

A HAPPY NEW YEAR WITH THE AMENDMENTS TO THE HUNGARIAN COMPETITION ACT?

The end of October brought new amendments to the Hungarian Competition Act. Most changes focus on administrative and procedural issues which are less relevant for businesses. Some of the amendments, however, directly affect the day-to-day operation of businesses in Hungary. They take effect as of 1 January 2018.

1. AGREEMENTS OF MINOR IMPORTANCE

As of next January the Hungarian approach to agreements of minor importance will be closely aligned with the practice of the European Commission. Accordingly, the new rules will distinguish between restrictive agreements concluded between competitors (including both actual and potential competitors), and agreements between non-competitors. The threshold for agreements between competitors will remain at 10% aggregate market share of the parties on any of the relevant markets. However, as regards agreements between non-competitors, the threshold will increase to 15% market share by each of the parties concerned.

2. RESCUE ACQUISITIONS WITHIN THE FINANCE SECTOR

In accordance with EU law and practice, Hungarian merger control rules currently allow entities active in the finance sector to acquire temporary control over companies without a merger control notification requirement for a period of up to one year to prepare such entities for resale. This one year period is extendable under Hungarian law by one year upon the reasoned request of the buyer. From next January such a prolongation option will no longer be available and the acquisition will need to be notified not later than the fifteenth day following the expiry of the original one year period. A failure to comply with this requirement will expose the buyer to procedural fines.

3. STRENGTHENING THE REGULATORY FRAMEWORK TO DETER BUSINESSES FROM THE PROVISION OF MISLEADING INFORMATION

The Hungarian National Competition Authority (GVH) has repeatedly found notifying parties in breach of their obligation to provide accurate information in their local merger control filings. In order to ensure that the GVH can efficiently carry out the merger control analysis, the amendment introduces new procedural tools for the GVH to deter such breaches. Any suspicion by the GVH of having been provided with incorrect or misleading information with a likely impact on the outcome of the merger case will entitle the GVH to carry out unannounced site inspections at business and/or private premises; the finding of any infringement will allow the GVH to impose procedural fines of up to 10% of the aggregate annual group turnover (ten times higher than what is currently available under the Hungarian and relevant EU rules).

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

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