



GAZDASÁGI VERSENYHIVATAL
HUNGARIAN COMPETITION AUTHORITY
years in serving fair competition for consumers



Alternative Case Resolution /early court resolution/

Peter Szolnoky, Head of Cartel Section
Hungarian Competition Authority
2010 ICN Cartel Workshop, Yokohama



General terms

Generally under the concept ACR or sometime ADR more resolutions are mentioned in the legal literature

My understanding: ACR is a process of resolving matters (dispute, case) in pending litigation (decision-making) through facilitated settlement / settlement conference / mediation / arbitration/ neutral fact finding / neutral case evaluation / or combination of these processes

Nowadays two of them were mentioned as potential case resolutions concerning competition proceedings thus I selected them for discussion whether they can be realistic case resolution alternatives for cartel cases

These are: facilitated settlement / mediation

For common understanding in the debate I give my definition of both



Definitions

Facilitated settlement where you meet with an impartial, experienced person to discuss your case for the purpose to try resolving it. In this process the facilitator listens your short presentation of your case and assist you in negotiating a settlement of your case. He / she may give you opinion of how the case could be resolved fully or partially in a negotiating process.

Facilitated settlement more times is ordered by court but sometimes it is an option of attempting to settle the case. Thus it is a way for resolving all or part of the debating issues and it gives you an ultimate decision making power.

Mediation is a different approach in case resolving where parties derive satisfaction in successfully reaching their own agreement with the support and guidance of a mediator. Mediation provides a non-adversarial environment for the parties to work with the mediator in exploring alternative ideas and ways for resolving disputes. The mediator is a neutral person working to create a positive atmosphere conducive to reach their own successful agreement / settlement. He / she acts as an intermediary to work with opposing sides in order to resolve the case.



Questions for discussion

Could these alternative case resolutions be used in cartel proceeding where on one side there is an enforcing authority and on the other side there are the parties enforced because of infringement? Are these realistic case resolutions for our proceedings at all?

Are they different from the settlement technics being used nowadays at more jurisdictions? In what sense?

Beside the legal representative attorney do the parties require other support or intermediary? If yes why?

Does the enforcer authority require any intermediary in a settlement negotiation?



Have a good discussion!

Peter Szolnoky, Head of Cartel Section
Hungarian Competition Authority