

# Relevant Market



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# Relevant Market Introduction

- Relevant market – a basis for competition analysis
- What, where and when does satisfy the demand of consumers?
- Intersection of legal, economic, econometric and marketing issues
- *Relevant market is the market worthy to monopolize*
- *Widening of relevant market definition by introduction of a single additional product commonly places aside threats of distortion of competition*

## Relevant Market Sources

- Art. 2 (2) of the Act. No. 143/2001 Coll., as amended (ZOHS)
- Commission Notice on definition of relevant market (OJ C 372/5 of 9. 12. 1997)
- Case law and decisional practice
- Theory

# Relevant Market Definition

## Art. 2 (2) ZOHS

- Relevant market shall be deemed to mean the market of goods, which are identical, comparable or mutually interchangeable from the point of view of their characteristics, price and their intended use in an area, where the conditions of competition are sufficiently homogenous and which can be clearly distinguished from neighboring areas.

## Relevant Market Definition II

- COM Notice:
  - 'A **relevant product market** comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended use`.(par. 7).
  - 'The **relevant geographic market** comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighboring areas because the conditions of competition are appreciably different in those area`.(par. 8).



## Relevant Market

# An integral part of competition analysis

- Agreements distorting competition
  - horizontal/vertical
  - exemptions
    - *de minimis*
    - block exemptions
- Abuse of dominance
  - market share as a prima facie indicia of market power
  - consequences for other criteria
- Merger control
  - market share
    - part of assessment, not a notification threshold

# Relevant Market

## Three (Two) Dimensions

- Relevant market
  - Product market
  - Geographical market
  - (Time market ???)
- But there is a single relevant market!
- Looking back or ahead? Retrospective or perspective view?

# Relevant Product Market I.

- Products and services which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended use
- Final consumer's opinion always decisive (even in case where final consumer is not direct customer]  
*C-222/94 P Tetra Pak*
- “Starting” product
  - High Court in Olomouc, sp. zn. 2A 6/96



# Relevant Product Market II.

- Price test (SSNIP test, hypothetical monopolist test)
  - whether the parties' customers would switch to readily available substitutes or to suppliers located elsewhere in response to a hypothetical small (in the range 5 % to 10 %) but permanent relative price increase in the products and areas being considered.
  - marginal consumers
  - *cellophane fallacy*
- Substitutability
  - functional
  - reactive
- Chains of substitutability
- Substitutability changes in time

## Relevant Product Market III.

- Price elasticity
- Cross price elasticity
- Similar marketing strategies
- (Price) Discrimination between groups of customers (ÚOHS S 145/02 ČEZ/REAS)
- Separate product x accessories (322/81 *Michelin v. Commission*)
- Intended use (85/76 *Hoffmann-LaRoche*)

# Relevant Geographical Market I.

- Subsequent step
- Two aspects:
  - Market conditions sufficiently homogenous within territory
  - Market conditions in various territories are appreciably different
- Case law
  - local
  - MS
  - Wider than national
  - EU or EEC
  - Worldwide (global)
  - specific – e.g. network industries, air routes etc.

# Relevant Geographical Market II.

- Services x products
- SSNIP test
- Market shares' levels
- Prices
- Discrimination between two areas
- Transfer of demand/offer
  - time aspects
- Other criteria
  - barriers to entry
  - costs of establishing own distribution network
  - technical directives (norms)
  - cultural differences, national preferences etc.

# Potential Competition

- In case the price of relevant product significantly increases, are there undertakings (not active within the relevant market do far) who are willing to enter the market and able to become realistic competitors to existing producers
- Part of supply substitution analysis or part of substantive assessment?
  - according to costs of such entry
- Potential competition
  - by undertakings already being present in the market
    - extra capacity
    - stock
    - intermediate product
  - by undertakings so far not present in the market
    - barriers to entry

# Barriers to Entry I.

- Make the entry into market more difficult
  - Legal restrictions
  - Established trade marks
  - Transport costs
  - Behavior of existing suppliers (*predatory pricing, exclusive clauses*)
  - Barriers for import (tariffs, non-tariff barriers, national sentiment, language)
  - Advertising costs.

# Barriers to Entry II.

- Non surmountable barriers
  - statutory restrictions
- Surmountable barriers but costs are sunk
  - costs of advertisement
- Surmountable barriers and costs of entry can be returned once the entrant wants to leave the market
  - distribution network

A close-up photograph of several white chess pieces, including a king, queen, and pawns, arranged on a chessboard. The pieces are slightly out of focus, with a warm, golden light illuminating the scene from the right.

# Market Share

- Volume sales
- Value sales
- Capacity, the number of players in bidding markets, units of fleet as in aerospace etc.



# Further Issues

- Competition in the market x competition for the market
  - see waste collection
  
- Multimarket competition doctrine
  - see airline industry

# The End

Thank you for your attention ....

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