

Competition - Hungary

Competition Office introduces informant's fee in bid to break hardcore cartels

February 04 2010

As part of its package of anti-corruption legislation, the government has amended the Competition Act to introduce a new incentive in the fight against cartels. From April 1 2010 an individual who has knowledge of a price-fixing or market-partitioning hardcore cartel and secretly informs the Competition Office, supplying essential written evidence, will receive an informant's fee.

The fee will be equal to 1% of the fine that the Competition Office ultimately imposes on the cartel participants in respect of the disclosed infringement, with a cap of Ft50 million (approximately €185,000). The fee becomes payable once the Competition Office has established the infringement and imposed the fine in its final decision. The informer retains the full fee even if a court subsequently overturns the decision and either strikes out or reduces the fine. If two or more informants separately file different evidence in respect of the same infringement, all are eligible for the fee. However, a informer may not receive more than one fee in respect of the same case. The fee is not payable if the evidence is obtained in violation of the applicable legal requirements or by criminal means. If criminal proceedings are initiated against an informant on the grounds of alleged illegal acts in the collection of evidence, the fee must be repaid immediately and will be retained by the Competition Office until the proceedings have concluded, when the fee will be returned or cancelled.

The Competition Office is required to implement measures to protect its informants' anonymity. A recent press release from the head of the cartel division acknowledges the difficulty of introducing adequate safeguards while ensuring that investigation procedures remain transparent. Further details are expected in the coming weeks.

The new incentive is an indirect recognition of the fact that the existing leniency regime, which is otherwise unaffected by the change, has proved insufficient to break hardcore cartels in Hungary, especially in the field of high-priority public procurement tenders. Estimates put the damage caused by horizontal cartels in recent years at between Ft100 billion and Ft150 billion (€370 million and €550 million).

The Competition Office, which has imposed significant fines over the past five years, typically initiates between eight and 10 cases annually in connection with alleged hardcore horizontal cartels. The government expects the introduction of the informant's fee to result in more investigations and more frequent applications of the leniency regime. However, the executive officers of an undertaking that successfully applies for leniency will be ineligible for the informant's fee.

A comparable informant's fee exists only in Pakistan, South Korea and the United Kingdom. It remains to be seen how the Competition Office will distinguish between genuine information and deliberately inaccurate evidence supplied with the aim of obtaining a fee or damaging a competitor's interests. The Competition Office must also resolve a potential contradiction in the regime: if an informant applies for anonymity, this may affect the value of his or her evidence and prevent it from meeting the 'essential information' criterion.

For further information on this topic please contact [Álmos Papp](#) at [Bán S Szabó & Partners](#) by telephone (+36 1 266 3522), fax (+36 1 266 3523) or email (apapp@bansszabo.hu).

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at www.iloinfo.com.

Author

[Almos Papp](#)





Official Online Media Partner to the International Bar Association
An International Online Media Partner to the Association of Corporate Counsel
European Online Media Partner to the European Company Lawyers Association

© Copyright 1997-2010 Globe Business Publishing Ltd