hungarian market in the

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foreseeable future such a restrictive policy might have negative effects in terms of competition.

As a response to this concern Chellomedia B.V. agreed to grant access to the channels of Sport1 TV to third party broadcast distributors on a non-discriminatory basis until 2010. Under this condition the Competition Council authorised the merger of Chellomedia B.V. and Sport1 Zrt. in its concluding decision.

The decision of the Competition Council is a landmark in the development of Hungarian media regulation, since this is the first legal instrument of Hungarian law that imposed a “must offer“ obligation on a broadcaster.

A Gazdasági Versenyhivatal Versenytanácsának határozata a Chellomedia Programing B.V. kérelmezőnek összefonódás engedélyezése iránti kérelmére indult eljárásban

http://www.gvh.hu/gvh/alpha?do=2&st=2&pg=113&m5_doc=4123&m5_lang=hu

Decision of the Competition Council of the Hungarian Competition Authority (Gazdasági Versenyhivatal - GVH) Vj-61/2006: Acquisition of Sport1 TV Műsorszolgáltató Zrt. by Chellomedia Programming B.V.

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