



Competition Council of the Republic of Latvia

Annual Report 2014

TABLE OF CONTENTS

SPEECH BY THE CHAIRWOMAN OF THE COMPETITION COUNCIL ...	3
I. BASIC INFORMATION	5
1.1. Structure of the Competition Council.....	7
II. PERFORMANCE RESULTS OF THE COMPETITION COUNCIL IN 2014	8
2.1. Decisions of the Competition Council.....	9
2.2. Legal proceedings	11
2.3. Investigation of Violations of the Competition Law	12
<i>Prohibited agreements.....</i>	<i>12</i>
<i>The abuse of dominant position</i>	<i>14</i>
2.4. Mergers Control	15
2.5. Sector inquiries.....	15
<i>Monitoring the euro changeover process</i>	<i>17</i>
2.6. Improvements in the Legal Framework.....	18
2.7. International cooperation	19
III. MANAGEMENT OF THE COMPETITION COUNCIL	21
3.1. State Budget Financing	21
3.2. Personnel.....	23
<i>Education of the Personnel.....</i>	<i>24</i>
3.3. Improving Performance of the Institution.....	24
IV. COMMUNICATION WITH THE PUBLIC	25
<i>Public Information and Education Measures</i>	<i>25</i>
<i>Public Involvement.....</i>	<i>27</i>
V. PLANS FOR 2015	28
<i>Contacts.....</i>	<i>30</i>

SPEECH BY THE CHAIRWOMAN OF THE COMPETITION COUNCIL

The year has gone by unusually fast and it is time once again to look back and evaluate our performance.

Time passing quickly always means that a great deal has had to be done.

I am confident that we have worked extremely hard during 2014. We have been socially responsible and we have achieved a lot.

A decade of attempts to facilitate participation in compliance program have finally been successful. The first two cartel cases initiated by reports from parties involved in the violations were finally closed. The Competition Council kept its promise and parties who reported the violations were exempted from fines.

On one hand, these news are exiting. Both of the cases seem to imply that companies have become more aware about cartels as detrimental to competition. Unfortunately, that is not enough. Prohibited agreements are still extremely prevalent in Latvian markets. In 2014, the Competition Council uncovered seven cases of this type of violation. Three of these resulted from trade associations and one involved almost the entire Volkswagen car procurement market. In three additional cases, the Competition Council decided to warn companies about alleged violations of the Competition Law. For a country and institution of our size, this number of violations is high. Prohibited agreement control will therefore be a priority for the Competition Council in the future as well.

Only imposing heavy fines is not the goal of and is not the only tool available for the Competition Council. Our main aim is to reduce the number of prohibited agreements and similar anti-competitive practices in the long run. Because of that, we share our knowledge by informing, explaining and educating society to develop broader understanding of the necessity for fair competition. Organizing seminars and meetings on current affairs regarding competition policy has become an integral part of our activities. As a result, entrepreneurs and companies in developing Latvian regions are also informed about the Competition Law and the Competition Council.

Throughout the year, we have improved our cooperation with other government institutions. Together we have opposed commercial activities by public officials and exchanged information about possible Competition Law violations. Twelve such violations were reported by public officials in this year alone. This means that we have managed to get to know each other better and the public sector now operates more as a unified institution.

In addition to our continuous efforts to learn from the experience of other countries, we constantly attempt to improve and innovate ourselves. We are one of the only countries in which competition regulator also follows court proceedings for several years to ensure that fines are paid accordingly. Last year, we inspected the various methods used by companies to avoid paying fines. We thus gained valuable insights on how to ensure enforcement of these type of punishments.

As for international achievements, it is essential to mention the most important one. Throughout the year, the Competition Council worked under the scrutiny of

OECD evaluation. In December, we received a glowing review recognizing our competence and enthusiasm from the leading competition experts in the world. We are therefore even more certain that protection of fair competition in Latvia conforms with the international standards of OECD.

In conclusion, I would like to emphasize that the work done by our institution is done with a strong responsibility towards public interests. In 2014, legal proceedings were finalized in 10 cases, and in all cases courts upheld the decisions made by the Competition Council. This is a strong statement about the professional quality of performance.

This report describes the work and achievements of the Competition Council in 2014. Suggestions and critique, as always, are more than welcomed.

Yours,

A handwritten signature in blue ink, reading "Skaidrīte Ābrama". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Skaidrīte Ābrama,
Chairwoman of the Competition Council

I. BASIC INFORMATION

The Competition Council is a direct administrative institution under the supervision of the Ministry of Economics and implements State policy on the matters of development and protection of competition. Independence of the Competition Council in investigations and decision-making is specified by the Competition Law.

The main aim of the Competition Council is to give every market participant a possibility to perform economic activities in a free and fair competition environment, as well as to ensure a favorable environment for maintenance, protection and development of competition for the benefit of society.

Tasks and rights of the Competition Council are defined in the Competition Law, the Advertising Law, the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the Cabinet Regulation No 795 of 29 September 2008 "By-law of the Competition Council" and other regulatory enactments.

Within its activities the authority implements the sub-programme "Implementation of Competition Policy" (26.02.00) of the budget programme "Ensuring Fair Competition, Protection of Internal Market and Consumer Rights" (26.00.00).

Tasks of the Competition Council:

1. To ensure a coherent application of the competition legislation so that:
 - The market participants would not enter into prohibited agreements;
 - There would be no changes in the relevant market that may have a negative impact on consumers and other market participants in case of a merger of market participants;
 - The market participants would not abuse their dominant position that may have a negative impact on other market participants and consumers;
 - The market participants would not disseminate misleading advertising that has a significant impact on the overall competition;
2. To promote competition in markets with no or limited competition within the scope of the Competition Council;
3. To ensure that legislation developed by other state institutions ensures protection, maintenance and development of competition;
4. To ensure that society has access to comprehensive information about the positive effects of fair competition on market functionality and social welfare;
5. To ensure that Latvia's interests are fully represented in the relevant institutions of the European Union (hereinafter – the EU) and international organizations.

Implementation of the competition policy as a key objective of the Competition Council is divided into two categories. The first concerns the overall protection of fair competition, which involves protection of market

participants and the society against negative effects of market concentration and violations of the Competition law. The second concerns development of the competition culture. This measure includes provision of proposals aimed at reducing administrative barriers, as well as information provision for consumers, market participants, public and local government authorities about the nature and application of the Competition law. These measures aim to pre-emptively prevent risks of fair competition violations.

Within these objectives, the Competition Council had set certain priorities for 2014, namely, to detect and prevent the most severe violations of the Competition Law (cartel agreements and abuse of dominant position), to carry out wide market surveillance activities, to strengthen cooperation with other public institutions and non-governmental organizations. The Competition Council also planned to strengthen measures aimed at raising public awareness and education, as well as to ensure quality participation of the organization in international competition protection programs and networks.

1.1. Structure of the Competition Council

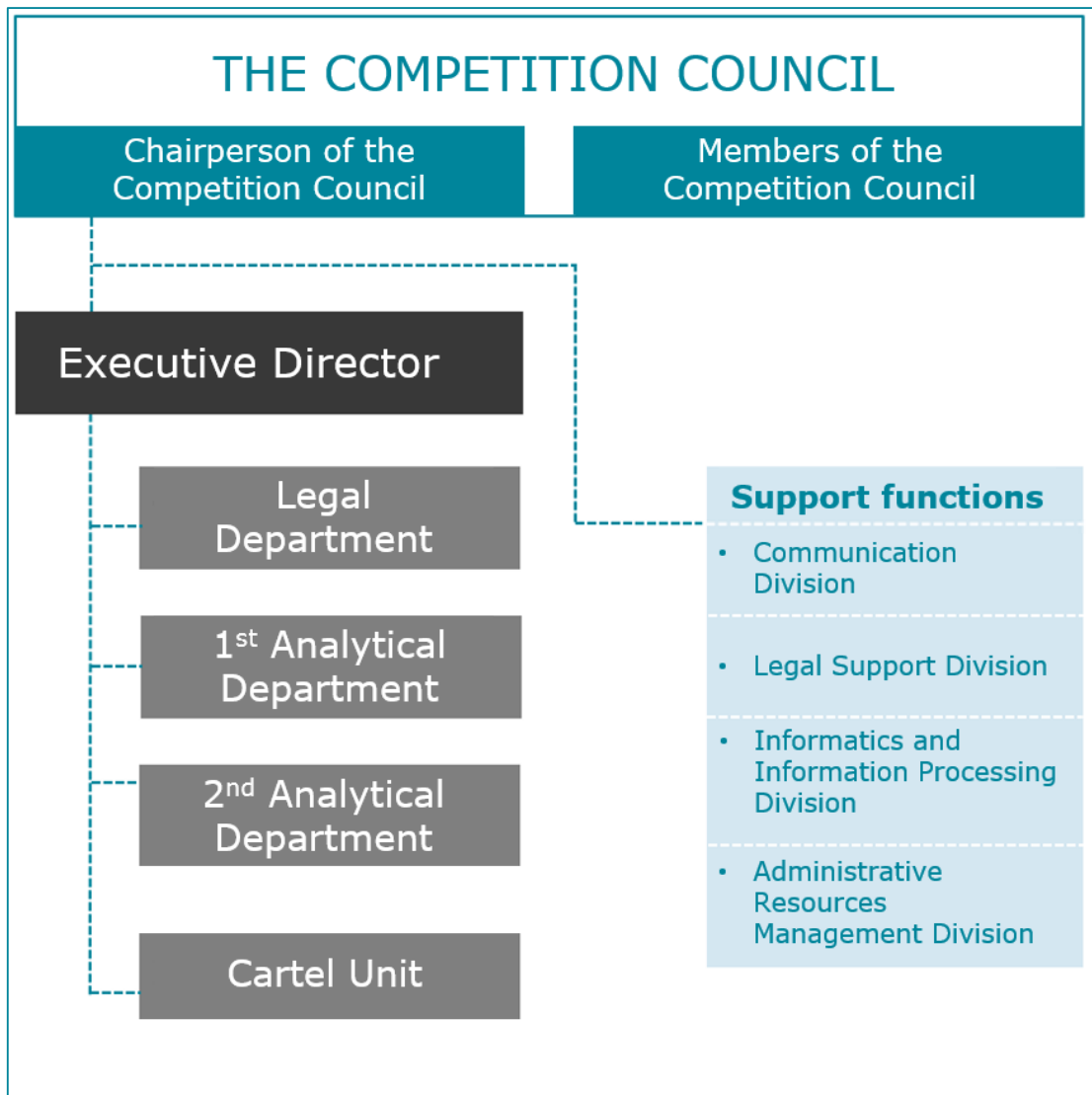


Figure 1. Organizational chart of the Competition Council

The Decision-Making Authority – the Competition Council – consists of a Chairperson, who is also a head of the institution, and two Council Members. The Chairperson and Council Members are appointed by the Cabinet of Ministers upon the recommendation of the Minister of Economics. The term of office for the Chairperson and Council Members is five years and these officials may be re-appointed to office. The Chairperson of the Competition Council manages activities of subordinated structural units to the council – Administrative Resources Management Division, Communication Division and Legal Support Division.

The Executive Institution – the Executive Directorate – is run by the Executive Director who is directly subordinated to the Chairperson of the Competition Council. Structural units of the Executive Directorate include three analytical departments and the Legal Department. These departments consider applications and investigate violations of the Competition Law, prepare conclusions and draft decisions, perform supervision of competition

environment, control execution of legal obligations and represent the Competition Council in courts. Informatics and information processing division is responsible for obtaining and processing electronic data.

II. PERFORMANCE RESULTS OF THE COMPETITION COUNCIL IN 2014

In 2014, the Competition Council has achieved all expected performance results defined for the institution in the budget sub-programme "Implementation of Competition Policy" (see Table 1).

Table 1. Result-based Performance Indicators of the Competition Council

	Measure/activity result activity	Expected performance result	Achieved performance result
1	Investigation of alleged violations/sector inquiries (number of cases)	34	34
2	Planned mergers impact assessment on competition in the market (number of cases)	14	14
3	Price control measures related to euro changeover (number of measures)	2	2
4	Provision of explanations related to legislation regulating competition; proposals for improvement in laws, regulations and draft laws (number of conclusions)	70	81
5	Informative and educational measures, such as press conferences, publications, meetings, seminars, trainings (number of measures)	30	34
6	Ensuring successful participation in OECD (number of documents and events)	8	13

As a result, the Competition Council has provided both, interinstitutional and public services. The institution has reviewed notifications on violations of the Competition Law and the Advertising Law, provided consultations on the competition legislation, considered notified mergers of market participants, adopted decisions on mergers of market participants, as well as informed the public about protection and supervision of competition.

2.1. Decisions of the Competition Council

Table 2. Statistical summary of decisions:

Prohibited and notified agreements	18
Detected violations	7
Terminated investigations	8
Reviews of notified agreements	3
Abuse of dominant position	4
Detected violations	3
Non-initiated cases	1
Terminated investigations	1
Enterprise mergers	14
Permitted mergers	12
Permitted mergers with binding conditions	1
Prohibited mergers	1
Violations of the Advertising Law	0
Violations of the Latvian Code of Administrative Violations	2
Failure to provide information or provision of false information	1
Failure to comply with legal obligations and decisions by the Competition Council	1
Total	38

In 2014, the Competition Council adopted a total of 38 decisions. 9 decisions detected violations of the Competition Law, imposing fines in the amount of EUR 8 055 874,49 on 17 enterprises.

In two cases, the Competition Council imposed fines of EUR 4500 for the infringement of the Code of Administrative Violations. The fined enterprises either failed to provide information or failed to comply with their legal obligations and Competition Council decisions.

The breakdown of decisions by types of violations is shown in Figure 2.

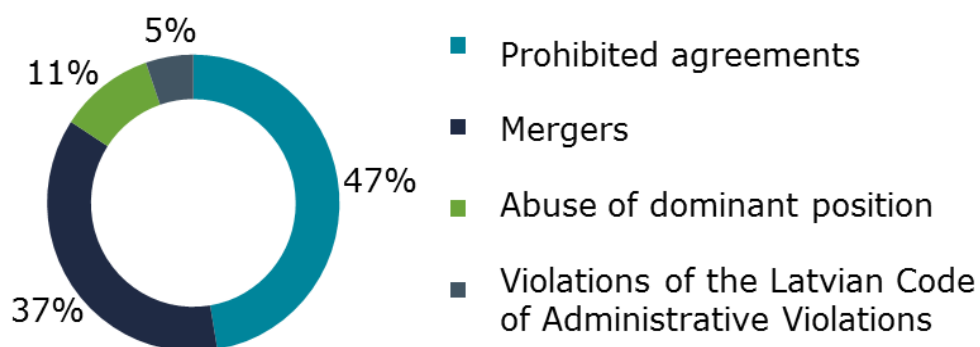


Figure 2. Breakdown of decisions of the Competition Council in 2014 by types of violations

Overall in 2014, decisions on establishing a violation of the Competition law were adopted in 9 cases. In 1 case, the Competition Council decided not to initiate a case because the concerns about possible violations expressed in the notification were not confirmed. A total of 9 decisions to terminate investigations were made in cases where despite the initial information that indicated otherwise, no violations in the Competition Law were found. Lastly, 14 of the decisions were related to merger control, and 3 of the decisions concerned assessment of notified arrangements (see Figure 3).

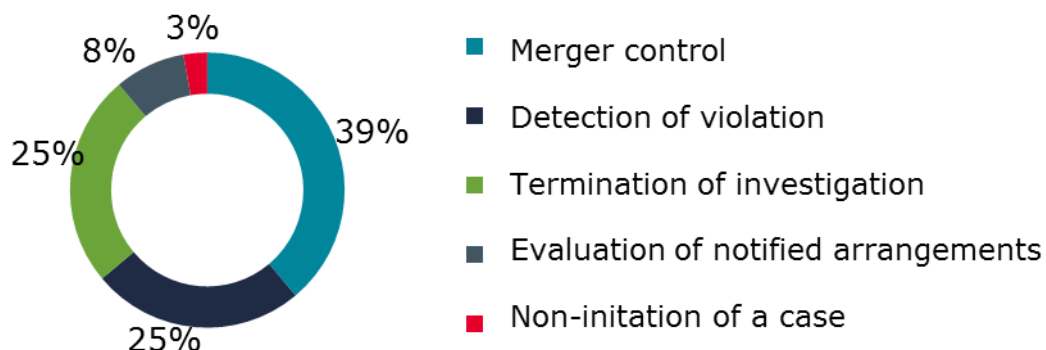


Figure 3. Types of decisions on the Competition Law adopted in 2014

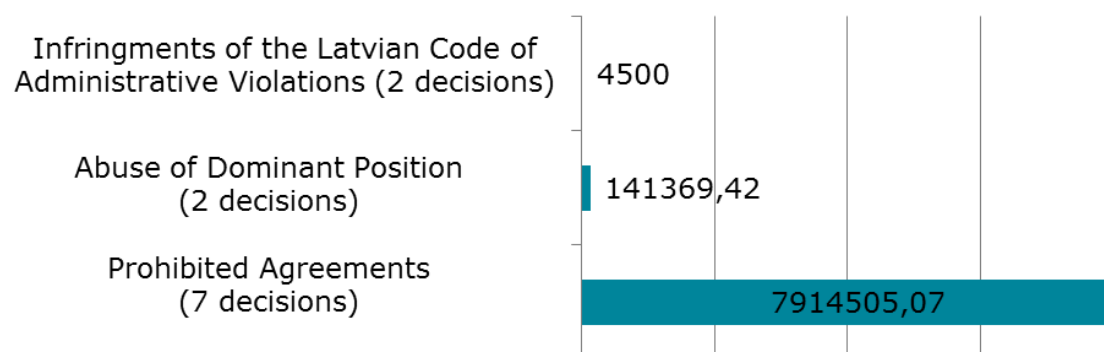


Figure 4. Amount of imposed fines (EUR) by types of violations

The amounts of fines imposed on market participants for violations of the Competition Law within the reported period ranged from EUR 715,35 to EUR 5 050 542,23. The amount was based on the turnover of the previous financial year for the market participant involved, as well as other factors, such as the severity, length and consequences of the violation.

Within the reported year, the Competition Council imposed fines on two enterprises for violations of the Latvian Code of Administrative Violations. These resulted either because of refusal to provide the necessary information, knowingly providing false information or from a failure to comply with the legal requirements of decisions made by the Competition Council.

In 2014, **finer in the amount of EUR 6 104 773,68** for violations of the Competition Law and the Latvian Code of Administrative Violations, imposed by the Competition Council in 2014 and previously, have been **paid into the state budget**.

By the end of 2014, fines in the amount of EUR 19 952 636.46 imposed by the Competition Council have not yet been paid for several reasons. Either the payment period has not yet expired, a compulsory enforcement of the decision has been initiated and is being implemented by sworn bailiff, or the decision has been appealed and there are pending legal proceedings. In cases when a decision made by the Competition Council is appealed, the enterprise shall be obliged to pay the fine only after legal proceedings have been finalized, except for cases when the court revokes the decision made by the Competition Council.

2.2. Legal proceedings

Final decisions made by the Competition Council on violations of the Competition Law may be appealed in the Administrative District Court within a month from the day the decision comes into force. Decisions on initiation of cases, additional investigation into merger control cases and extensions of the deadline for the Competition Council decisions cannot be appealed.

From all decisions made by the Competition Council in 2014, nine were appealed. These nine included all of the decisions in which the Competition Council found violations in the Competition Law.

In 2014, legal proceedings were finalized in 10 cases, and in all of the cases the decisions made by the Competition Council were upheld by the court. In two of the cases, legal proceedings were ended. In the first case, a settlement agreement (in the form of administrative contract) was reached between the enterprise and the Competition Council, and in the other case the enterprise in question entered into bankruptcy.

In overall, the Competition Council entered into **administrative contracts** with two market participants. The Competition Council has the right to enter into a settlement in the form of an administrative contract to conclude a

legal dispute. This makes it possible for the Competition Council to avoid extended proceedings that are usually caused by appeal of the institution's decisions, thus accelerating the fine collection process and allowing to save additional resources for the state. Enterprises that enter into these contracts are usually subject to a reduced fine. A requirement for a guilty plea for the particular violation is one of the pre-conditions for the administrative contract set by the Competition Council. The decision of the Competition Council comes into force the moment the contract is signed.

One of the most important decisions made by the court last year is the decision by the Supreme Court on December 17, 2014. This was the final decision after which the decision made by the Competition Council in 2011 **to punish 22 of the Latvian commercial banks can no longer be appealed.** According to this decision, the investigation into the violation by the banks was conducted properly, the market impact assessment was comprehensive and conclusions made by the Competition Council were based on an objective interpretation of the facts. The court concluded that the banks had entered into an agreement that restricted pricing competition by object. According to the EU law, agreements made on pricing policies are one of the most common cases of attempting to distort competition by object. These are actively tackled by competition legislation, which prohibits enterprises from distorting independent price development within the market. The court also held up all of the fines imposed by the Competition Council, as agreements on pricing policy is one of the most damaging form of prohibited agreements.

2.3. Investigation of Violations of the Competition Law

Prohibited agreements

Prohibited agreements are a particularly severe type of violation of the Competition Law that may cause substantial and irreversible damage to a particular market and consumers. Even enterprises involved in the violation are often harmed in the long-term as they feel no competition pressure and therefore lose competitiveness. Thus, detection and prevention of prohibited agreements is one of the key priorities of the Competition Council.

In 2014, the Competition Council adopted 18 decisions on possible violations of prohibited agreements. In total, fines imposed on 15 enterprises amounted to EUR 7914505.07, and two companies were exempted from fines due to their participation in the leniency program.

In 2014, the Competition council for the first time in the history of competition legislation in Latvia was able to reveal prohibited agreements based on information received within the leniency program. This program incentivizes enterprises to notify the Competition Council about their involvement in a cartel. By providing evidence about the activities of this

cartel, the enterprise has a possibility to either have their fine reduced or be exempted from paying the fine entirely.

As a result, two of the decisions adopted by the Competition Council last year punished enterprises for engaging in prohibited agreements after enterprises involved in a cartel notified the institution as a part of the leniency program. In one of the cases, infringements in several construction procurements financed by the EU funds were revealed. In the other case, a prohibited agreement lasting for at least five years between the importer and six dealerships of new Volkswagen cars was revealed. In total, these enterprises were punished with fines amounting to EUR 7.6 million.

In the second half of 2014, the Competition Council revealed three cases when competition was distorted by enterprise associations. In that way, Latvian Leasing association, "Auto Asociācija" and Latvian National Association of Ship Brokers and Agents were all punished for similar infringements.

The Latvian Leasing association, the members of which include the biggest leasing company in the country, was engaged in a prohibited agreement on the basic principles of business activities. For example, the association had agreed on lending period of operating leases, the size of down payment, repurchase value, pre-emption rights, as well as conditions of maintenance and servicing. Similarly, members of the association had established principles by which interaction with car dealerships and insurance companies should be conducted.

Members of "Auto Asociācija", who are the largest new car dealers and service owners in Latvia, were using the association to discuss business decisions which according to the Competition Law should be decided upon individually. They were discussing a unified strategy concerning public insurance companies, as well as a creation of guidelines, which in cases of operating leasing specified where maintenance and service of new cars should be conducted.

The Latvian National Association of Ship Brokers and Agents had fixed the minimum price that its members could charge for services of shipping agents. The aim of this prohibited agreement was to create a unified price level for services, thus minimizing competitive pressure and preventing agents from creating independent pricing policies.

In addition to these cases, in 2014 the Competition Council conducted an assessment of three notified agreements. The notifications are requests by companies to assess whether their planned cooperation is in accordance with the Competition Law. In all of these cases the cooperation was allowed, as the Competition Council determined that the potential benefit for consumers resulting from the agreements outweighed the possible risks to fair competition.

The abuse of dominant position

Even in fairly competitive markets, some enterprises might end up being in a dominant position. Such enterprises have sufficient market power to operate completely or partially independently of competitors, customers, suppliers or consumers. Being in dominant position is not a violation by itself, rather the Competition Law prohibits enterprises from abusing dominant position by preventing competitors from either entering or operating in a particular market.

Prevention of abuse of dominant position is particularly important for small and medium-sized enterprises whose activities can be significantly limited in such conditions. Similarly, it is also essential for consumers as it helps to avoid pricing policies that do not comply with the actual situation in the market.

In 2014, the Competition Council adopted four decisions on alleged abuse of dominant position. In two cases, a violation was detected and fines in the amount of EUR 141 369.42 were imposed.

In order for the Competition Council to be able to deal with less significant violations quickly and effectively, the institution can also function as a **mediator for communication between enterprises**. In that way, after a warning issued by the Competition Council in 2014, SIA "Rīgas ūdens" entered into a previously refused agreement with the housing operator SIA "Hausmaster" for the use of city aqueduct and sewerage. A decision to start a discussion with SIA "Rīgas ūdens" and focus on mediation rather than initiate a case was made by the Competition Council after an application by SIA "Hausmaster" was received. After negotiations, a mutual agreement was reached by both of the companies, and a solution for dealing with the debts of the previous housing operator, as well as for modifications in the service delivery contract was found.

Investigating possible violations of the Competition Law is a complicated and time-consuming process, which can last up to two years. Furthermore, many of the decisions made by the Competition Council are usually followed by court proceedings, which can last as long. Similarly, in cases when the possible violation is minor and the market participant is willing to stop the particular anti-competitive behavior during the initial stages of the investigation, **the Competition Council can issue a warning** rather than initiate an official case. In that way, possible distortions to competition and harms to consumers can be prevented faster, thus avoiding spending valuable resources for all of the parties involved.

Thus, in 2014, in three cases of possible minor infringements the Competition Council issued warnings to seven enterprises.

2.4. Mergers Control

Last year, 14 mergers, which required an approval by the Competition Council according to the criteria set forward by the Competition Law, were conducted.

In 12 of these cases, the Competition Council made decisions permitting the mergers as there were no concerns for possible distortions to competition in the specific markets. In one of the cases, the merger was permitted with binding conditions which allowed to avoid possible competition distortions.

In one of the cases, however, the Competition Council made a decision not to allow a previously permitted purchase of a pharmacy, as the enterprise in question failed to follow the binding conditions set by the Competition Council within the given time period. As a result, the previous assessment made by the Competition Council no longer complied with the actual situation in the market.

Within merger review, the key priority for the Competition Council is the protection of public interests by preventing excessive market concentration and maintaining diversity of choice for customers. At the same time, the institution aims to ensure fast and qualitative consideration of notifications submitted by market participants.

Similarly to 2013, most of the merger cases in 2014 were in the fuel retail market, as the Competition Council reviewed and cleared three such mergers. Notable mergers also took place in the insurance, non-durable goods retail and pharmaceutical wholesale markets.

2.5. Sector inquiries

Sector inquiries are essential for promotion and protection of fair competition. Based on the information of selected target markets obtained within sector inquiries, the Competition Council analyses the competition situation in the particular market. Furthermore, the institution develops and submits proposals for improvement of competition to responsible institutions, as well as checks the supervised market for violations of the Competition Law.

In 2014, the Competition Council completed inquiries in 13 markets. Some inquiries allowed the Competition Council to obtain valuable information necessary to take further actions, such as adopting a decision or initiating an investigation into a potential violation. If the information obtained within a sector inquiry could potentially benefit public interests, the institution prepares a public report of the inquiry. In this way, last year the Competition Council publically reported on the following inquiries:

- **Franchise contract fuel market inquiry.** The goal of this inquiry was to obtain information regarding the biggest fuel franchise contracts, as well as to evaluate the impact that agreements between

franchiser and enterprises have on competition in the fuel market. Within the inquiry, the Competition Council for the first time conducted a research regarding a vertical contract between the market participants. The Competition Council concluded that none of the franchisers had decisive control over any of the franchisees, and therefore the companies could not be viewed as a single market participant. At the same time, it has to be noted that when evaluating market concentration, it was concluded that intensity of competition within a single brand was limited, as franchisees could impact the market power franchisers and the other way around.

- **Within cash collection service market inquiry,** the Competition Council analyzed the competition situation and assessed possible distortions to fair competition similarly to those found by the Competition Council of Lithuania within the same market. The Competition Council concluded that there were no observable limitations to fair competition as customers had a range of possible service providers to choose from and could easily switch between the providers.

To begin operations in this particular market, enterprises are required to obtain a license allowing them to provide security measures during the money transportation. Furthermore, enterprises are required to have financial means to obtain the necessary technological base, hire specially trained employees and obtain the legally required insurance. The Competition Council concluded that working with large amounts of cash poses significant risks, and as a result these entry barriers are justified.

- **Inquiry into regulation of the electricity market liberalization for households.** The Competition Council concluded that even though the liberalization of the electricity market had a positive overall impact on competition, it is necessary for electricity consumers to actively use their possibilities to pick the best service offer, thus promoting competition. To be able to increase the range of possible options for customers, the regulators should maintain an environment with fair and equal competition. Because of that, it is important to maintain the legal as well as de facto separation between AS "Sadales tīkls" and AS "Latvenergo".
- **Market inquiry into enterprises previously punished for household appliance provision cartel.** Conclusions derived from the inquiry as well as the relevant legal proceedings allowed the Competition Council to conclude that enterprises fined for a prohibited agreement should not be able to avoid paying the fine by initiating a bankruptcy and continuing operations as a new legal entity. In many cases after a decision made by the Competition Council comes into force (this usually happens after the decision has been appealed in the appropriate courts), most enterprises pay their fine in full. If an enterprise goes bankrupt, the Competition Council applies as a creditor for this enterprise. If, however, the Competition Council suspects that the assets of the company have been

transferred to other legal entities in order for the enterprise to be able to avoid paying fine, the Competition Council pursues legal action against the entity that now controls these assets. These claims are relevant for enterprises that plan to engage in a merger or an acquisition. The potential acquirer have to conduct due-diligence to check whether their acquisition target has been involved or punished for infractions of the Competition Law. If an enterprise acquires the assets of an enterprise which has been fined by the Competition Council, they are also liable for this fine after the acquisition has been finalized. In order to be able to pursue claims against other entities that attempt to avoid paying fines, this was the first time the Competition Council conducted a sector inquiry as sophisticated and extensive.

- **Inquiry into drug market of various circulatory system diseases.** The Competition Council analyzed the market structure and tendencies, the factors determining the pricing policies, as well as the availability of original and generic drugs. The agency concluded that there is strong competition between companies which produce drugs for heart and circulatory system diseases and that there is a low turnover of the market participants. Furthermore, the Competition Council conducted an assessment of a new generic drug supply impact on market prices by using a generic drug known as *Atorvastatin*. The main conclusion of the assessment was that by accounting for administrative expenses, which in the Latvian market are notably higher than in most other EU countries, as well as the limited size of the market, it is possible that some of the current distributors might become unprofitable in the future. In that way, the market would be left with several large distributors, which would continue to supply *Atorvastatin*, and continue competing with each other.

Similarly, in 2014 the Competition Council continued previously initiated sector inquiries, as well as launched new inquiries which will continue throughout 2015. At the end of 2014, 21 sector inquiries had not yet been concluded.

Monitoring the euro changeover process

At the end of 2014, the Competition Council concluded the inquiry into euro changeover process. The Competition Council concluded that the observed price fluctuations in different markets were not related to possible violations of the competition law.

The national market inquiry, which was started at the end of 2013 and continued throughout 2014, was necessary so that enterprises would not enter into prohibited agreements or engage in other actions with an aim to increase prices unreasonably due to introduction of the euro.

Within the inquiry, the Competition Council used monitoring data obtained by the Ministry of Economics and Consumer Rights Protection Centre to analyse possible correlations in price changes between various cities in the country, which could indicate possible competition law violations. Similarly, the Competition Council received and evaluated more than 200 complaints about alleged violations from consumers. At the same time, the Competition Council focused on pre-emptive prevention of violations, as specialists from the Competition Council met with enterprises and non-governmental organizations to actively inform them about the need to respect the competition law throughout the euro introduction process. In several cases, after enterprises or enterprise associations publically announced possible price increase, the Competition Council issued a warning and informed the respective institution about illegal nature of such actions.

2.6. Improvements in the Legal Framework

One of the goals of the Competition Council is to make the application of the Competition Law more efficient and understandable for entrepreneurs, as well as to ensure its conformity to the decisions by the EU Court and the best practices of other EU member states. Thus, in 2014 specialists from the Competition Council continued work on amendments to the Competition Law. The said amendments are aimed at expanding opportunities for enterprises to receive exemptions from fines, explain their position to the Competition Council and to bring damage actions. The procedure for merger control is also being improved, as well as opportunities for the Competition Council to force enterprises to comply with imposed fines and obligations are being expanded and possibilities for the Competition Council to allocate its resources to investigations of the most severe violations are advanced.

In 2014, the Competition Council played a major role in the revision of the **Law on the Prohibition of Unfair Practices of Retailers** in the relevant parliamentary commission, as well as informative coordination of retailers, producer associations and other interested parties.

In order to eliminate administrative barriers and promote competition for the benefit of consumers, the Competition Council provided **more than 80 explanations (including 30 opinions) on draft laws and policy planning documents at the various stages of the decision-making procedures**, as well as existing legislation related to various sectors, such as the use of natural gas, business activities of public officials, the development of mail industry, waste management, tobacco realization, etc.

By reviewing draft laws and regulations, the Competition Council aims to eliminate unjustified market entry barriers and requirements as well as unreasonable differences within regulatory frameworks, as any kind of unjustified restrictions on a particular market can have negative impacts on competition and consumers in the long-term.

In that way, last year the Competition Council formally objected to possible amendments to Waste management law, which aimed at taking away the

possibilities from medium and large enterprises to choose their own waste management provider. These amendments would have forced many private waste management providers to exit the market, and customers would receive more expensive service of potentially worse quality.

2.7. International cooperation

The objective of international cooperation for the Competition Council is to fully utilize the opportunities resulting from the participation of the institution in communication networks of competition authorities of the European Union and the rest of the world. The main priorities include participation in development of legislation at the European Union level, cooperation with the European Commission and competition protection authorities of other countries in joint investigations and experience exchanges, as well as building international recognition of the institution.

The Competition Council is actively involved in international organizations and networks. The most important among these are the European competition network, the International competition network and the Organization for Economic Co-operation and Development (OECD).

The aim of **the European Competition Network (ECN)** is to provide an opportunity for competition authorities of the European Union to discuss possible applications of Article 101 (prohibited agreements) and Article 102 (abuse of dominant position), as well as to promote cooperation among these authorities.

Last year, representatives of the Competition Council participated in the ECN plenary sessions and several meetings of its sub-groups to discuss the experience of the EU member states in combating prohibited agreements, merger control, obtaining and processing electronic evidence, as well as competition issues in food, retail, transportation, energy, financial service and insurance markets. Representatives of the Competition Council participated in the fining and senior economist working group, the Commission *oral hearing* procedure, as well as EC Advisory committee on planned changes in regulations regarding technology transfer agreements and planned changes in the Commission report on *De minimis* agreements.

Additionally, representatives of the Competition Council participated in the verbal discussions and expert meetings regarding the EU court's case C-302/13 fly-LALA-Lithuanian Airlines on the EU directive 2014/104 concerning adaptation of damage actions regulation in national legislations. Furthermore, members from the institution were a part of the Latvian delegation in dialogue with the European Commission on European Union Council recommendations.

In 2014, **European Competition Network cartel investigation working group met in Riga**. More than 50 experts from EU competition authorities discussed problematic issues concerning investigation and

prosecution of prohibited agreements. The meeting was organized by the European Commission in cooperation with the Competition Council.

The International competition network (ICN) ensures exchange of information and experience among competition authorities around the world, thus facilitating dynamic dialogue allowing building towards consensus of sound competition policy principles.

In December of 2014, as a part of **the Organization for Economic Co-operation and Development (OECD) Accession Review for Latvia**, representatives of the Competition Council participated in the review of final report on competition policy practices and regulations in Latvia. A member of the OECD Competition committee had already visited the country to conduct an assessment of the competition policy in May of 2014. This visit was organized by the Competition Council.

The mission statement of OECD is to support economic growth, promote employment, increase quality of life, maintain financial stability, as well as to promote trade relations. One of the key directions of this organization is supervision of competition. Since 2012 the Competition Council has been participating in the OECD Competition Committee meetings and working groups, as well as the OECD Global forum as an observer. In the forum, topics such as fight against corruption, promotion of fair competition, and competition in pharmaceutical markets were discussed. Additionally, the Competition Council presented its reports on both of the central topics of the event.

Both, the OECD Competition Committee report on Latvia and performance of representatives of the Competition Council throughout OECD examination acknowledged the professional quality and enthusiasm of the work done by the Competition Council and confirmed the compliance of the Latvian competition policies with the standards set forward by the OECD.

In 2014, members of the Competition Council participated in several annual events of international competition authorities. These events included the annual meeting of heads of competition authorities held by the European Commission Directorate General for Competition, the meeting of heads of European competition authorities, the European Competition day conference, as well as the Baltic regional conference held in Vilnius.

In 2014, Chairwoman of the Competition Council participated in the annual **United Nations Conference on Trade and Development (UNCTAD)** Intergovernmental Group of Experts (IGE) 14th session. For the first time in the history of IGE, the event was chaired by a member from one of the recent EU member states – Chairwoman of the Competition Council of Latvia, Mrs Skaidrīte Ābrama.

In the summer 2014, the Competition Council participated in facilitating development of representatives from other competition authorities by hosting a delegation of nine members of the Competition Council of Bosnia and Herzegovina. Throughout the visit, the delegation was introduced with Latvian competition law and its role regarding public procurements.

Within the Nordic-Baltic Mobility and Network Program's project "Improving the capacity of the competition institutions to combat prohibited agreements", four representatives of the Competition Council visited the competition authorities of Sweden and Finland.

III. MANAGEMENT OF THE COMPETITION COUNCIL

3.1. State Budget Financing

In 2014, the Competition Council has used financing in the total amount of EUR 1063.60 thousand within the "**Implementation of Competition Policy**" sub-programme. Financing in the amount of EUR 581.21 thousand have been used for the principal activities of the Competition Council (see Table 3).

In 2014, the Competition Council used 99.96 % of the financing allocated to the institution. The main reason for not using the full amount of financing was that it was not possible to fill in all vacant positions because a number of personnel selection tenders ended without results.

Table 3. Financing for principal activities of the Competition Council (EUR)

No	Financial indicators	Previous year (actual performance)	Reporting year	
			Approved by law	Actual financial performance
1.	Financial resources to cover expenditures (total)	826 986	1 060 475	1 061 275
1.1.	Grants	825 630	1 059 395	1 059 395
1.2.	Chargeable services and other own income	1356	1080	1880
1.3.	Foreign financial assistance			
1.4.	Donations and gifts			
2.	Expenditures (total)	825 794	1 060 475	1 047 896
2.1.	Maintenance costs (total)	821 205	1 051 329	1 038 808
2.1.1.	Current expenditure	810 505	1 040 316	1028 008
2.1.2.	Interest expenditure			

2.1.3.	Subsidies, grants and social benefits			
2.1.4.	Current contributions to the European Union budget and international cooperation	10700	11 013	10 800
2.1.5.	Maintenance cost transfers			
2.2.	Expenditure on capital investments	4 589	9146	9 088

Table 4. Implementation of the EU political instruments, external financial aid projects and events (EUR)

No	Financial indicators	Approved by law	Actual financial performance
1.	Financial resources to cover expenditures (total)	18 947	17 747
1.1.	Grants	5454	5454
1.2.	Chargeable services and other own income	8893	8893
1.3.	Foreign financial assistance	4600	3400
1.4.	Donations and gifts		
2.	Expenditures (total)	18 987	15 708
2.1.	Maintenance costs (total)	16 987	13726
2.1.1.	Current expenditure		
2.1.2.	Interest expenditure		
2.1.3.	Subsidies, grants and social benefits		
2.1.4.	Current contributions to the European Union budget and international cooperation		
2.1.5.	Maintenance cost transfers		
2.2.	Expenditure on capital investments	2000	1982

3.2. Personnel

In 2014, the Competition Council had 49 job positions, out of which 41 were state civil servant positions and the remaining seven were employee positions.

The actual number of persons employed at the institution in late 2014 was 45 persons, 37 of them were state civil servants and seven were employees.

In 2014, 66 % of the Competition Council’s personnel were women and 34 % were men (see Figure 6). The average age of personnel at the end of reporting year was 35.4 years.

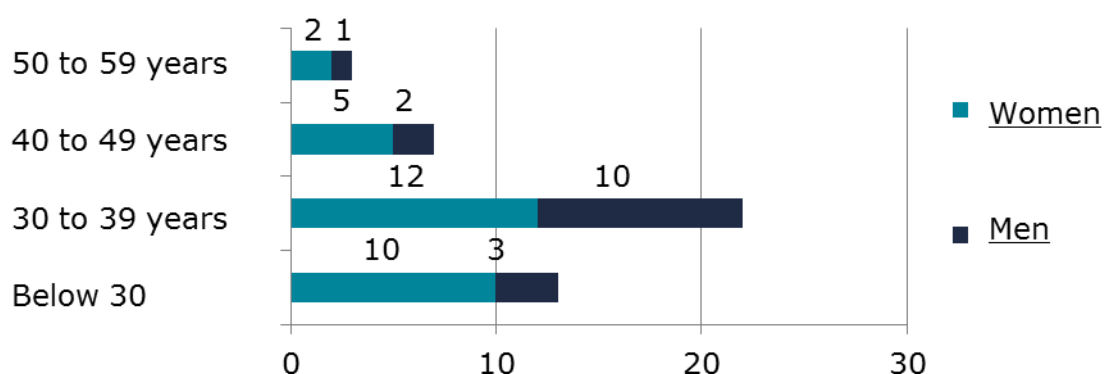


Figure 6. Personnel by age and gender

In 2014, state civil service relations were established with nine servants, while employment legal relations were established with six employees. In 2014, one civil servant and two employees were dismissed.

At the end of the reporting year, approximately half of the employees had worked at the institution for more than 10 years. Breakdown of personnel by length of employment at the institution is shown in Figure 7.

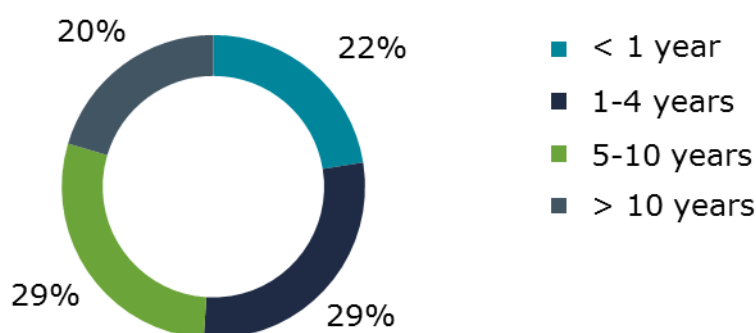


Figure 7. Breakdown of personnel by length of employment at the Competition Council

At the end of 2014, an assessment of employees conducted using the single public administration performance assessment system NEVIS showed that

the performance of 86 % employees was assessed as “very good” and “good”, and the performance of 14 % was deemed “excellent”. The results of the evaluation are used to analyze the professional performance of employees by reviewing employment categories and developing learning objectives for the following year. Both, internal and external professionals are invited to hold personal development sessions for employees.

Education of the Personnel

In 2014, 43 of 45 employees of the Competition Council had higher education and 38 employees had obtained master’s degree. Several servants have acquired two higher educations.

Considering the specific nature of the institution, the majority of employees have acquired higher education in either Legal or Economic fields. The rest have acquired education in Engineering Sciences, Management, Communication Sciences and other fields.

In 2014, after assessing performance results of the personnel, employees of the Competition Council participated in trainings aimed at improving communication and public speaking skills, data processing software use, prevention of corruption and electronic document management.

3.3. Improving Performance of the Institution

The activities of the Competition Council are based on the principles of exceptional governance that according to the State Administration Structure Law includes public transparency, protection of sensitive data, fair implementation of procedures within a reasonable time period and other regulations aimed at ensuring that State administration respects the rights and lawful interests of private individuals.

The Competition Council aims to improve its performance, and is therefore committed an effective and efficient use of internal and external resources.

In that way, in 2014 the Competition Council continued improving the internal culture and employee motivation system. The personnel survey results showed that the overall employee satisfaction has improved throughout the year. Similarly, the institution has developed a detail action plan for tackling several internal problems throughout 2015. This plan includes steps to improve internal communication, employee remuneration system and optimize overviews created by employees.

To ensure effective and efficient investigation of cases by balancing transparency and data protection, the Competition Council continued improvements in internal regulations.

Throughout 2014, significant effort was dedicated to improve the methodological processes of the Competition Council. In this way, the best internal and international practices are being identified and standardized.

In that way, in 2014 the Competition Council developed and published *Case prioritization strategy*. This is a useful tool to ensure that resources of the institution are utilized by tackling the heaviest and most significant violations of the Competition Law, while less significant violations are dealt with using alternative methods, such as warnings or mediation.

IV. COMMUNICATION WITH THE PUBLIC

One of the key tasks of the Competition Council is promotion of fair competition by improving public understanding of the competition law and impact of violations on business environment and consumers.

With increasing public understanding of the competition law, intolerance towards violations increases, thus improving the capabilities of the regulatory institution to discover or pre-emptively tackle violations.

Public Information and Education Measures

An essential communication channel between the Competition Council and its target audience is the **website** of the authority www.kp.gov.lv. This site provides access to decisions adopted by the institution, as well as relevant court rulings. Furthermore, the site allows public to report on possible violations of the competition law anonymously.

The Competition Council **informs mass media** on adopted decisions and latest news in competition control on a regular basis. This is done because decisions made by the institution apply not only to a particular case and market participants, but also to the overall competition environment. Publicly available information on detected violations clearly displays consequences of illegal activities, thus increasing public awareness and promoting legal practices on behalf of market participants.

In order to explain competition situation in different product and service markets, by firstly assessing the public importance of specific information, the Competition Council informs mass media about results of sector inquiries.

In 2014, the Competition Council prepared 67 press releases in Latvian and 23 in English. Consequently, 99 news posts were made on the institution's Internet site - www.kp.gov.lv.

Throughout the year, the Competition Council either suggested publications, provided information for publications or was mentioned in publications in 67 different electronic and printed media outlets.

Overall, in 2014 media mentioned the Competition Council 624 times.

To provide more detailed explanation of decisions that are particularly important for markets and consumers, the Competition Council organizes **press conferences**.

To provide public with a broader understanding of the competition law, experts of the Competition Council **provide lectures and seminars** for employees of certain companies, students of Latvian higher educational institutions and employees of state and local governments.

The Competition Council continued working on revisions of the Competition Law and offered consultations on guidelines and other public documents created by the Competition Council in cooperation with **Employers' Confederation of Latvia (LDDK) and Latvian Chamber of Commerce and Industry (LCCI)**.

To provide practical knowledge and support for enterprises on cooperation and competition methods in accordance with the competition law, the Competition Council in collaboration with Rēzekne Business Association organized seminar for regional entrepreneurs within the annual Rēzekne Business Days event. Similarly, within the institution's efforts to extend cooperation with the **LCCI**, at the end of the reporting year the Competition Council organized a meeting with members of the organization. The goal of the meeting was to inform entrepreneurs about current competition affairs, planned activities of the institution throughout 2015 and analyze the comments and opinions of entrepreneurs about work done by the institution.

A part of principal activities of employees of the Competition Council includes provision of **consultations on competition issues** to representatives of legal service offices, entrepreneurs and other interested persons. In 2014, over 200 consultations have been provided in writing, by telephone or within consulting hours for visitors at the office.

In 2014, the Competition Council actively searched for new ways of explaining competition law in an open and understandable way. In that way, the institution began using the social networking site Twitter (@KPGovLV) as means of communication, thus allowing public to ask questions about competition law in a more informal setting.

Similarly, in 2014 the Competition Council developed a handbook for small and medium enterprises, which aims to help management to develop an internal competition law compliance programme, thus reducing risk of unintended illegal practice.

A graphical description in the form of *info graph* and a video clip were developed by the Competition Council as tools to promote the leniency programme and its core principles. Both of these focused on the negative impacts of prohibited agreements and informed public about ways to report possible violations. Since public procurement cartels are the most common form of prohibited agreements in the country, the video was created using this type of violation as an example.

A prohibited agreement can primarily be suspected by organizers of the public procurement themselves. Because of that, the Competition Council frequently organizes seminars for individuals involved in organizing public procurements and informing them about ways to recognize possible

violations and bring damage actions in cases when violations have occurred. In addition to seminars conducted in local municipalities, in 2014 a special seminar was organized for representatives of Latvian hospitals, and two lectures were given in the National Administration School for procurement specialists from various places in the country. As a result, in 2014 twelve notifications about possible procurement cartels were received from either public procurement organizers or other governmental institutions.

To effectively promote competition law, an effective cooperation between governmental institutions responsible for overseeing the rule of law is necessary. To facilitate and strengthen this cooperation, at the end of 2014 the Competition Council organized a seminar for institutions that have been engaged in close cooperation with the Competition Council. These include State Revenue Service (VID), the Corruption Prevention and Combating Bureau (KNAB), the Procurement Monitoring Bureau (IUB), Security Police (DP), the Public Utilities Commission (SPRK), the Financial and Capital Market Commission (FKTK), the State Police of Latvia (VP), Pārresoru Coordination Centre (PKC), Central Finance and Contracting Agency (CFLA), State Audit Office (VK) and Consumer Rights Protection Centre (PTAC). The meeting allowed to reflect on previous cooperation, share useful practices and discuss cooperation possibilities in the future.

Public Involvement

Cooperation between the Competition Council and **non-governmental sector** (entrepreneurs, their professional associations and the public) is crucial for development of competition policy and fair competition culture. Effective communication throughout the development process of new legislation allows to pre-emptively prevent possible shortcomings. Similarly, consultations on currently existing legislation facilitate public understanding and promote compliance with the law.

Notifications of enterprises on possible violations of the competition law are an essential source of information that helps the Competition Council detect and prevent market distortion.

To effectively discuss current competition policy affairs, representatives of the Competition Council frequently meet with representatives from Professional and sectoral associations. Meaningful meetings in 2014 include meeting with Latvian Fuel Retail Association (LDTA), during which representatives of the Competition Council presented results from the sector inquiry.

During a meeting with Latvian Insurance Association and the Association of Commercial Banks of Latvia, by reflecting on the history of anti-competitive behavior in these organizations the Competition Council discussed key factors of legal cooperation between enterprises.

In the reporting year, the Competition Council organized the second Lawyer forum. During this event, specialists from the Competition Council met with lawyers who specialize in competition law. Within the forum, problematic

issues regarding current affairs of the competition law, experience of competition supervisors and lawyers, as well as possible improvements to facilitate effective judicial work in the future were all discussed.

V. PLANS FOR 2015

In 2015, the key priority for the Competition Council **in the field of protection and control of competition** will be combating the most severe violations of the Competition Law – prohibited agreements and abuse of dominant position.

Combating the most severe violations of the competition law that affect the majority of society will be the main principal activity of the Competition Council in 2015. At the same time, potentially less severe violations will be tackled using less resource-intensive methods, such as issuing warnings or conducting mediation.

To improve understanding about markets and be able to prevent violations of the competition law, in 2015 the Competition Council will continue previously started and launch new sector inquiries. These will include markets that are important for the majority of Latvian consumers, such as food and durable goods production and distribution, retail, telecommunication service, medical and pharmaceutical service, financial service, electricity service, funeral service and waste management service markets.

In line with efforts to continuously promote fair competition, the Competition Council aims to extend and strengthen cooperation with other governmental institutions, local municipalities, law offices, business NGOs and educational institutions.

In 2015, within the Latvian Presidency of the Council of the European Union the Competition Council will be responsible for organizing the European Conference Day. This event will welcome the leading competition law experts from around the world, members of the EU competition authorities, Latvian entrepreneurs, members of NGOs and governmental institutions, as well as judges and lawyers specializing in competition law to discuss best practices for conducting competition policies in the interest of consumers and to promote economic growth. The main topics of the event include issues relevant and important for Latvia and other EU member states. These include managing businesses owned by the state, methods for prohibited agreement detection and prevention, as well as possible solutions for solving competition problems caused by discrepancies in size between large retailers and small distributors.

Furthermore, in 2015 the Competition Council will be responsible for organizing the annual Baltic Competition conference. This event will bring together competition authorities from the Baltics and other regions to discuss the main problems arising from conducting sector inquiries and investigating possible violations of the competition law.

In order to foster common understanding of the application aspects of the competition law, as well as pre-emptively discover and prevent shortcomings hindering efficient protection of business and consumer rights, the Competition Council in 2015 aims to meet with enterprise associations, organize trainings and seminars, as well as survey opinions of enterprises on current competition issues.

Governmental institutions and state ran enterprises have an important role in the process of fair competition promotion. In addition to further informing organizers of public procurements, in 2015, the Competition Council will pay special attention to ways in which government and municipalities can improve regulatory framework to promote and facilitate fair competition.

In the field of improvement and development of capacity of the Competition Council, the institution plans to continue working on improving internal regulations, enhancing performance of personnel and strengthening international cooperation.

A key priority for the Competition Council is improving the efficiency of resource allocation to prevent violations that have a huge impact on public and market participants. Because of that, in 2015 the Competition Council will work according to *Case prioritization strategy*, which will define criteria for assessing possible impact of specific violations and suggest ways on how to tackle violations of the competition law in the most efficient manner.

To promote and facilitate successful cooperation between the Competition Council and private enterprises, in 2015 the institution aims to strengthen its methodological base and develop several guidelines based on the local and international experience of competition authorities. In that way, the institution will create practical and informative documents for market participants, such as merger guidelines, oral examination guidelines, settlement and administrative contract guidelines, as well as guidelines for assessing the degree of fair competition, which include ways to suggest improvements in legal frameworks for government and municipalities.

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