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Hungarian Competition Authority (HCA) reveals anti-competitive conduct affecting the Hungarian artificial fertilizer market

Complex system of agreements

HCA's investigation revealed that Nitrogénm?vek Vegyipari Zrt. - which operates the only artificial fertiliser factory in Hungary - and its group of undertakings engaged in a systematic coordination of anti-competitive conducts. The agreements between the parties had been concluded both orally and in writing, in the form of strategic framework agreements constituting in anti-competitive conducts with both horizontal and vertical elements.

Infringing nature of the agreements

By establishing a system of strategic cooperation, the undertakings had primarily sought to ensure that the artificial fertiliser products manufactured are sold through strategic partners. As the only major domestic producer, they intended to achieve this objective by limiting imports so that strategic partners would (essentially) buy their products exclusively.

As a means to that end, a clause containing a mandatory purchase amount of 90-95% had been laid down in the contracts, and imposed an elevated penalty in case the prescribed purchase amount was not met by the partner. An alternative to the purchase amount clause was an exclusivity clause aiming to ensure that the strategic partner would not purchase from other manufacturers.

An additional vertical agreement between the parties was the restriction of the pricing of fertilizer products. The available evidence showed that Nitrogénm?vek determined the purchase prices for the strategic partners in internal monthly meetings. In relation to the purchase prices, they imposed resale conditions, specifying the minimum price at which the strategic partners could resell the products to end-users and resellers.

Decision of HCA

Taking into consideration the duration and extent of the cartel, HCA imposed a record fine of HUF 14.1 billion on six out of the eleven investigated undertakings. HCA added that a potential harm to Hungarian consumers could also be established, since artificial fertilizers are essential for agriculture, and the food market could therefore also be affected by the increasing costs for producers.