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CASE CARD | 7 September 2026

HP Slovakia (2021/DOV/UPZ/211)

Potential customer allocation

1. CASE SUMMARY

A. Summary of facts

During the period considered by the Antimonopoly Office of the Slovak Republic ('AMO') (not specified in the decision), HP Slovakia, an importer of HP electronic products in Slovakia, operated a programme for so-called 'HP Partners'. HP Partners were distributors that satisfied certain conditions and criteria established by HP Slovakia. Under this programme, HP Partners could obtain a special additional discount, on top of the discounts generally granted by HP Slovakia, for specific public procurement procedures. The additional discount could be granted to only one HP partner at HP Slovakia's discretion.

In addition, contracting authorities required quality or conformity certificates from HP Partners. These certificates confirmed that the relevant original consumables, such as printer toner cartridges, could be supplied through HP Slovakia as the manufacturer's representative in Slovakia. HP Slovakia issued such certificates at its own discretion.

B. Legal analysis

According to the AMO's preliminary assessment, the additional discounts available for particular tenders formed an important element of the pricing strategy of HP Partners seeking to participate in large public procurement procedures. The AMO considered that the grant of an additional discount to a single HP Partner could place competing HP Partners at a disadvantage when submitting bids. In order to remain competitive without such a discount, those HP Partners would have had to reduce their own margins or offer non original alternatives.

The AMO also noted that, in certain cases, HP Slovakia may have restricted the issuance of quality or conformity certificates. In such circumstances, an HP Partner could have been prevented from effectively competing in a public procurement procedure, even if it was prepared to reduce its margin and supply original HP products.

On that basis, the AMO provisionally concluded that the practice of granting additional discounts to selected HP Partners for sales to public sector end users, combined with the issuance of quality or conformity certificates, could amount to a vertical agreement restricting competition through customer allocation. According to the AMO, the system potentially enabled HP Slovakia to allocate customers to specific HP Partners. The conduct could therefore infringe both the Slovak Competition Act and Article 101 TFEU. For the purposes of Regulation

330/2010, the AMO considered that the arrangement could constitute a hardcore restriction in the form of prohibited customer allocation under Article 4(b) or a restriction of sales to end users within a selective distribution system under Article 4(c).

During the administrative proceedings, HP Slovakia offered commitments to address the concerns identified by the AMO. Following a market test, the AMO accepted a set of commitments applicable for five years from the date on which the decision became final. These commitments included:

- equal access to additional discounts for all HP Partners meeting the relevant conditions or applying for such discounts;
- a prohibition on sharing information concerning applications for tender specific rebates with competing HP Partners;
- a prohibition on granting additional rebates outside the HP Partner discount system, except under HP Slovakia's general rebate policy; and
- an obligation to issue quality or conformity certificates to applicants participating in Slovak public procurement procedures.

2. QUOTES

"*As regards the preliminary legal assessment of the case, on the basis of the documents and information obtained, the AMO considered that the conduct under investigation by HP Slovakia in cooperation with individual HP Partners in the field of sales of HP-branded consumables to public entities in the territory of the Slovak Republic may have constituted a vertical agreement between these undertakings within the meaning of Section 4 of the Act and Article 101 of the TFEU, as a result of which the sales activities of other HP Partners to certain customers at certain times during the period under investigation may have been restricted and thus competition in the relevant area may have been restricted. As regards the assessment of the present case with regard to the possible application of Regulation 330/2010, the AMO has provisionally considered the possibility that the conduct at issue between HP Slovakia and HP Partners could have been assessed under Article 4(b) or 4(c) of Regulation 330/2010.*" (free translation of §37)

"*In its preliminary conclusions, the AMO stated that the essence of the possible anticompetitive behaviour on the part of HP Slovakia could be the fact that such a special discount/special pricing on HP branded consumables for a particular contracting authority/customer within a particular contract, and thus an advantage in the preparation of the offer for this public contract, could in practice ultimately be obtained only by a selected HP partner. At the same time, in certain cases during the period under investigation, HP Slovakia did not offer the same conditions*

to all other HP Partners who met the criteria for obtaining the special pricing, who were interested in or requested it, and who were subsequently able to bid for these specific public contracts." (free translation of §69)

3. RELEVANT LEGISLATION

- Article 101 TFEU
- Regulation 330/2010 (now: Regulation 2022/720)
- Section 4 of the Slovak Act No. 136/2001 Coll. on Protection of Competition (in the meantime replaced by the new Slovak Competition Act No. 187/2021 Coll.)

4. PRACTICAL SIGNIFICANCE

This case illustrates that customer allocation concerns may arise not only through explicit restrictions but also through mechanisms that grant selected distributors competitive advantages in specific tenders. Although the AMO ultimately accepted commitments and therefore did not adopt a final infringement decision, the case demonstrates the authority's willingness to assess such arrangements as potential hardcore restrictions under Regulation 330/2010. It also confirms that the AMO may accept commitments even where the conduct under investigation could fall within the category of hardcore restrictions.