Court of Justice of the European Union
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Press and Information

Judgment in Case C-32/11
Allianz Hungária Biztosító Zrt and Others v Gazdasági Versenyhivatal

Agreements concerning the price of repairs of insured vehicles concluded between insurance companies and repair shops have an anti-competitive object and are therefore prohibited where they are, by their very nature, injurious to the proper functioning of normal competition

The injurious nature thereof must be determined in relation to the two markets concerned, namely the car insurance and car repair markets

Once a year, the Hungarian insurers – in particular Allianz and Generali-Providencia – agree with the car dealers, or with their national association, the conditions and rates applicable to repair services that the insurer must provide in the case of accidents involving insured vehicles. In the event of an accident, the dealers' shops are thus able to carry out repairs immediately according to those conditions and rates.

In that context, the dealers are connected with the insurers in two ways: first, they repair, in the event of accidents, cars insured by the insurers and, secondly, they act as intermediaries on behalf of the latter by offering car insurance to their customers on the occasion of the sale or repair of vehicles. The agreements concluded between the insurers and the dealers provide that the dealers' remuneration for car repairs increases according to the number and percentage of insurance policies sold for the insurer concerned.

Since it found that the agreements at issue had as their object the restriction of competition in the car insurance contracts and the car repair services markets, the Hungarian competition authorities prohibited the continuation of the anti-competitive behaviour and imposed fines[1] on the companies concerned.

The Legfelsőbb Bíróság (Supreme Court, Hungary), hearing the case on appeal, asks the Court of Justice whether the agreements at issue have as their object the prevention, restriction or distortion of competition.

In its judgment, the Court points out, first of all, that the agreements which have such an object, that is to say those which are by their very nature injurious to the proper functioning of normal competition, are prohibited and there is no need to examine their effects on competition.

Next, the Court notes that the agreements link two activities which are in principle independent, namely car repair services and car insurance brokerage. In that regard, the Court points out that, although such a link does not automatically mean that the agreements concerned have as their object the restriction of competition, it can nevertheless constitute an important factor in determining whether those agreements are by their nature injurious to the proper functioning of normal competition. In that context, the Court holds that, although the present case concerns

[1] The Hungarian competition authorities imposed fines in the following amounts: HUF 5 319 000 000 (approximately €18 215 753) on Allianz Hungária, HUF 1 046 000 000 (approximately €3 582 191) on Generali-Providencia, HUF 360 000 000 (approximately €1 232 876) on the national association of authorised dealers (GÉMOSZ), HUF 13 600 000 (approximately €46 575) on Magyar Peugeot Márkakereskedők Biztosítási Alkusz Kft and HUF 45 000 000 (approximately €154 109) on Paragon-Alkusz Zrt, the legal successor of the Magyar Opelkereskedők Bróker Kft.

vertical agreements – that is to say, agreements concluded between undertakings which are not in competition – they may nevertheless have as their object the restriction of competition.

The Court also points out that in the present case, the object of the agreements at issue must be determined in the light of the two markets concerned. Therefore, it is for the Hungarian court to determine, first, whether, taking account of the economic and legal context of which they form a part, the contested vertical agreements are sufficiently injurious to competition on the car insurance market to justify a finding that their object is to restrict competition. That could in particular be the case where the role assigned by domestic law to dealers acting as intermediaries or insurance brokers requires that they be independent in relation to the insurance companies. Likewise, the anti-competitive object of the agreements is also established where it is likely that, following the conclusion of those agreements, competition on the car insurance market would be eliminated or seriously weakened.

Secondly, in order to determine the object of the agreements at issue in relation to the car repair service market, the Hungarian court should take account of the fact that those agreements appear to have been concluded on the basis of 'recommended prices', established in decisions taken by the national association of the car dealers. If that court holds that those decisions had as their object the restriction of competition by harmonising hourly charges for car repairs and that, by the contested vertical agreements, the insurance companies voluntarily confirmed those decisions, which can be assumed where they concluded an agreement directly with that association, the unlawfulness of those decisions would also vitiate those agreements.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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