

2015 **Annual Activity Report**

*OECD-GVH Regional Centre for
Competition in Budapest
(Hungary)*

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Annual Activity Report, 2015

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I. Introduction and organisational setup

The OECD-GVH Regional Centre for Competition in Budapest (Hungary) (“RCC”) was established by the Gazdasági Versenyhivatal (GVH, Hungarian Competition Authority) and the Organisation for Economic Co-operation and Development (OECD) on 16 February 2005 when a Memorandum of Understanding was signed by the parties.



The main objective of the RCC is to foster the development of competition policy, competition law and competition culture in the South-East, East and Central European regions and to thereby contribute to economic growth and prosperity in the involved regions.

The RCC provides capacity building assistance and policy advice through workshops, seminars and training programmes on competition law and policy for officials in competition enforcement agencies and other parts of government, sector regulators, and judges. The RCC also works to strengthen competition law and policy in Hungary and in the GVH itself.

The RCC’s work **focuses on four main target groups**. The **first group of beneficiaries** are the competition authorities of South-East Europe and the majority of the CIS countries, namely Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, FYR of Macedonia, Moldova, Montenegro, Romania, the Russian Federation, Serbia and Ukraine. The work targeting these economies is regarded as the core activity of the RCC. These economies have all progressed with the development of their competition

laws and policies, but are at different stages in this process. As a consequence, the needs for capacity building differ among the involved non-OECD member economies and this necessitates a broad approach to competition outreach work. Major capacity building needs in these regions include (a) enhancing analytical skills in competition law enforcement, (b) raising the awareness of the judiciary regard-

ing the specific characteristics of competition law adjudication, (c) pro-competitive reform in infrastructure sectors, (d) competition advocacy, (e) relations between competition authorities and sector regulatory agencies, (f) legal and institutional reform in the area of competition, and (g) building international co-operation and networking.

Judges represent the **second target group** of the RCC’s activities. The judges seminars provide judges with an opportunity to improve their understanding of competition law and economics, to exchange views on the latest developments in EU competition law, and to discuss the key challenges arising in competition law cases.

The **third group of beneficiaries** of the work of the RCC are the competition authorities which belong to the Central European Competition Initiative (CECI). This Initiative aims to provide a forum for co-operation on competition matters and was established by the Central European competition authorities in 2003. It is a network of agencies and operates via workshops and informal meetings. Involved are the competition authorities of Austria, the Czech Repub-

lic, Poland, Slovakia, Slovenia and Hungary. These countries all belong to the same geographic region, share fundamentally similar cultural traditions and historical experiences and are, more or less, at the same stage of development. As a result, their competition authorities face several common challenges and difficulties. Moreover, from time to time these authorities deal with markets which are regional, overlapping or which are connected to each other, and they may also on occasion deal with the same parties (the same companies within the region).

The **fourth beneficiary of the RCC's work** is the GVH itself. The agendas of the RCC workshops that are organised for the staff of the GVH are related to ongoing projects or "hot" topics and provide an excellent opportunity for staff to learn about state-of-the-art antitrust theory and enforcement practices.

Concerning the functioning of the RCC, the Memorandum of Understanding of the RCC provides that the GVH and the OECD are to make major decisions on their activities and work jointly. For this purpose, the parties meet on an annual basis to review the operation and performance of the RCC and to prepare the annual work plan.

Regarding the financing of the RCC, the GVH is responsible for providing most of the necessary funding for the functioning of the RCC, including an annual voluntary contribution to the OECD for the costs associated with the staff position in Paris. The OECD helps to co-finance the RCC's operation and activities. In addition to this, both the GVH and the OECD co-operate in efforts to raise additional financial support for the RCC from third parties.

II. Overview of the activities for the year 2015

The RCC organised nine events in 2015. Seminars focused on some important core competences of competition authorities as well as on best practices in the area of competition law. In addition to its regular

seminars, the RCC continued with its special initiatives: a seminar organised in one of the beneficiary economies, and a seminar organised jointly with the FAS Russia.



Seminar on Remedies and Commitments in Competition Cases

17-19 March 2015

table no 1

Total number of speakers per country or institution

SPEAKERS		
COUNTRY OR INSTITUTION	NUMBER	PERSON-DAYS
Belgium	8	22
EU Commission	6	13
Denmark	1	3
Germany	6	13
Greece	1	3
Israel	1	3
Italy	1	3
Korea	3	3
Luxembourg	2	4
The Netherlands	2	5
Poland	1	2
Portugal	1	3
Romania	1	3
Russian Federation	2	6
Sweden	1	3
United Kingdom	1	3
United States	2	6
GVH	14	30
OECD	12	30
AGGREGATE	66	158

Altogether, over the course of the year, the RCC invited 303 participants and 66 speakers to its events. Through the RCC's core events it delivered 141 person-days of capacity building.¹ All in all, participants from 34 economies or institutions attended the RCC's programmes, coming from Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Georgia, Germany, Greece, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Lithuania,

FYR of Macedonia, Moldova, Montenegro, Poland, Portugal, Romania, Russian Federation, Serbia, Slovenia, Tajikistan, Ukraine, the United Kingdom and the GVH. Meanwhile, experts from 19 countries and institutions attended as panel members: Belgium, EU Commission, Denmark, Germany, Greece, Israel, Italy, Korea, Luxembourg, the Netherlands, Poland, Portugal, Romania, Russian Federation, Sweden, United Kingdom, United States, the GVH and the OECD.

¹ Person-days are defined as the number of days a person attended a RCC seminar. Thus, if 10 people attended a course for 5 days and 4 people attended a course for 3 days the number of person days delivered is 62 ($10 \times 5 + 4 \times 3 = 62$).

III. Detailed review of the activities in the year 2015

Table N°2 provides a brief overview of the topics of the seminars held in 2015 as well as the participating economies and institutions.

table no 2
Summary of activities in 2015

EVENT TOPIC	DATE	TOTAL NUMBER OF PARTICIPANTS AND SPEAKERS	ATTENDING ECONOMIES/INSTITUTIONS
Seminar on European Competition Law for National Judges: Competition Economics for Judges	19-21 February	26 + 7	Participants: Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, FYR of Macedonia, Poland, Portugal, Romania, Slovenia Speakers: Belgium, EU Commission, Germany, GVH, OECD, United Kingdom
Seminar on Remedies and Commitments in Competition Cases	17-19 March	30 + 6	Participants: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kosovo, Kyrgyzstan, FYR of Macedonia, Moldova, Romania, Russian Federation, Serbia Speakers: Belgium, EU Commission, GVH, OECD, United States
GVH Training Seminar	16-17 April	82 + 12	Participants: GVH Speakers: Belgium, EU Commission, Germany, OECD, Luxembourg, the Netherlands, Poland
Meeting of the Heads of Agencies & 10th Anniversary of the OECD-GVH RCC	20 May	19 + 14	Participants: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, FYR of Macedonia, Moldova, Romania, Russian Federation, Serbia, Ukraine Speakers: EU Commission, Germany, OECD, GVH, Korea
RCC – FAS Russia Joint Seminar: The OECD Competition Assessment Toolkit	2-4 June	19 + 7	Participants: Armenia, Azerbaijan, Belarus, Kyrgyzstan, Moldova, Russian Federation, Tajikistan Speakers: Greece, GVH, OECD, Romania, Russian Federation
Seminar on Evidence in Cartel Cases	22-24 September	36 + 5	Participants: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kyrgyzstan, FYR of Macedonia, Moldova, Romania, Russian Federation, Serbia Speakers: GVH, Israel, Italy, the Netherlands, OECD

Seminar on Updates in Competition Economics	20-22 October	32+5	Participants: Albania, Armenia, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, FYR of Macedonia, Moldova, Montenegro, Romania, Russian Federation, Serbia <i>Speakers: Belgium, Denmark, GVH, OECD, Sweden</i>
Seminar on European Competition Law for National Judges: Trends in case law and policy, and their impact on cases before national courts	19-21 November	25 + 5	Participants: Belgium, Bulgaria, Croatia, Estonia, Finland, Greece, Latvia, Lithuania, Poland, Portugal, Romania, Serbia, Slovenia, United Kingdom
Seminar on Updates on Issues In The Information Communications And Technology Sector	8-10 December	34 + 5	Participants: Albania, Armenia, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, FYR of Macedonia, Moldova, Montenegro, Romania, Russian Federation, Serbia, Ukraine <i>Speakers: EU Commission, GVH, OECD, Portugal, United States</i>

1. Standard programmes in the framework of the core activity

a) 17–19 March, Seminar on Remedies and Commitments in Competition Cases

A proportionate answer for many competition problems is not a prohibition decision but often a decision imposing remedies or commitments in order to resolve the competition issues and to allow for an otherwise economically efficient behaviour to proceed. Merger remedies as well as commitments in abuse of dominance cases were discussed in presentations given by experts from OECD member countries and in case studies from the participants. Model texts for commitments and the use of trustees were introduced. The seminar was attended by 30 competition law enforcers from 15 SEE and CIS countries. The participants engaged in hypothetical exercises to practise and apply some basic principles in remedy design and negotiation.

Sabine Zigeliski (OECD) gave the introductory presentation. By going through the various types of remedies, their timing and the additional obligations on parties she introduced basic concepts and the often confusing terminology. Additional literature and sources of information and training were presented as well.

In a country case study from the representative of the Novosibirsk Regional Office of FAS Russia a merger case was presented that featured a case of repeated notifications with minor changes in every step and different buyer/seller constellations. In accordance with the provisions of Russian competition law, the Russian authority was able to find a solution that ensured the best possible outcome for intermediary and final consumers of gas. Important points to highlight were the difficult regulatory environment and the determined approach of the authority to not allow a transaction that would result in a less than optimal outcome.



As a representative of a jurisdiction that regularly assesses the effectiveness of merger remedies, Dr. Wolfgang Nothhelfer (CMA, UK) provided an overview of several merger evaluations conducted by the US, the EC, the UK and Canada. He managed to summarise the results of the different evaluations in a very comprehensive and meaningful way and conferred key learnings for important topics in merger implementation - the scope of a divestment business, the purchaser risk and the deterioration of divestment businesses. This way, best practices in the application of merger remedies were introduced, stemming from the convincing experience of advanced jurisdictions.

In the afternoon Aranka Nagy (GVH, Hungary) presented a Hungarian merger case study, the Holcim/VSH cement and concrete merger. The case proved to be very topical as a number of cement merger cases have been dealt with recently by many jurisdictions worldwide. She explained the chosen remedy, a structural divestiture remedy accompanied by a supply commitment. This stimulated discussions about the independence of the new unit and the future developments of the market.

The following case was presented by Michelle R. Seltzer (DoJ, USA) and like the preceding Hungarian case study it involved horizontal and vertical aspects. Michelle introduced the Anheuser-Busch InBev acquisition of Grupo Modelo that had been examined by the US DoJ. In this first part of the presentation she described the merger, the horizontal competi-

tion problems that were identified by the DoJ and the initial remedy that was proposed by the parties. The proposal did not address the horizontal competition problem on the level of beer production. The sum of the proposal was a 10 year supply commitment for Modelo branded beer to an independent distributor in the US.

In the following exercise the participants were asked to reflect on the remedy that was proposed and to prepare defences, comments, additional questions and a preliminary assessment.

The participants delivered their working group results in a role play hearing that involved the competition authority, the merging parties and the prospective buyer of the distribution company. It resulted in the finding that a 10 year supply commitment might not be sufficient to fully remedy the competition concerns that Michelle had explained earlier.

On day two, Michelle R. Seltzer continued her presentation of the Anheuser Busch InBev – Modelo merger case. She explained why the DOJ did not agree to the supply commitment proposed by the parties. Essentially, this was found to not sufficiently address the horizontal concerns. Merely offering a long-term supply commitment could in this case not replace the loss of an independent maverick on the beer production level. Due to the distributor having insufficient incentives to act as a vigorous competitor and all the risks related to a supply commitment, the DoJ rejected the initial remedy that was proposed and entered the litigation stage. This convinced the merging parties to propose a different remedy that would address the horizontal competition concerns and lead to the creation of an independent and sufficiently strong competitor without time limitations. The remedy involved a commitment by the buyer of assets to expand capacity. Michelle reported on the experience regarding the monitoring of the implementation of the remedy so far.

The next country case study shifted the focus to antitrust remedies. Romania reported on a case

in which mobile phone network operators had implemented elements of resale price maintenance, market sharing and non-competition agreements on various market stages. The case involved numerous players on the distribution level. In the course of the investigations that were conducted by the Romanian Competition Council the parties agreed to modify and change all contractual frameworks and to fully implement the improved conditions that took account of the authority concerns. The case involved the monitoring of the commitments by a trustee. It was explained that a commitment decision was taken because it seemed to be the most effective way to quickly change the market conditions and to deal with the large number of parties concerned by the proceedings.

The following presentation by Mr Cyril Ritter (European Commission, Belgium) provided another overview of the merger remedies experience of an experienced jurisdiction. Cyril again stressed the preference for stand-alone divestitures and the need to fully address the identified competition problem with the remedy chosen. He also introduced the model texts for divestitures and trustees.

As the first activity of the afternoon session, the participants were asked to work on a hypothetical case and a remedy negotiation situation. The hypothetical introduced a merger of two producers of a consumer good who sell different qualities of the good, differing with regard to their closeness of competition. In the ensuing role play the participants were asked to represent either the authority or the merging parties. The role play gave rise to a number of interesting insights into the dynamics of such a negotiation situation. The most important insight seemed to be the importance of being prepared and credible as a competition authority in the determination to revert to a prohibition procedure in case of insufficient remedy proposals or an adversarial strategy on the merging parties' side.



The last presentation of the day was given by Péter Virág (GVH, Hungary). Péter provided an introduction to commitment procedures in antitrust cases in Hungary. The general principles were illustrated with two cases. In the OTP Jelzálogbank case a unilateral and retroactive amendment of contract clauses to the detriment of customers was solved with a commitment to compensate consumers and to delete the contract clauses. This case gave rise to a discussion about regulated conduct defences. The second case, MOL, provided an example of changing the price announcement practices of a dominant undertaking in a way that competitors' activities would be facilitated due to higher predictability and transparency.

Opening the third day, Cyril Ritter presented on the use of remedies and commitments in antitrust cases and the European Commission's practice. He introduced the remedies under Art. 7 and commitments under Art. 9 of Reg. 1/03. In the lively discussion a number of topics were addressed, such as the balance and relationship between Art. 7 and Art. 9 decisions, their legal quality and the legal certainty they provided. Participants were also very interested in the quality of the legal concerns that had to be addressed by Art. 9 commitments.

The following presentation by Wolfgang Nothelfer provided a comprehensive overview of the use of trustees in competition law proceedings and it was relevant for merger as well as antitrust remedies. Wolfgang re-introduced the reasons for using trus-

tees, summarising a number of points that had been touched upon throughout the seminar. He then moved on to selection and appointment procedures, the role and extensive tasks of monitoring trustees, the tasks of divestiture trustees and possible errors and risks that should be avoided when employing trustees. Members of the panel added their experiences with the use of trustees and the overall consensus was that it was highly recommendable to delegate monitoring and implementation tasks to trustees.

Croatia gave the final presentation of the seminar and described an abuse case in which the monopolistic water supplier had by way of unilaterally changing the general and technical conditions of water supply extended its monopoly position in water supply to the previously liberalised and competitive market for water consumption meters and meter readings. After an in-depth investigation that ruled out any objective justifications for this behaviour the Croatian competition authority required the water supplier to stop this foreclosing activity and the market for meters and readings is open to competition again after only two months of anticompetitive activity.

b) 20–22 October, Seminar on Updates in Competition Economics

In this seminar economic methods were presented that can be helpful for competition authorities in the assessment of mergers and of allegedly anticompetitive conduct. The seminar covered concepts like the SSNIP-test, diversion ratios and UPP indices in merger cases. In abuse of dominance cases finding the correct counterfactual and carrying out an “as

efficient competitor”-test is often required. With the help of experienced practitioners from OECD countries these economic methods were made accessible to the participants. This included discussions on data-, time- and resource-requirements, minimum and best practice standards for economic evidence and on the participants’ experiences in this field. The “translation” of economic results for lawyers and judges was an important topic as well. Practical exercises and examples helped the participants to apply the theory and to develop a better understanding. The seminar was attended by 32 competition law enforcers from 15 SEE and CIS countries.

Kristina Geiger, Deputy Director General of the Swedish Competition Authority (KKV), held the introductory presentation. She described the role of economics in regular case work at the KKV and how and in which stages economists, lawyers and case handlers interact. This was illustrated by case examples from merger investigations, abuse of dominance and cartel cases. She concluded by emphasising the necessity of close interaction of legal and economic analysis and the potential for successful case resolutions.

Sabine Zigelski (OECD) introduced the economics of market definition. She began by pointing out that it is often a legal requirement but also emphasised that there is some dispute about market definition among economists. Methods like the hypothetical monopolist test and the complementary critical loss analysis were introduced and explained. Data requirements, shortcomings and potential methodological risks were discussed, as well as ways of extending the analysis to a more effects based analysis, looking more closely at the closeness of competition than at



*Seminar on Updates in
Competition Economics*

20–22 October 2015



actual markets. The presentation finished with a case example, the Amazon/LOEVEFiLM merger case, investigated in 2008/09 by the UK OFT. In this case a critical loss analysis and an upward pricing pressure analysis had been undertaken. In the end the case was mostly decided on the basis of more qualitative analysis, taking into account the complete picture of the market.

The afternoon began with a case study exercise for the participants. Sabine Zigelski introduced the basic facts of a merger of two producers of mattress springs. The participants were asked to work in small groups on an investigative concept and methods to be used for market definition, all with a view to the limited time frame and to the scope of the investigation including the number of competitors and customers to be asked. The group results were then discussed in the plenary session. As the facts were based on a real case, the investigation in the real case and its results were then presented.

Csaba Kovács (GVH) concluded the first day by presenting a merger case where a bidding analysis had been applied to determine the potential harm of a merger and the closeness of the merging parties. The case provided a very illuminating introduction into bidding analysis as Csaba managed to show the step-by-step analysis and the subsequent refinement of analytical methods. All of the results consistently pointed in the same direction and helped to resolve the merger case efficiently, with mostly relatively simple and easy to use tools.

The second day was dedicated to economic methods used in merger control. Niels Enemaerke (Danish Competition and Consumer Authority) introduced new economic tools in merger control. He began with the classical market share based analysis and then demonstrated that market shares might not necessarily reflect the true intensity of competition between various players assumed to be on the same market. This led into the rationale for the application of diversion ratios and on this basis calculating the potential upward pricing pressure (UPP) resulting from a merger. As upward pricing pressure does not give an indication of the extent of the price increase he also introduced the method that can be used to calculate an indicative price rise (IPR). The use of the methods was then illustrated with two case studies from the Danish practice. In the Arcus/Pernod Ricard merger diversion ratios proved very helpful in defining the relevant market. As the IPR analysis led to the conclusion that the merger would result in a considerable price increase, the economic analysis also helped to determine an adequate divestiture remedy. The JYSK/IDdesign merger case showed that it is also important to keep the counterfactual situation in mind. In this merger the diversion ratio and the UPP suggested that the merger would result in unilateral effects. However, a prohibition of the merger would have resulted in the liquidation of the target companies. More analysis showed that in this case the expected price increase by the remaining competitors as a result of the liquidation of an important competitor would have been even higher than in the merger case. As a result the merger was cleared.





Two case studies presented by Romania served as further illustration for the use of economics in merger analysis. The first case was an ex ante analysis of a retail merger. With the help of appropriate rules of thumb and a diversion ratio analysis as well as a subsequent gross upward pricing pressure analysis (GUPPI), it could be shown within a phase 1 merger investigation that the proposed merger was unlikely to result in negative effects in all nine investigated regional markets. The second case presented an ex post analysis of a retail merger. The methodology of a difference in difference analysis was explained and it could be shown in the case in question that the merger had not led to price increases in the relevant markets.

At the start of the afternoon session the participants were again asked to work on a hypothetical case in small breakout groups. It was a retail merger and the participants were given basic information on pre-merger market shares, diversion ratios, alleged cost savings and profit margins. The breakout groups had to conduct basic calculations. Throughout the group discussions the underlying reasoning for the use of the methods and formulas was discussed, as well as information that was still missing and required additional qualitative investigation steps. After all of the results had been presented in the plenary session, Niels went through the possible solutions and also showed which data had to be applied with caution.

The day concluded with a panel discussion on the use of economic evidence. The panellists highlighted

their respective experiences – use of economic evidence in court, the role of agency economists in case work and the requirements and standards for third party economic evidence. The discussion involved many of the participants, who shared their authorities' experiences and the difficulties they face.

The third day was the “abuse of dominance” day. Vitaly Pruzhansky (RBB Economics) introduced the basic economics of excessive pricing cases and of margin squeeze cases. For excessive pricing he discussed in detail the price-cost test and the use of comparators and included a discussion on calculation of profits and inclusion of business risks into the calculations. Two cases were introduced to illustrate the theoretical considerations. When explaining the theory of margin squeeze cases, Vitaly highlighted the “as efficient competitor” test and gave another case example. The following discussion of cost measures to be used in abuse of dominance analysis, such as marginal costs, average variable costs or average avoidable costs raised a lot of interest with the participants. Questions with regard to data availability and the identification of the relevant data from accounting documentation were discussed. The abuse session finished with yet another hypothetical exercise for the participants. They were faced with an excessive pricing and/or margin squeeze case on a market for fuel. The group discussions centred on a comparison of regional markets, the influence of world market prices and of input prices as well as the additional information required in order to analyse the case properly. The discussion in the plenary session was very lively and highlighted the wide range of different conceptual approaches used by the participating jurisdictions.

The final country case presentation was given by Russia and focused on a cartel case. In this case the cartel conduct was proven by the authority with the use of the analysis of parallel price increases and the comparison of cost data. This led the authority to believe that the price increases for liquid gas were a result of concerted practices. The group engaged in a heated discussion on the probative value of observable price data and the admissibility of above cost pricing in this case.



*Seminar on Update on
Issues in the Information
Communications and
Technology Sector*

8–10 December 2015

c) 8–10 December, Seminar on Update on Issues in the Information Communications and Technology Sector

The sector event in 2015 was dedicated to the information communications and technology or ICT sector. This sector was chosen given the crucial role it plays, as a very relevant sector in most economies acting as a major driver for economic growth, and also as a sector that enables further development for the wider economy as it has a knock-on effect with other industries. It is also a sector where competition law and policy has been playing an increasing role in many jurisdictions.

The seminar discussed the competition policy issues that are specific to the information communication and technology sectors, in particular but not limited to the telecommunications sector. The event examined some of the main enforcement issues in these sectors, in particular the recent consolidation wave in the telecommunications sector in Europe, with the main horizontal effects issues raised in the mobile, fixed networks as well as vertical issues regarding content. The increasing role for competition policy and sector regulation to interact effectively was also analysed.

The seminar included speakers from the European Commission (EC), Hungarian Competition Authority (GVH), the US Department of Justice (DOJ) and from the Portuguese office of the Quatrecasas law firm as well as contributions by participating economies

such as Croatia, Bulgaria, Moldova, Russia and Romania.

The seminar opened with welcoming remarks from Mr József Sárai (GVH). The substantive presentations of the first day began with an overview by Ruben Maximiano of the OECD of the main issues in the sector - from merger control to abuse of dominance. Mr Anatoly Subočs for the European Commission began the detailed sessions by presenting the experience the EC has accumulated in its merger control practice in the telecommunications markets. This session focused exclusively on the factors the EC has taken into consideration in its competition assessments of these cases. Next, Croatia presented the first country case study of the seminar, a merger between fixed telecoms operators that included issues relating to the failing firm defence.

The afternoon sessions also looked at merger control in the telecoms and media sectors. First Mr David Lawrence (US DoJ) shared the practice of the US in these sectors, by looking at the horizontal competition assessments made in cases such as AT&T / T-Mobile and AT&T / DIRECTTV. Bulgaria presented a merger case it had analysed in the internet advertising markets. This was followed by the session led by Mr Andras Vekony from the GVH, who presented the Magyar Telekom / Vidanet merger case – a case with a number of very interesting legal issues as well as involving quantitative economic evidence and analysis. The day ended with the session by Mr Ruben Maximiano dedicated to sharing some of the practices used



by a number of OECD member countries to ensure ongoing and effective relationships between competition agencies and telecoms regulators.

The second day began with Mr Anatoly Subočs' presentation of remedies in the telecoms cases in the EU. He set out the main principles considered by the EC when considering remedies in the telecoms cases and then delved deeper into the specific remedies that were proposed and accepted in a number of recent cases, such as in the Telefonica O2 / E-Plus case. The presentation then also discussed the types of remedies that have been considered and if they might apply to alternative assessments of the competitive situation, including, for instance, the issues and differences between MNOs and non-MNO remedies. The morning session concluded with the break-up of the group into 4 smaller groups which discussed and solved a hypothetical telecoms merger case. This led to very lively discussions in each group and then to different opinions and solutions being proposed in the report-back plenary session. After lunch, Mr Law-

rence of the US DoJ presented a number of issues and cases in vertical telecoms mergers, including an in-depth discussion of the 2014 Comcast/TWC case. The last country case study of the day was presented by Moldova on an alleged anticompetitive vertical agreement between a mobile operator and its dealers.

The last day was particularly focused on dominance and abuse of dominance issues in telecommunications markets, in two sessions led by Mr Ricardo Junqueiro from the Quatrecasas law firm. The first session concerned specific issues relating to dominance in this sector, whilst the second session dealt with the most relevant and frequent types of abuse cases that have been investigated and sanctioned at EU-level. These sessions were followed by two country case studies: the first one was presented by Russia and concerned an abuse of dominance case in the fixed telephony markets; the second one was presented by Romania and concerned a recent case on abuse of dominance in mobile telecoms.



The final session on content was a session conducted by Mr Anatoly Subočs on the EU merger decision in the Facebook/Whatsapp case, which ensued in a lively discussion amongst participants. The final session allowed for closing remarks from the panel members and for final questions from the floor for the panellists, demonstrating the level of interest that the jurisdictions present had for the topics discussed.

table no 3

Number of participants and events attended

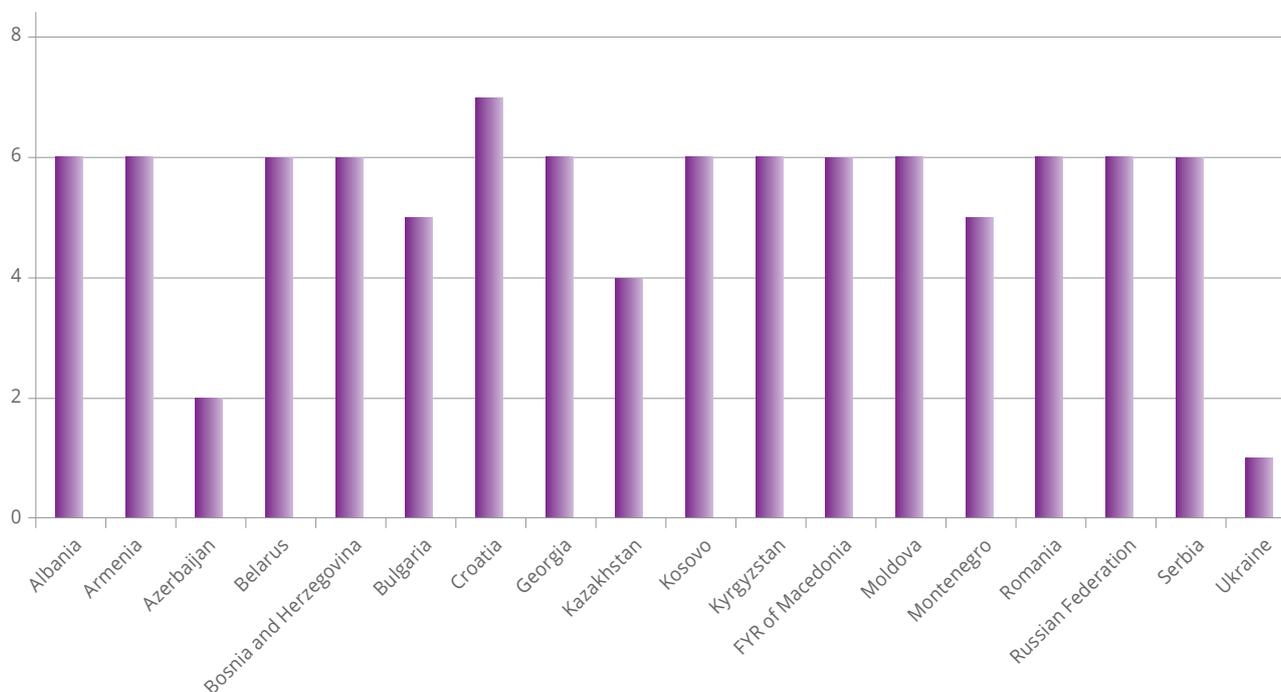
Table N°3 provides an overview of the number of participants at the seminars. This summary focuses on the participants of the seminars organised as part of the core activity of the RCC.

ECONOMY	NUMBER OF PARTICIPANTS	PERSON-DAYS	EVENTS ATTENDED
Albania	6	18	3
Armenia	6	18	3
Azerbaijan	2	6	1
Belarus	6	18	3
Bosnia and Herzegovina	6	18	3
Bulgaria	5	15	3
Croatia	7	21	3
Georgia	6	18	3
Kazakhstan	4	12	2
Kosovo	6	18	3
Kyrgyzstan	6	18	3
FYR of Macedonia	6	18	3
Moldova	6	18	3
Montenegro	5	15	2
Romania		18	3
Russian Federation	6	18	3
Serbia	6	18	3
Ukraine	1	3	1
TOTAL	96	288	



Chart No1: Total number of participants per economy attending seminars organised as part of the core activity of the RCC

chart no 1 provides an overview of the number of participants per economy.



2. Special events in the framework of the core activity

a) 16-17 April 2015, GVH Training Seminar, Recent Developments and Case Law in the EU and Special Trainings for Different Staff Groups

The 2015 GVH staff training conducted by the RCC provided an update on EU competition law, with a special emphasis on procedures and due process. On the first day these issues were dealt with in the form of presentations for the whole GVH staff. On the second day targeted trainings were provided for different groups of GVH staff.

Miklós Juhász, President of the GVH, gave the opening address. He was followed by Javier Ruiz-Calzado, Latham & Watkins (Brussels), who provided an over-

view of the latest developments in the enforcement and case law in the area of Art. 101 TFEU. Special attention was paid to the object/effect dichotomy and Javier highlighted the Cartes Bancaires, Dole and Mastercard decisions by the European courts. He also elaborated on other interesting aspects in cartel case enforcement such as settlements, facilitating practices, damage claims and burden of proof.

Vivien Terrien, Court of Justice of the EU (Luxembourg), then provided an in-depth insight into the case law on information sharing between competitors, covering direct information exchanges, unilateral signalling and indirect, hub & spoke exchanges. His presentation very clearly alluded to legal and factual requirements and necessary aspects for findings of

*GVH Training Seminar:
Recent Developments and
Case Law Under Art. 101 TFEU
and Practical Training
for the Competition Council,
Merger, Cartel and UCP-Staff*

16–17 April 2015



competition law violations based on the existing case law. The morning session of the first day ended with a brief venture into merger control.

Sabine Zigelski (OECD), gave a presentation on minority acquisitions and explained the EC's motives and plans for introducing minority acquisitions as a concentration. She used the German experience with handling minority acquisitions to illustrate the uses and the problems related to this instrument. The afternoon saw a return of an Art. 101 related topic – vertical agreements.

Daniela Seeliger, Linklaters (Düsseldorf), explained the general business rationale and the legal framework for vertical restraints and then gave examples for various types, such as pricing, most favoured customer clauses, exclusivity, and selective distribution

and internet sales. The last presentation of the first day and the first on the second day then turned to a more general discussion of procedures.

Michael Albers, Competition Law Consultant and former EC Hearing Officer (Brussels), discussed the competition procedure after the fundamental debate – after the Menarini judgment. He introduced the debate, how competition procedures and fundamental rights are in harmony, and the recent discussions. In the second part of his presentation he highlighted plans for the harmonisation of competition law procedures.

As an introduction to the second day Paul Ciszár, DG Competition (Brussels), shared his thoughts on due process – past and future challenges. He illustrated the historical sources for the basic principles





of due process as we understand them today and what should be a global consensus. All presentations were followed by vivid discussions and these benefited very much from the different perspectives represented on the panel – private practitioners, enforcers and courts, but also from the different national perspectives and approaches.

The second day was dedicated to targeted trainings for the different groups of GVH staff.

The morning session for the Competition Council was held by Viktor Luszcz, General Court of the EU (Luxembourg), who discussed the drafting of decisions and the perspective of the European Courts with the Council. In the afternoon Michel Albers gave in-depth insights into the handling of case files and confidential data.

The Merger Section participated in a presentation and discussion of the German merger enforcement experience that covered the whole day. The German practice was presented by Wilko Töllner, Bundeskartellamt (Bonn), and Sabine Zigelski. The discussion helped to contrast different experiences and approaches and to also illustrate very practical questions.

Daniela Seeliger provided the Antitrust Section with a case based training on vertical agreements and also on interview techniques. In the afternoon Javier Ruiz-Calzado went through a number of case exercises to practice the application of the restriction by object or effect concepts.

The Consumer Protection Section spent the morning discussing national experiences with regard to enforcement synergies and challenges that are created by combined consumer protection and competition law enforcement authorities. Bernardine Trompe-naars, ACM (Den Haag), and Piotr Adamczewski, UOKiK (Bydgoszcz), presented the Dutch and Polish experiences. In the afternoon Andreas Meisterernst, Meisterernst Rechtsanwälte (Munich), presented the German experience in dealing with health claims.

The Chief Economist's Team of the GVH and other interested staff members participated in a separate session held by John Davies, OECD (Paris). He introduced basic and simple to use economic methods – “making best use of the back of the envelope”, to be used when data are scarce and as an additional tool with all the other evidence to be evaluated and available in competition cases. The seminar concluded with a plenary session where all groups reported back on their individual breakout group results and experiences.

b) 20 May 2015, Meeting of the Heads of Agencies & 10th Anniversary of the OECD-GVH Regional Centre for Competition

The meeting was held to celebrate the 10th anniversary of the establishment of the OECD-GVH Regional Centre for Competition (RCC) with partners of the RCC and the heads of the beneficiaries – the competition authorities being regularly invited to the RCC seminars. While reflecting on the past 10 years, the meeting also provided an opportunity to discuss and shape future programmes of the Centre. A brochure was published on the occasion of the anniversary.

The conference began with opening remarks by Miklós Juhász (President of the GVH), John Davies (Head of the OECD Competition Division), Andrea Belényi (Hungarian Leader of the RCC from 2005 to 2010), and Jin Wook Chung (Director General of the OECD/Korea Policy Centre in Seoul). They all reflected on the developments of the RCC over the last 10 years and on the role that the RCC plays for their organisations.



Meeting of the Heads of Agencies & 10th Anniversary of the OECD-GVH Regional Centre for Competition

20 May 2015

In the following segment the present and former RCC administrators, Michael König (European Commission), Joao Azevedo (European Commission), Sabine Zigelski (OECD) as well as Andreas Reindl (Leuphana University, Lüneburg, consultant for the organisation of the judges seminars), presented their experiences in the different stages of existence of the RCC and the judge trainings that are being held with the support of the European Commission and in the RCC organisational framework. They finished their presentations by introducing competition law topics they considered to be of greater future relevance – IP rights and reverse payment settlements, e-commerce, minority acquisitions, institutional design and independence of authorities.

The afternoon of the meeting was dedicated to discussing present and future training needs of the beneficiary authorities. Three representatives, Alexander

Kinev (FAS Russia), Branimira Kovacević (Croatian Competition Agency) and Dragan Penezic (Serbian Commission for the Protection of Competition), started the discussion by presenting their current enforcement priorities and describing their needs for future trainings of agency staff. This led into the group discussions, where the beneficiaries' representatives were asked to discuss future needs in smaller groups. The individual group results were then presented. Among other topics, there was a strong demand for repeated trainings on basic topics such as market definition, remedies and abuses for younger agency staff. Topics related to the food, pharmaceuticals and telecoms sectors were also considered relevant. In terms of procedures cartel investigations and dawn raids, forensic IT and leniency programmes were named repeatedly. A related topic of high interest was public procurement and bid rigging, in conjunction with corruption.



*RCC- FAS Russia Joint Seminar
on the OECD Competition
Assessment Toolkit, Veliky
Novgorod, Russian Federation*

2-4 June 2015



c) 2-4 June, RCC- FAS Russia Joint Seminar on the OECD Competition Assessment Toolkit, Veliky Novgorod, Russian Federation

Once a year the RCC organises a joint event with the Federal Antimonopoly Service (FAS) of the Russian Federation. The seminar in 2015 was held in Veliky Novgorod, Russian Federation. 12 competition law enforcers from the Russian Federation and 7 enforcers from 7 CIS countries participated in the seminar on the OECD Competition Assessment Toolkit.

As part of their advocacy activities or as part of their legal mandate, many competition authorities are involved in reviewing new and existing laws, rules and regulations with the aim of pointing out where barriers to competition might arise or be reinforced and in showing alternative ways of reaching the same policy goal with less competition restrictive means. The OECD Competition Assessment Toolkit provides valuable guidance for enforcers. The seminar introduced the toolkit and showed where and how it has successfully been used, highlighting in particular the experiences of the Greek and Romanian authorities. Experts from the OECD and OECD member countries and representatives from FAS Russia presented and shared their experiences. Practical exercises complemented the sessions and provided an opportunity for the toolkit principles to be practised and applied.

Mr Andrey Tsyganov, deputy head of the FAS Russia, and Mr József Sárai, head of the International Section

of the GVH, opened the seminar and welcomed the participants to the event. In the introductory presentation Ms Sabine Zigelski (OECD) explained the general rationale of the Toolkit by explaining the benefits of competition for the growth and the productivity of economies. She then explained the Toolkit structure and methodology and the steps to be taken when conducting competition assessments. The Toolkit applies a two-step process which involves a basic screening of laws and regulations with the help of four checklist questions. If any of these questions is answered with a 'yes', then the second stage comprising an in-depth analysis of the relevant law or regulation should be initiated. This includes gaining a good understanding of the rule, its background and the markets and industries involved. Alternative solutions are then developed which impose no or fewer obstacles to competition.

Mr József Sárai (GVH, Hungary) placed the competition assessment work into the broader competition advocacy perspective, of which it forms an important part. He presented the Hungarian legal framework and illustrated the GVH competition assessment and advocacy work with a number of examples, highlighting both cases that were less successful and the learnings thereof, and impressive successful examples.

The next session saw Sabine Zigelski presenting in more detail on the Toolkit and question 1 of the checklist. This question covers rules and regulations limiting the number or range of suppliers and thus

potentially decreasing competition on the markets. Potential risks for competition relate to grants of exclusive rights to suppliers, the establishment of a licence, permit or authorisation process, limits on the ability of some suppliers to provide a good or service and measures that significantly raise costs of entry or exit by a supplier. To gain a better understanding the participants were then asked to work in groups on a hypothetical regulation restricting the sale of e-cigarettes to pharmacies. This required them to apply the checklist and go through the two-step process suggested in the Toolkit. The case raised vivid discussions in and between the groups.



The last presentation of the day was held by Mr Ioannis Stafatos (HCC, Greece). Ioannis detailed the Hellenic competition assessment experience from the participation in the OECD Competition Assessment projects in and with Greece. He gave very illustrative insights into the process of the Toolkit work when applied in practice and shared the HCC's learnings with regard to the structuring of the work, the use of experts, timing and the various different perspectives to be taken into account. From his presentation it became very clear that competition authorities are very well placed to undertake this kind of exercise, given their experience with conducting research and their inherently neutral position with regard to the various markets that are affected. The presentation also provided an opportunity to discuss the resource requirements for such an exercise in terms of funding and staff.

On the second day Mr Aleksey Sushkevich (FAS Russia) outlined the competition assessment activity of

the FAS Russia. He introduced the legal background for FAS Russia's activity in competition assessment and explained how it is part of the regular Regulatory Impact Assessment for all draft laws and regulations. On both regional and municipal levels FAS Russia is required to review and assess draft, as well as existing laws and regulations, and has wide powers to issue instructions on the abolishment or amendment of anticompetitive laws and regulations. Courts may declare laws null and void if an antimonopoly body proves a restriction of competition. The presentation triggered a discussion on different countries' experiences and learnings and the institutions involved in competition assessment in the various jurisdictions. It showed that most, if not all, of the countries represented at this seminar already have considerable experience with competition assessment but see a clear added value in a systematic approach such as provided by the Toolkit.

In the following presentation Ms Sabine Zigelski continued her in-depth introduction to the questions contained in the checklist by explaining question 2, "does a rule or regulation limit the ability of suppliers to compete?". This is likely if a proposal limits a seller's ability to set prices for goods or services, or limits the freedom of suppliers to advertise or market their goods, or sets standards for product quality that distort competition or that are above a level that some well-informed customers would chose, or that significantly raises the cost of production for some suppliers relative to others. In the following hypothetical on standards for taxis the participants were asked to apply the checklist to the regulatory proposal and to



prepare different responses from the perspectives of the government, small taxi drivers, customers, and the taxi oversight commission for a hearing that was then held. In the hearing the groups exchanged their views and debated the arguments.

On the last day of the seminar Ms Daniela Eleodor (Romanian Competition Council, Romania) introduced the Romanian competition assessment and advocacy experience. Romania is currently involved in an on-going competition assessment project with the OECD that covers three manufacturing sub-sectors: food processing, transport (freight), and construction (materials and tenders). Daniela also explained the previous and extensive experience that the Romanian Competition Council already has in assessing laws and regulations and presented a large number of impressive examples for very successful interventions by the Romanian Competition Council. Despite the considerable experience the Romanian Competition Council already has it considers the OECD support and the systematic approach of the Toolkit very useful and expects recommendations that will help boost Romanian competitiveness and growth.



More of the Toolkit experience was presented by Ms Federica Maiorano (OECD, Athens), who explained tools for quantification. Quantification is one of the topics covered by the new Toolkit volume 3. Next to the more common approach of qualitatively assessing benefits and costs of regulations and their pro-competitive changes, quantification can in many cases help to present even more convincing evidence in favour of changes and reforms to policy makers. She explained the basic principles for quantification and illustrated them with real life case examples



taken from the Greek project experience. The group was asked to discuss the example of restrictions on shop openings on Sundays and the possibilities for quantitatively assessing the effects of changes in the opening hours regime.

The seminar concluded with Sabine Zigelski presenting on questions 3 and 4 of the checklist. Question 3 investigates if a rule reduces the incentives of suppliers to compete by creating self- or co-regulatory regimes, by requiring the publishing of information on outputs, sales, prices or costs or by exempting the activity of a particular industry from competition law. Question 4 asks if it limits the choices and information available to consumers by limiting their ability to decide from whom they purchase, or by reducing customers' mobility to switch between suppliers of goods or services, or by fundamentally changing the information required by buyers to shop effectively. The participants were then asked one last time to engage in a role play and to discuss a regulation that fixed hotel prices and made them public. One group assumed the role of the local government, one represented individual hotels and clients and one the association of hotels and restaurants.

The role plays/hearings conducted throughout the seminars helped the participants to become accustomed with the previously presented more theoretical material and to apply a number of ideas and concepts – here the checklist questions – themselves. By taking on different roles a larger range of arguments was covered and this also enabled the participants to change perspectives, which often resulted in surprising insights.



*Seminar on Evidence
in Cartel Cases,
Tbilisi, Georgia*

22-24 September 2015

d) 22–24 September 2015, Seminar on Evidence in Cartel Cases, Tbilisi, Georgia

Each year one of the seminars of the RCC is organised in one of the beneficiary economies of the work of the Centre. In previous years these events have successfully been held in Albania, Armenia, Bulgaria, Ukraine, Croatia, FYR of Macedonia and in 2015 in Tbilisi, Georgia. The seminar dealt with evidence in cartel cases. 36 competition law enforcers from 15 SEE and CIS countries attended the event.

The focus of the seminar was on how to effectively detect, investigate and prove hard core cartel offences. The availability and quality of evidence to be used in cartel cases is decisive for the successful initiation and completion of a cartel investigation. During the seminar we took a closer look at direct and indirect evidence to be used in cartel cases and at ways of obtaining it. Topics discussed were leniency systems, screening instruments, other detection methods, dawn raids, interviews and efficient procedures. The seminar provided insights into best practices of experienced OECD countries with the use of these instruments. OECD member countries' experts shared their experience and entered into a lively exchange and discussions with the participants. The participants engaged in hypothetical exercises throughout the seminar and had an opportunity to practise and apply the learnings of the seminar.

The Chairman of the LEPL Competition Agency of Georgia, Mr Giorgi Barabadze, opened the seminar with welcoming remarks, pointing out the

relevance of the topic for the newly established authority. Ms Sabine Zigelski (OECD) gave an introductory presentation, pointing out the harm inflicted on economies by hard core cartels, the tools needed for effective detection and proof and the necessary institutional settings and fines.

Ms Ana Gugushvili, (Competition Agency of Georgia) introduced the Georgian authority and the legal framework available to it. The authority is the successor of previous antimonopoly bodies and is an independent agency, founded in 2014. Ana pointed out the various instruments available to the authority, orders of the chairman and methodological guidelines currently in place. She also provided an overview of the case record and the impressive involvement of the young agency in international co-operation frameworks like the ICN and the Sofia Competition Forum.

Ms Sabine Zigelski provided an overview of types of evidence – direct and indirect – and cartel detection tools. The cartel detection tools can be categorised as reactive and proactive detection tools. The best known among the reactive tools are leniency





programmes. However, leniency programmes do not work well in all jurisdictions and might not be appropriate for uncovering many relevant forms of conspiracies like bid rigging. This is why market monitoring and screens should also be considered by authorities, representing some of the proactive tools for enforcement. Other proactive tools were mentioned as well, in particular the guidelines on fighting bid rigging in public procurement and the training of public procurement officials. In the ensuing discussion direct and indirect proof were discussed in more detail. It became clear that it is difficult to draw an exact line and that it is much more important to be aware of the probative value of different pieces of evidence than being able to clearly categorise it.

Mr Renato Ferrandi (AGCM Italy) introduced the Italian experience in cartel detection in the afternoon session. Italy is a country that does not rely so much on reactive tools but has a much more proactive stance, making it a very successful enforcer. He highlighted the relevance of complaints, information requests and market studies and active advocacy. Two cases, one in the banking sector and one in the health care sector, were described. In both cases the initial information indicative of suspicious behaviour was obtained through complaints or market studies, and was followed up by more detailed information requests and dawn raids, which ultimately led to the companies in question being fined and the infringements being stopped.

At the end of the first day the participants were asked to start working on a hypothetical cartel case. The case provided material for all three days and started with information by potential leniency applicants and markers. The participants were divided in smaller

groups that each had to focus on different questions related to necessary follow-up actions and questions as well as strategies available to authorities when receiving first indications of a cartel offence.

On the second day Renato Ferrandi introduced best practices for the preparation and conduct of unannounced inspections – dawn raids. He gave highly relevant advice on the meticulous preparation in terms of information on location, addresses and target persons as well as of the internal preparation and information given to the investigators. In addition he highlighted problems that might come up during the inspection, like confidential documents, legal professional privilege and interference and obstruction. This presentation served as an introduction to the second part of the cartel hypothetical that followed directly afterwards.

In this second hypothetical exercise the participants were divided into four groups and each of them had to designate a team of three investigators and to prepare a previously specified dawn raid situation. The situations covered the entry into the premises, the start of the search and the announcement of the search warrant, problems during the inspection and the dealings with external lawyers. The company representatives and external lawyers were played by the expert speakers. After each scenario a roundtable discussion was held to discuss the scene and potential alternative paths of action and own experiences in similar situations. Even though many of the participants did not have much previous experience in conducting dawn raids, they displayed a highly professional attitude and were not easily tricked by the experienced experts.

The second presentation of the host country followed in the afternoon session. Mr Lasha Biakshvili introduced a cartel case that had been concluded by the Georgian competition authority a few months previously and that concerned the car fuel commodity market. This market had raised suspicions, as the number of actors had significantly decreased; prices were rigid and did not seem to be cost related and were very similar all across Georgia. Using all available instruments like publicly available information,

information requests and meetings (the Georgian authority is unable to conduct unannounced inspections for the time being), the case was proved on the basis of the observance of parallel behaviour and other indicators like high margins, barriers to entry and vertical agreements on the markets. It resulted in a considerable fine of app. 19 mn. € and is currently under appeal. The validity of the arguments used was discussed subsequently and also the potential defence arguments the authority should be prepared for. It was also discussed that the courts should be expected to consider the limitations the authority faces when conducting its investigation, like time limits and difficulties with obtaining direct evidence.

Ms Karen Jelgerhuis Swildens (ACM, Netherlands), then introduced a software tool in use by the Dutch authority to efficiently structure a cartel case and the related evidence, the Mindmap software. Karen highlighted the tools this and other comparable softwares offer and the way the ACM is using them. She introduced a case example and impressively showed the benefits for structuring evidence, the case investigation and also the teamwork related to this case. As this is a rather intuitive tool, the many uses and benefits easily became clear and there was a lot of interest, as could be seen in the discussion following the presentation.

The second day concluded with a presentation by Leó Göncz (GVH, Hungary) on investigation tools to be used in addition or instead of dawn raids. He highlighted the relevance of witnesses and leniency applicants and also the downfalls and traps that may be encountered, taking into account confidentiality and protection requirements. He also introduced the concept of informants and informant rewards the GVH is successfully working with and mentioned the ben-

efits and problems related to co-operation with the police and other enforcers, giving a case example.

Ms Adi Egozi (IAA, Israel), opened the third day with a presentation on building interrogations. She highlighted the goals of witness or suspect interrogations and the questions and techniques to be used, based on the rich enforcement experience of the IAA. She gave examples for open and closed questions and their respective uses in different phases of the interview and also presented examples of how to uncover lies in the process. The meticulous preparation, procedures during the interview and also the internal evaluation of conducted interviews were also presented.

The seminar finished with another exercise. The participants had prepared two different interview situations and were asked to stage the situations, representing the authority as well as the defendant and his lawyer. After each situation the observations were discussed in the plenary session. This exercise gave rise to very valuable insights into establishing and maintaining authority, power games, interview techniques and strategies to be pursued in different circumstances and with different kinds of evidence available to the interviewers.

Overall the seminar was met with a lot of interest by the Georgian participants and their colleagues from the other beneficiaries of the RCC. Many experiences were brought together and enriched the body of experience available to the individual enforcers. The very constructive and pleasant atmosphere that was created to a large extent by the great hospitality of the Georgian hosts made the seminar very successful and will certainly also help and enable future co-operation and exchange between the participants and authorities present.



3. Events for the RCC's special audience

a) 19-21 February, Seminar on European Competition Law for National Judges; Competition Economics for Judges

The OECD-GVH Regional Centre for Competition in Budapest organised a seminar on "Competition Economics for Judges" for national judges from February 19-21, 2015. This was an advanced competition law seminar that was aimed at providing participants with experience in competition cases with an opportunity to focus on economic concepts, techniques and methodologies, and the use of economic evidence in court cases. Abuse of dominance cases, vertical restraints, and actions for damages provided the reference framework for the presentations and discussion, to ensure that competition economics were discussed in a legal context that is accessible to judges. Case discussions and work in breakout groups were used to provide opportunities for discussion and active participation.

The seminar was chaired by Mr. Andreas Reindl (Leuphana University, Lüneburg). The presentations were divided among five speakers, including Penelope Papandropoulos, (European Commission, Belgium), Peter Freeman, (UK CAT), Vincent Verouden, (E.C.A Economics, Belgium), Raphael de Conninck, (Charles River Associates, Belgium), and Sabine Zigelski (OECD,

Paris). The speakers were selected to ensure a high degree of practical experience, including experience with the application of competition economics in court cases, to make the seminar as relevant as possible.

The seminar focused on general economic concepts such as market power and dominance, the economics of vertical restraints, and damage estimation. The programme also included a panel discussion on practical aspects related to the use of economic evidence and economic experts in court cases, where lawyers and economists could exchange and compare their views. Thursday afternoon began with an introduction to key economic concepts. The main topics were market power, harm to consumer welfare and related key concepts. Peter Freeman continued with a presentation on how basic economic concepts such as the assessment of market power can be included in a court case, including how a court can evaluate economic evidence and work with economic experts. The afternoon continued with a presentation on market definition and a discussion of a hypothetical involving market definition issues in breakout groups.

The programme on Friday focused in general on the economics of vertical relationships, primarily in the context of Article 101, but also in 102 cases. Penelope



*Seminar on European
Competition Law for National
Judges; Competition Economics
for Judges*

19-21 February 2015

Papandropoulos led the programme in the morning, focusing on the economics of exclusionary practices. The afternoon featured a discussion among all speakers on practical aspects of evaluating economic evidence in court cases, where both economists and lawyers presented their views. Seminar participants also contributed to the discussion. Friday afternoon concluded with a discussion of the economics of distribution restraints, led by Vincent Verouden.

The third day of the event focused on private actions for damages in competition cases. Raphael De Conninck introduced the topic, and Peter Freeman contributed his experiences from a private damages case before the CAT, including how judges could apply basic economic concepts when assessing claims for damages. Mr. De Conninck discussed more specific economic issues in private actions for damages, like pass-on issues. A discussion of hypotheticals in breakout groups involving these economic issues, and a summary of the relevant cases concluded the programme.

This was the first time that we dedicated an entire seminar to the topic of competition economics. The seminar emphasised not only economic concepts, but also the use and application of economic evidence in court cases, thus ensuring that the seminar was relevant and accessible to judges. The great interest in the seminar and the active participation of participants during the event confirmed that this was an appropriate topic for judges and an advanced competition law seminar with a similar focus should be offered again in the future.

The seminar agenda was organised to highlight how certain key issues in competition economics are relevant throughout competition cases. Thus, key concepts such as the economic interpretation of market power and consumer welfare were discussed at the beginning of the seminar and re-appeared in presentations during the entire programme. This made it possible to place more complex content into context and helped participants to follow presentations.

Similarly, the issue of how to work with economists and economic evidence in practice was a frequent topic of discussion, whether in connection to market



definition, vertical restraints, or damages assessment. This continuous focus on practice ensured that participants understood the relevance of economic topics and could connect with the topics in light of their own experience. Consideration of practical issues, such as how to organise economic evidence in litigation, also made it possible for participants to compare their own rules and practices with those of their colleagues.

b) 19-21 November, Seminar on European Competition Law for National Judges; Trends in case law and policy, and their impact on cases before national courts

The OECD-GVH Regional Centre for Competition in Budapest (Hungary) organized a seminar on trends in case law and policy, and their impact on cases before national courts for national judges on November 19-21, 2015. The seminar provided judges with some experience in competition cases an opportunity to catch up on the most important EU competition law developments in the past two years. The seminar focused on vertical restraints, in particular in an online environment, recent abuse of dominance cases, policy and case developments concerning damages actions, and horizontal restraints, in particular information sharing cases.

25 judges participated in the event. The seminar was chaired by Andreas Reindl. The presentations were divided among five speakers including Benoit Durand, RBB Economics, Andreas Reindl, Leuphana University, Lards Wiethaus, E.CA. Economics, Péter Virág, GVH, and Sabine Zigelski, OECD.

The programme on Thursday afternoon started with case discussions concerning online distribution restraints and price reference clauses, focusing on the relevant theories of harm behind the cases in both areas, and the differences between the two areas. In addition to presenting recent case law developments, the programme also provided participants with an opportunity to discuss a hypothetical case in breakout groups. The afternoon concluded with a discussion of two-sided platforms, led by Lars Wiethaus, that expanded on the discussion of price reference clauses and presenting the concept in the context of more recent cases.

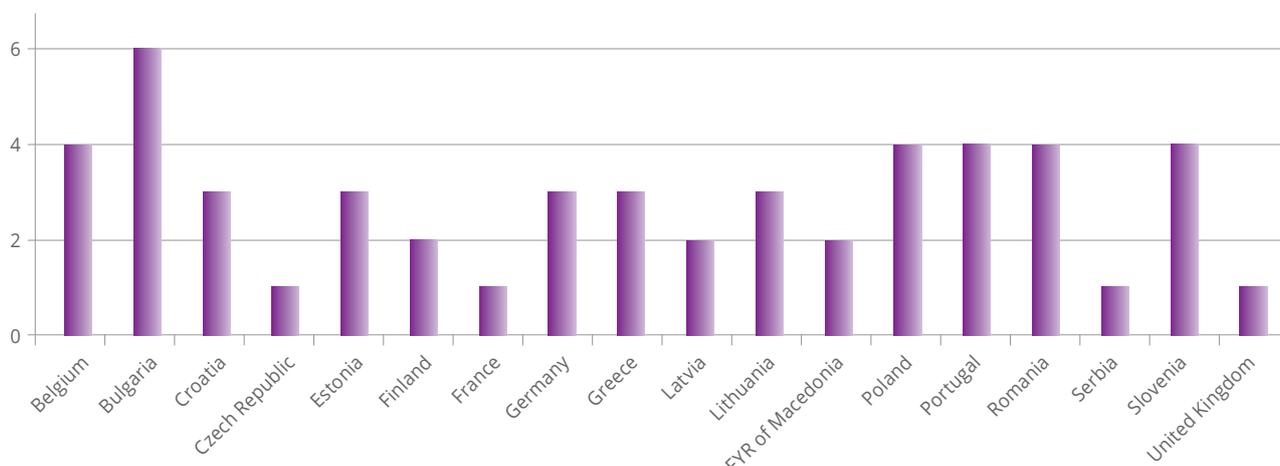
The morning of the second day of the seminar focused on abuse of dominance cases, focusing in particular on recent cases involving pricing strategies such as Intel and Post Danmark II, and their impact on cases before national courts. A hypothetical case provided participants with an opportunity to discuss in greater detail under what standards pricing strategies by dominant firms should be evaluated in light of recent case law and economic principles, and what role efficiency claims should play in Article 102 cases. Friday afternoon provided an overview of recent developments concerning damages cases. After an in-

roduction to the main rules in the new EU Damages directive, much of the afternoon focused on legal and economic questions surrounding the passing-on defence and indirect purchaser claims. In addition to discussing important economic concepts, such as the interconnection between passing on rates, damages reduction, and quantity effects in cases brought by direct and indirect purchasers, the programme also emphasised the practical application of economic concepts in cases before courts.

The programme on Saturday morning concluded with a discussion of information exchange cases. Although these cases are less likely to lead to litigation before national courts, they will likely become more relevant in follow-on actions for damages. Therefore it appears important that national judges are familiar with recent cases and underlying concepts. The programme provided an early breakout session with a series of short hypotheticals that allowed participants to familiarise themselves with the relevant questions, followed by presentations and recent cases before European courts, national courts, and the Hungarian competition authority. The programme also featured discussions of the standards of evaluation in horizontal restraints cases.

chart no 2

Total number of participants per country for the two seminars organised for European judges



IV. Evaluation of RCC Seminars

Participants are always asked to provide feedback on RCC seminars so that the standard of the events can be maintained and even possibly improved. According to the feedback, participants found that the seminars provided theoretical and practical information that was highly relevant to their day-to-day work and that the seminars also provided a good opportunity for the exchange of opinions between participants and experts. The average value of all of the answers for the entire year was 4.4 out of a maximum of 5.

Participants considered the overall usefulness of the programmes to be either very high or high – 96 per cent of respondents rated the seminars on this basis. Based on the feedback, the current distribution of the topics is well received. As usual, participants would like more presentations on practical issues and in-depth case analyses, rather than theoretical discussions.

table no 4

Participants' evaluation of events organised by the RCC in the year 2015

DISTRIBUTION OF ANSWERS					
	VERY LOW	LOW	MODERATE	HIGH	VERY HIGH
Overall usefulness of the event	0%	0%	4%	47%	49%
Overall usefulness of the topics	0%	1%	10%	51%	38%
Quality of presentations	0%	0%	3%	52%	44%
Usefulness and quality of materials	0%	0%	4%	46%	50%
Quality of conference facilities	0%	2%	5%	43%	50%
Workshop preparations	0%	1%	5%	47%	48%
Usefulness of hypothetical cases / country contributions / case studies	0%	1%	10%	48%	42%
OVERALL QUALITY	0%	1%	5%	45%	49%

table no 5

Detailed evaluations by events and by categories

	SEMINAR FOR JUDGES IN FEBRUARY	SEMINAR IN BUDAPEST IN MARCH	GVH TRAINING IN APRIL	RCC-FAS RUSSIA JOINT SEMINAR IN JUNE	SEMINAR IN SEPTEMBER IN GEORGIA	SEMINAR IN BUDAPEST IN OCTOBER	SEMINAR FOR JUDGES IN NOVEMBER	SEMINAR IN BUDAPEST IN DECEMBER	AVERAGE
Overall usefulness of the event	N/A	4.4	4.4	4.6	4.7	4.3	N/A	4.3	4.5
Overall usefulness of the topics	4.5	4.4	4.2	4.4	4.5	4.1	3.9	4.2	4.3
Quality of presentations	4.5	4.4	4.3	4.4	4.5	4.4	4.5	4.3	4.4
Usefulness and quality of materials	4.7	4.4	N/A	4.6	4.6	4.3	4.4	4.3	4.5
Quality of conference facilities	4.5	4.4	4.0	4.7	4.6	4.6	4.4	4.1	4.4
Workshop preparations	4.4	4.5	N/A	4.6	4.6	4.4	4.2	4.3	4.4
Usefulness of hypothetical cases / country contributions / breakout sessions	4.1	4.4	N/A	N/A	4.5	4.3	4.2	4.3	4.3
AVERAGE	4.5	4.4	4.2	4.6	4.6	4.3	4.5	4.1	4.4

V. Financial and intellectual contributions

According to the Memorandum of Understanding which was signed by the parties in 2005, ensuring that the RCC operates at the highest level is the task of the founding parties, the GVH and the OECD. Both institutions provide financial and intellectual contributions towards the operation of the RCC. The accumulated experience and expertise of the OECD members also contributes to the training programmes offered by the RCC.

The RCC had a budget of 478 770 EUR for 2015. This includes funds provided by the GVH and the OECD,

as well as grants received from the European Commission, the latter of which were used to fund the seminars on European Competition Law for National Judges.

The following tables provide details on the total costs of the operation of the RCC in 2015 by sources of funds, by events and by major categories of costs.

table no 6

The sources of funds

SOURCES OF FUNDS (EUR)	
Gazdasági Versenyhivatal (Hungarian Competition Authority)	400 650
OECD	30 000
European Commission (grants for the judges seminars)	48 120
TOTAL FUNDS	478 770

table no 7

Breakdown of total expenses by items

BREAKDOWN OF TOTAL EXPENSES (EUR)	
A) Direct organisational costs	
Seminar on European Competition Law for National Judges	26 200
Seminar on Remedies and Commitments in Competition Cases	37 300
GVH Staff Training	17 600
Meeting of the Heads of Agencies & 10th Anniversary of the OECD-GVH RCC	27 300
RCC – FAS Russia Joint Seminar on the OECD Competition Assessment Toolkit, Veliky Novgorod, Russian Federation	15 600
Seminar on Evidence in Cartel Cases, Tbilisi, Georgia	46 300
Seminar on Updates in Competition Economics	42 000
Seminar on European Competition Law for National Judges	27 400
Competition Topics in Telecommunication and Electronic Communication Markets	40 200
Total direct organisational costs	279 900
B) Overhead and operational costs of the RCC	27 000
C) Staff costs transferred by the GVH to the OECD¹	171 870
TOTAL EXPENSES in 2015	478 770

VI. RCC Dedicated Staff

The RCC is a “virtual” centre, thus it does not have a central office but is accommodated in the headquarters of the GVH. The virtual existence of the RCC allows it to concentrate funds on the real purpose of its establishment, that is, organising seminars and inviting and training participants. The virtual structure also facilitates adaptation to changing situations. The RCC is run by a full-time senior competition expert at the OECD headquarters in Paris and by a full-time senior consultant and a consultant who are at the same time employees of the GVH in Budapest.

The work of the RCC is based on the expertise of both the GVH and the OECD. The GVH is responsible for inviting participants and organising all of the practical arrangements for the RCC’s programmes. The expert at the OECD sets up the content of the programmes and invites speakers to the seminars. The GVH provides speakers or panellists for each seminar. Other speakers are invited from different OECD member states.

² On the basis of the Memorandum of Understanding, the GVH made a voluntary contribution to the OECD for staff-related purposes.

Seminar speakers of the year 2015



Peter J. FREEMAN
Competition Appeal Tribunal
UK



Penelope PAPANDROPOULOS
European Commission
DG COMP



Andreas REINDL
Leuphana University
GERMANY



Vincent VEROUDEN
E.CA Economics
BELGIUM



Raphael DE CONINCK
Charles River Associates
BELGIUM



Sabine ZIGELSKI
OECD
FRANCE



Cyril RITTER
European Commission, DG COMP
BELGIUM



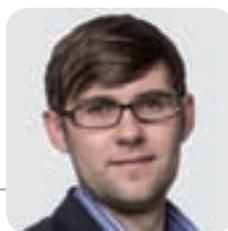
Michelle Rose SELTZER
United States Department of Justice
USA



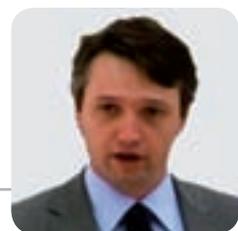
Wolfgang NOTHHELFER
Competition and Markets Authority
UK



Aranka NAGY
GVH
HUNGARY



Péter VIRÁG
GVH
HUNGARY



Vivien TERRIEN
General Court of the European Union
LUXEMBOURG



Daniela SEELIGER
Linklaters
GERMANY



Piotr ADAMCZEWSKI
UOKiK
POLAND



Javier RUIZ-CALZADO
Latham & Watkins
BELGIUM



Wilko TÖLLNER
Bundeskartellamt
GERMANY



Michael ALBERS
former EC Hearing Officer
BELGIUM



Bernardine TROMPENAARS
Authority for Consumers and Markets
THE NETHERLANDS



Paul CSISZÁR
European Commission, DG COMP
BELGIUM



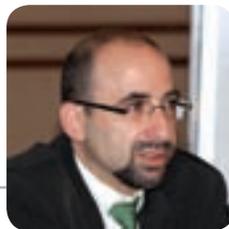
John DAVIES
OECD
FRANCE



Viktor LUSZCZ
General Court of the European Union
LUXEMBOURG



Michael KÖNIG
European Commission, DG COMP
BELGIUM

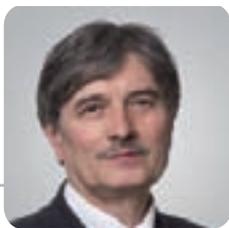


Joao Pearce AZEVEDO
European Commission, DG COMP
BELGIUM



Andrey TSYGANOV
FAS Russia
RUSSIAN FEDERATION

Seminar speakers of the year 2015



József SÁRAI
GVH
HUNGARY



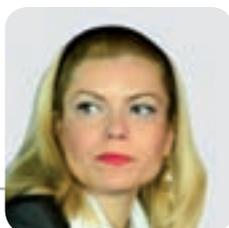
Aleksey SUSHKEVICH
FAS Russia
RUSSIAN FEDERATION



Stefatos IOANNIS
Hellenic Competition Commission
GREECE



Federica MAIORANO
OECD
FRANCE



Daniella ELEODOR
Competition Council of Romania
ROMANIA



Adi EGOZI
Israeli Antitrust Authority
ISRAEL



Karen JELGERHUIS SWILDENS
Authority for Consumers & Markets
THE NETHERLANDS



Renato FERRANDI
Italian Competition Authority
ITALY



Leó GÖNCZ
GVH
HUNGARY



Vitaly PRUZHANSKI
RBB Economics
BELGIUM



Kristina GEIGER
Swedish Competition Authority
SWEDEN



Niels ENEMÆRKE
Danish Competition
and Consumer Authority
DANMARK



Benoit DURAND
RBB Economics
BELGIUM



Lars WIETHAUS
E.CA Economics
BELGIUM



Ruben MAXIMIANO
OECD
FRANCE



Anatoly SUBOČS
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Ricardo BORDALO JUNQUEIRO
Cuatrecasas
PORTUGAL



David LAWRENCE
United States Department of Justice
USA



András VÉKONY
GVH
HUNGARY



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RCC team



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Péter DECSÁK
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for Competition in Budapest
(Hungary)

Interpreters of the RCC's events



Taras KOBUSHKO



Ingrid MESTYÁNNÉ LANDISHEV



Oxana WAGNER-MUZYKA



Karen MELIK-SHAHNAZAROV

