

## A REVIEW OF THE FIRST SIX MONTHS OF THE REVISED HUNGARIAN MERGER CONTROL REGIME

Amendments to the Hungarian Competition Act from earlier this year concerned rules relating to merger control thresholds as well as to conducting of merger control reviews.

### 1. INCREASED MANDATORY FILING THRESHOLD

*What changed?* Under the revised thresholds, the merger of undertakings must be notified to the Hungarian Competition Authority ("NCA"), if in the previous financial year:

- the combined net turnover of all groups of undertakings concerned exceeded HUF 15 billion (approx. EUR 48 million); and
- among the groups of undertakings concerned there are at least two the net turnover of which exceeded HUF 1 billion (approx. EUR 3,2 million).

*The result?* The second prong of the twofold threshold test in Hungary was doubled and the expectation was that it would result in a 10 to 15% drop in notifications. Indeed, the first six months of the revised filing test fulfilled these expectations, with no substantial increase in the number of merger cases in front of the NCA despite the upheaval of the M&A market in general.

### 2. THE SOFT THRESHOLD INTRODUCED

*What changed?* Under a completely new rule, a merger also became notifiable in Hungary, if:

- the combined net turnover of all groups of undertakings concerned exceeded HUF 5 billion (approx. EUR 16 million) in the previous financial year; and
- it is not clear whether the merger will significantly impede effective competition on the relevant market or not.

*The result?* Although the market shares held by the undertakings concerned and the structure of the relevant market(s) are primarily indicative to judge how and when this soft threshold will trigger a merger filing requirement in Hungary, the expectation was that the upcoming practice of the Hungarian NCA would further fine-tune the relevant conditions. The tsunami of merger cases under this soft threshold which could give a better indication of the NCA's preferred approach has not arrived, yet. However, it is clear that the new soft threshold will be particularly relevant for the information and new technology sectors when leading market players are acquiring innovative start-up businesses.

### 3. UPDATES TO MERGER CONTROL PROCEEDINGS

*What changed?* Among the novelties on the procedural front, there are some changes to the soft threshold:

- there is no stand-still obligation with respect to the soft threshold and hence the NCA is formally not authorized to impose fines on the merging undertakings for gun-jumping; and
- mergers caught by the soft threshold may be brought under a merger control review only if the NCA has commenced its proceedings within six months after the implementation of the transaction.

Furthermore, all mergers in general were made subjected to dawn raids in case the NCA suspect that the undertakings concerned has:

- breached the standstill obligation; or
- withheld information from the NCA or provided misleading information during the merger control procedure.

*The result?* As a result, the NCA's investigatory powers were brought on par with those of the European Commission. None of these rules have been put to the test yet.

The introduction of summary review proceedings, however, which allow an 8-day clearance of filings raising no competition concerns proved to be very successful; already making up some 50% of all merger case in the first half of 2017.

About WOLF THEISS

Wolf Theiss is one of the leading law firms in Central, Eastern and Southeastern Europe (CEE/SEE). We have built our reputation on a combination of unrivalled local knowledge and strong international capability. We opened our first office in Vienna almost 60 years ago. Our team now brings together over 340 lawyers from a diverse range of backgrounds, working in offices in 13 countries throughout the CEE/SEE region.

For more information about our services, please contact:



**János Tóth**  
Partner  
[janos.toth@wolftheiss.com](mailto:janos.toth@wolftheiss.com)  
T: +36 1 4848 800



**Zoltán Bánki**  
Associate  
[zoltan.banki@wolftheiss.com](mailto:zoltan.banki@wolftheiss.com)  
T: +36 1 4848 800

This memorandum has been prepared solely for the purpose of general information and is not a substitute for legal advice.

Therefore, WOLF THEISS accepts no responsibility if – in reliance on the information contained in this memorandum – you act, or fail to act, in any particular way.

If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with your usual WOLF THEISS contact or with:

Wolf Theiss  
Schubertring 6  
AT – 1010 Vienna  
[www.wolftheiss.com](http://www.wolftheiss.com)