



Competition Council  
Republic of Latvia

**ANNUAL  
REPORT  
2017**

# FOREWORD BY THE CHAIRWOMAN

SPECIAL ANNIVERSARY YEAR – SPECIAL ACHIEVEMENTS



In competition supervision area, every year seems special, as it always surprises with something new. However, year 2017 was special not only for the Competition Council team, but for everyone, who compete and create competitive environment on the market. 25 years ago, in 1992 grounds for competition supervision were founded in Latvia. Our country then made decision to move towards free market economy and undertakings not only received an opportunity for unlimited development, but also got obligations to compete fairly and not hinder development of other market participants.

All these 25 years the Competition Council has been working with strong confidence, that values of free market, including fair competition shall be protected. It means that not only unfairly chosen “special ones”, but rather consumers, undertakings that operate fairly and the state in general should benefit from the possibilities provided by free competition, its protection and strengthening. Moreover, throughout these 25 years a whole new generation has appeared in Latvia, which could not imagine their lives without competition.

Through the years, a lot has been achieved in arrangement of competition environment – a modern regulatory framework of competition has been implemented, as well as rich authority and court practice has been developed, deep understanding of functioning of wide variety of fields has been obtained. In context of market liberalization, a productive collaboration has been achieved with market players and other institutions.

However, if asked whether we have become strong competition culture-bearers and protectors outside the needs of consumers throughout these 25 years – I do not think the answer is so unambiguous. Belief that competition is good, except for my “sector” is still existing and unfortunately quite wide spread among sector players – representatives from state institutions and municipalities. But we must bear in mind that exactly public sector players should be the ones that take care of protection of fair competition for our national economy to develop faster.

In 2017 a proposal of new Competition law provision – extremely important to entrepreneurs and a reminder of competition neutrality for public persons – got “stuck” in endless discussions with municipal organizations. And not for the first time! It proves that we have still a lot to accomplish to create an effective competition culture.

Last year was special also because the Competition Council organized and participated in a record number of educative and informative events, but strong confidence of society groups regarding benefits of fair competition culture is still a challenge. But Latvia also was not built and created within a single day, so I could purposely state, that we must go on with our work and we will!

In 2017 the Competition Council could especially highlight another meaningful achievement, which is educative for undertakings and hopefully will decrease incentives repeat similar violations in the future. Namely, we have taken two decisions regarding prohibited vertical agreements – for minimum price fixation and resale price level maintenance, that resulted

in prohibition for undertakings to freely set resale prices to their customers. Both cases are a great confirmation of abilities of the Competition Council team to effectively deal with analysis of large amount of complicated data.

Previous year was special also in market inquiry field. In 2017 natural gas delivery market was liberalized and the Competition Council carried out an assessment to determine, how to decrease delayed influence of monopolistic practices to the choices of natural gas purchasers. During another inquiry, recommendations were published to schools and parents of school-age children regarding the choice of suppliers of school uniforms, but employees of pharmacy field received recommendations regarding development of pharmacies network concentration development. Variety of these areas confirms, that competition has no insignificant markets and each of them is important. Moreover, in most markets it is evident that there are still ways to improve competition.

Another area in which I would like to stress our achievements is international arena both regarding cooperation and appreciations received. Last year we have provided significant support and contribution to application of competition law at international forums and states, increasing bonds of cooperation with Ukraine, Moldova, Georgia, Armenia etc. Furthermore, every summer we are awaiting publication of best competition institutions rating at the Global Competition Review Rating Enforcement. Last year for the third time in a row we were ranked within 38 leading competition institutions among 140 countries and received the high tree star evaluation, for what we are especially grateful. Our work in context of competition culture development was appreciated also by the International Competition Network and the World Bank, which awarded the Competition Council with Honorary Award at the competition advocacy contest.

Competition culture is evident in an everyday life for everyone. If it is peculiar to undertakings, supervisory bodies and policy developers, who would apply competition culture in their everyday work, then our common welfare will increase. This is what I wish to all of us – more fair competition and to remember that progress begins with competition!



**SKAIDRĪTE ĀBRAMA**  
Chairwoman of the Competition Council

# ESSAY CONTEST QUOTES

Essay contest for students and pupils on theme "Progress begins with competition". The essay contest was organised by the Competition Council within the celebration of 25th anniversary of promotion of fair competition in Latvia.

"While competing, companies are developing, creating new technologies, strive for the best result and that is the right path towards a brighter future not only for us but also for our children."

**Sintija**  
Alberta College

"Interesting that word "competitors" is often defined with a negative meaning. I believe that competition should not be taken as an offence or hateful behaviour, it is more like a healthy competition, without which person could not exist."

**Roberts**  
Bauska State Gymnasium

"Progress and competition are friends proudly passing on the same path. If we will look closer, we will notice that they are walking hand in hand."

**Ispirs**  
Riga 40th Secondary School

"When one sees a competitor, he is more motivated to become greater than them, to be completely involved, to think deeper, challenge himself."

**Anastasija**  
Ilūkste  
Commonwealth  
Secondary  
School

"Each of us has a will to become better than our competitors. It is not a war, where one person seeks to destroy the other, it is more competition, which allows to bring out the best in ourselves and keep developing further."

**Vineta**  
Olaine 2nd Secondary School

"Development is impossible if it is prohibited to compete fairly. In modern state, everyone has an ability to prove himself or herself. The more competitors have the ability to compete, the better we will live. Competition is vitally important for the progress, but fair competition is even more important!"

**Jana**  
Business High school  
Turība



As the authority, which ensures free and fair competition environment, we are glad to see the new generation – the next entrepreneurs, representatives of supervisory bodies, policy developers as well as activists in the community – who are aware of the importance of competition. We are truly delighted that younger people value free and fair competition not only in their personal life, but also in society.

**Māris Spička**  
Executive Director



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# THE COMPETITION COUNCIL. PASSPORT OF THE AUTHORITY

The Competition Council of the Republic of Latvia is a direct public administration authority operating under supervision of the Ministry of Economics. The principal area of operation of the Competition Council is the implementation of the competition policy, and it is divided into two sub-areas – development and protection of the competition culture. The independence of the Competition Council is stipulated in the Competition Law.

Under conditions of fair competition effective companies are found, motivated to provide high quality, variety of choice, innovations, competitive prices and other advantages to win the competition for consumers' choice.

## Mission

Mission of the Competition Council is implementation of competition policy, protection and stimulation of free and equal competition within all the fields of national economy between market participants, creation of new and innovative products, zero tolerance to unjustified involvement of public persons in free competition.

## Aim

Aim of the Competition Council is to provide possibility to each market participant to conduct business activities under free and fair competitive conditions and to ensure favourable conditions for protection and development of competition for the benefit of society.

## Key values

Legality, professionalism and independence.

## Areas of activity and outcomes

- ▶ Prohibited Agreements: undertakings do not engage in cartels or enter any other prohibited agreements;
- ▶ Abuse of dominant position: large and dominating

companies in their market sectors do not abuse their market power;

- ▶ Merger control: mergers that create monopolies or excessively large companies with potentially negative impacts on the interests of consumers or cooperation partners do not occur;
- ▶ Control over legislation: legislation, regulations and any other state or local government decisions or actions do not restrict the development of free and fair competition;
- ▶ Promotion of competition: competition is promoted in the markets, including the regulated ones, where it is limited or non-existent;
- ▶ Raising public awareness: society receives comprehensive information about the positive effects of fair competition on market functionality and social welfare.

## Our resources

State financing 1 266 592 € + the expertise accumulated during 25 years of operation of the Authority + 44 knowledgeable and motivated employees.

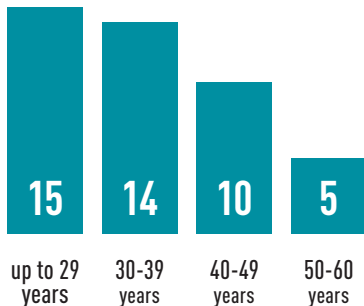
In 2017 the Competition Council set its priorities to solve two most current competition problems in Latvia – involvement of public persons into commercial activities, thus, distorting the competition, and bid-rigging schemes in public procurements. We also had kept detection and prevention of other most severe competition infringements within the line of our sight.

The Competition Council is committed to supervise decisions adopted on infringements to ensure, that the detected market deformations are ceased and the imposed fines are paid into the state budget, research most important markets and provide review of mergers. The Authority also has implemented various competition culture measures in order to eliminate the possibility of occurrence of infringements in a preventive manner.

# PERSONNEL

The Competition Council consists of a Decision-making body and an Executive body with the total of 44 employees (39 officials and five employees) at the end of 2017.

## Age



The average age of personnel of the Competition Council at the end of the reporting year was 36 years.

Within the list of positions there was 51 position, 45 of which were official positions and six employees' positions. Even though in 2017 the Competition Council held 12 contests for vacant positions, achieving 16% of total labour turnover, there are still vacant positions as specialists with the right qualifications are hard to find. Work experience of 38% of employees of the Competition Council is between one to three years.

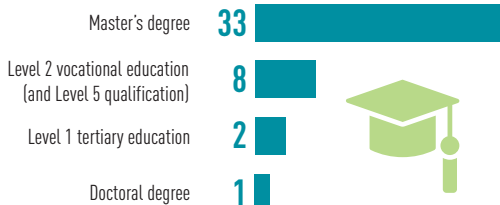


**77%**  
or 34 employees  
were women



**23%**  
or 10 employees  
were male

## Education



## 3 Council members

Adopt decisions by voting. Appears as the first instance court when taking a decision based on information gathered and the investigation carried out by the case handlers. The work of the Council is managed by the Chairperson.

## 1 Executive Director

Ensures institutional integration, delegates responsibilities within the Authority, provides legal and conceptual support to the officials of the Executive body regarding investigative and court proceedings.

## 19 Case handlers

Identify and investigate violations. Follow the market processes and amendments to the regulatory framework. Provide consultations for undertakings and other stakeholders as well as hold lectures and seminars.

## 9 Lawyers

Prepare the legal justification for decisions of the Competition Council. Represent the Authority in courts, prepare draft legislation as well as evaluate if the documents, prepared by other institutions and authorities do not distort competition and provide suggestions for possible solutions.

## 1 Lead economist

Prepares the economic justification for the decisions and market inquiries of the Competition Council. Explores and develops new methods of econometric analysis.

## 1 Head of strategical planning and development

Directs and oversees strategic and long-range goal planning functions, drives strategic initiatives of state policy within the competition protection field, follows market development and provides information on current issues.

## 10 Support staff members

Maintain communication with the public and coordinate international cooperation. Take care of personnel management, quality management, accountancy and organization facilities.

# YEAR 2017 IN FIGURES

<b>Prohibited agreements</b>	<b>8</b>
Detected violations	4
Investigation terminated upon written commitment	1
Terminated investigations	3
<b>Notified mergers</b>	<b>13</b>
Approved mergers	11
Approved mergers under binding conditions	1
Prohibited mergers	1
<b>Total amount of decisions</b>	<b>21</b>

## Other relevant figures

### Prevention:

- ▶ 5 warnings to 15 persons regarding potential coordination of activities
- ▶ Positive outcome in 6 negotiation procedures of which 5 are regarding potential abuse of dominant position

### Infringement statistics:

- ▶ Fines imposed on undertakings 10 116 138 €
- ▶ Fines paid into the state budget 3 917 165 €
- ▶ 20 undertakings penalised
- ▶ 8 terminated legal proceedings, in all the decision issued by the Authority has been upheld
- ▶ 2 concluded administrative agreements, by one terminating legal proceedings, and 2 settlements during the investigation
- ▶ 5 dawn raids in 23 undertakings

### Opinions:

- ▶ 350 applications regarding matters associated with the competition law
- ▶ 28 opinions regarding risks to competition which may be imposed by the regulatory framework
- ▶ 5 positive opinions regarding possibility to restore credibility

### Inquiries and research:

- ▶ 50 pre-merger consultations
- ▶ Completed sector inquiries into 13 markets



the Competition Council for the third year in a row has been awarded with three-star rating in the prestigious Global Competition Review Rating Enforcement and was placed among World's best competition authorities.



# PROHIBITED AGREEMENTS

In 2017 the Competition Council adopted four decisions regarding prohibited and coordinated activities, imposing fines on 20 companies for the total amount of 10 116 138 €. One investigation was terminated upon obtaining a written commitment without imposing penalties to three companies. Within one case the Authority concluded a settlement with two companies during the investigation as both companies agreed with facts, established during the investigation and existence of violation. In another case, the Authority concluded two administrative agreements, companies paid imposed fines and the legal dispute was terminated.

## Companies agree on a fixed price level and consumers are footing the bill

In 2017 the Competition Council adopted two decisions, revealing long-lasting and significant harm to the consumers. At the beginning of the year the Authority established prohibited agreement between **SIA Rīgas satiksme (RS, provider of public transport services) and PS Rīgas mikroautobusu satiksme (RMS, provider of minibus transport), that RMS passenger fare amount shall not be lesser than RS tariff.** The Competition Council stated that competition restriction was created between two only competitors in Riga public transportation market and passenger fare was set violating principles of fair competition. The Authority imposed fines to both undertakings in amount of almost 2.3 million €.

At the end of summer the Authority established, that **construction materials supplier SIA Knauf and SIA Norgips, and construction material dealers SIA DEPO DIY, AS Kesko Senukai Latvia, SIA Tirdzniecības nams "Kurši" and SIA Krūza ensured coordinated and artificial creation of price level in retail sales** for gypsum (incl. gypsum plasterboard), lime cement mixtures and other products, distributed by SIA Knauf and gypsum plasterboard, distributed by SIA Norgips. The Authority imposed fines to all companies, incl. after conclusion of administrative agreement with SIA Knauf, SIA Norgips and SIA Krūza, in the amount of 7 413 516 €.



**Ieva Šmite-Antopenko**

The Head of the Cartel Department:

Cases, established in 2017 were evaluated within the context of prioritization of the Authority. That means, a case is initiated only when the greater influence on the environment of business activities and public might be affected. We also have positive view on the fact, that one cartel's participants helped us to discover a violation, by applying within the leniency programme. We will go on with our work to create the totality of measures to stimulate more and more violators to admit their infringements by themselves.

## Public procurements and cartels still see eye to eye

In 2017 the Competition Council had been **actively investigating the most severe and common infringements of competition law – prohibited agreements.** For coordinated activities during participation in procurements, the Authority adopted two decisions and issued five warnings to 15 persons without initiating a formal case investigation.

To allow penalized companies to participate in public procurements also during the year-long restriction period, the Competition Council in 2017 issued five positive opinions finding the activities implemented by the companies to be sufficient to restore reliability. Such activities may include the development of corporate competition law compliance program, training for employees on competition rights and others.

# ABUSE OF DOMINANT POSITION

## Prevention as an effective elimination of competition infringements

In 2017 the Competition Council implemented **six negotiation procedures**, which is a record within one single year. By five negotiations the Authority averted abuse of dominance. Negotiations procedure without initiation of formal investigation and imposition of fine is used in cases, when infringements had no large influence on the market and company of its own free will undertook to prevent violation.

Among all the negotiations we shall underline, that the Authority achieved agreement with AS Rīgas siltums about heat energy supplies and change of unfair procedures within the block of flats in the capital of Latvia. The Competition Council also achieved prevention of unequal competition conditions for companies, providing stevedore services at the Liepāja Port, occurred for the reason of activities of Liepāja Special Economic Area management.

In 2017 the Competition Council conducted negotiation procedure with VAS Latvijas pasts, which possess a dominant position at some markets of postal services. The Authority drew attention on special responsibility of the institution before its customers and competitors to

prevent risks of repeated occurrence of the Competition Law infringements in the future.

## Facilitated possibility to claim for compensation for damages

On November 1, 2017 amendments to the Competition Law and Civil Procedure Law entered into force, **facilitating to claim for compensation for damages, caused by violations of competition law.**

It means that every person – both consumers and undertakings, which has suffered as the result of competition law infringements – are entitled to claim for compensation for damages from infringers. It is possible to request compensation of damages by submitting an application to Riga city Latgale District Court.

Compensation of damages also plays a disciplinary role – when one is aware that for infringement the undertaking will be imposed of not only fine, but also of obligation to compensate caused damages, motivation to participate in illegal activities might decrease. Therefore, the Competition Council has stated, that implementation of damage compensation provisions is depending only on activities of injured parties. The more active they will be, the lesser the will of potential violators will be to participate in infringement of competition law.



### Ilze Tarvāne

The Head of the Analytical Department:

For the last years, especially in 2017, the Authority was mostly evaluating such violations of competition, in which state or municipal companies abused their power, setting obstacles for fair competition. However, exactly state and municipal undertakings, being aware of their power and responsibility over the market, should become an example and organize its activities and to cooperate with entrepreneurs to stimulate competition in the market.



# MERGERS

In 2017 the Competition Council adopted 13 decisions in total about planned mergers. In 11 cases the Authority detected no possible harm to the competition, thus, the mergers were allowed. Merging parties for the merger review paid fees in amount of 56 200 € to the state budget.

## A merger shall be allowed if possible damage could be prevented

The Competition Council in 2017 adopted a decision to allow **UAB Bite Lietuva to purchase MTG Broadcasting AB group companies in Latvia** (SIA TV3 LATVIA, AS Latvijas Neatkarīgā Televīzija, VIASAT AS Latvian branch, SIA Star FM and SIA Smart AD).

To avoid possible damage to the competition at television programmes wholesale trade market and advertising market on TV, the Authority applied six binding conditions on acquisition of MTG Broadcasting AB.

## Damage to the competition is prevented by prohibiting the possible merger

At the beginning of the year the Competition Council adopted a decision to prohibit **SIA RIMI LATVIA to use retail sale premises in trade centre “DOMINA Shopping”** in Riga. The Authority concluded, that this merger would cause severe damage to competition by strengthening retail trader positions in the market and decrease possibilities of other competitors to compete effectively.

While reviewing the merger, the Competition Council was guided by the newest practices of European and other countries' competition authorities for the establishment of geographic market and implemented isochronal method for the first time, allowing to perform more precise establishment of geographic market. The Authority implemented this method also for other mergers in 2017, regarding the retail sales.

This is the **first decision, when the Competition Council has prohibited planned merger within the last eight years.**

In 2017 the Competition Council held 50 pre-merger consultations making it easier for the undertakings to prepare merger notification, so the Authority can review these notifications within the shortest period possible.



# SECTOR INQUIRIES



In 2017 the Competition Council provided supervision over 13 markets, where problematic issues of competition were established and searched for solutions. Among the most important markets, where the Authority concluded supervision is a natural gas market opening, pharmaceutical network concentration, school uniforms for pupils, car warranties and purchase of new and rarely used cars supply and lease, as well as butter market.

## Natural gas market opened for competition

On April 3, 2017, **natural gas market** in Latvia was **liberalized**. To evaluate transition of the natural gas market and its conformity to the Competition Law, the Competition Council implemented sector inquiry.

The Authority stated that AS Latvijas Gāze as the former monopolist shall have special responsibility for its activities, including cooperation terms with customers, to avoid limitations for consumers to be able to choose their gas supplier with the most beneficial offer.

Simultaneously the Authority stressed that successful opening of natural gas market is mostly depending not only on activities of AS Latvijas Gāze as the former monopolist, but also on activities of new traders and consumers.

## Pharmaceutical networks – stronger but lesser options for consumers

The Competition Council after inquiry into **pharmaceutical network concentration** had established, that within the last 5 years, the biggest pharmaceutical chains had increased number of belonging drugstores putting out of business individual or smaller pharmacies. So, without changes in total quantity of pharmacies in Latvia, market concentration increased and options for consumers became more limited.

During the supervision, the Competition Council established, that in many cities the market power of the biggest pharmaceutical chains had severely increased, moreover, there are cities in which just one pharmaceutical chain owns 70 – 80% of the market share, even all 100% in some cities, and therefore the Authority considers these as the risk zones. Considering market concentration of pharmaceutical retail, the

Competition Council pointed out the necessity to evaluate if amendments to regulatory framework shall be initiated, including the implementation of procedure, which would allow the state to evaluate events of changes of licence-holders and avoid the concentration of pharmaceutical networks.

## Choice of pupil's uniform supplier is not always being deliberative

In Latvia there is no regulation to provide requirements for implementation of school uniforms. However, in schools, which had decided to implement unified school uniforms, the procurement procedures are not being conducted, because state or municipality provides no financing and so parents have to pay for the clothes by their themselves.

The Competition Council after **monitoring of school uniforms** established that suppliers of school uniforms are often being chosen without any market research and comparison of several offers. In most cases the main sources of information are the first few links found on the Internet, which are not always precise and complete, both regarding the price and quality. Therefore, there is a ground to believe, that schools are most likely not receiving the best possible price and quality, proposed by the market.

After monitoring procedure, the Authority provided recommendations for schools and parents for them to be able to choose the best and most favourable offer and encouraged schools to be more elastic, if facing improper activities of suppliers.



# UNFAIR RETAIL PRACTICES PROHIBITION LAW

The Unfair Retail Practices Prohibition Law (the URPPPL) was adopted on January 1, 2016 and its aim is to level market power of suppliers and retailers. The Competition Council is a responsible authority for supervision of the law.

## At conference parties review the first year of the URPPPL implementation

On April 27 the Competition Council supported by the Latvian Chamber of Commerce and Industry held a **conference “Cooperation Between Traders and Suppliers: Does the Law Ensure Balance?”**. Participants – representatives of state administration, retailers and suppliers – shared their experience about application of the URPPPL, pointing out the most serious problems and benefits since the law was adopted. After summarization of records and information obtained during the conference, the Competition Council concluded, that after the first year, market has mostly adapted to the new provisions and regulation helped to solve several problems of cooperation between the retailers and suppliers.

During the conference, live broadcasting online was ensured.

## Market inquiry into the URPPPL implementation discloses first improvements and problems

In the latter half of the year the Competition Council had finished the **URPPPL implementation market inquiry** and concluded, that regulation in general has helped to solve several cooperation problems between the retailers and suppliers. The most positive changes concern the return of goods as retailers now more carefully consider they offers, avoiding the necessity to return untraded reserves of goods.

At the same time, entrepreneurs believe that one of the main problems due to the URPPPL is the application of sanctions both by largest retailers and consumption groups/cooperative societies. The approach of retailers in interpretation of the URPPPL has worsened, namely,



In 2017 the Authority during lectures, seminars and other informative events about the correct application of the URPPPL informed almost 130 representatives of retail and supply companies.

for failure to deliver goods within a term, they consider that delivery was not provided at all and are applying penal sanctions to the full extent, so the amount of sanctions has increased.

## Guidelines for correct implementation of the URPPPL provisions updated

Considering information obtained during the inquiry and consultations about the URPPPL, as well as current situation in the market, the Competition Council **had updated guidelines for implementation of the law**. For better clarification, the Authority organized public consultations for suppliers' associations and societies, and for retailers' associations. Guidelines updated the law application norms and most significant amendments are about additional goods slotting, compensation of loss of profit, application of sanctions and application of discounts.

# LITIGATION

In 2017 eight legal proceedings were completed and **in all cases the court upheld decisions of the Competition Council**. In one of cases, legal proceedings were terminated after the Authority concluded an administrative agreement with the undertaking involved in the legal dispute.

Following the coming into effect of the Competition Council decisions, including after the court review, fines in the total amount of **3 917 165 € were paid into the state budget**.



The Competition Council ensured representation at 24 court sessions during the past year. In 2017 courts upheld 100% of decisions, adopted and appealed against by the Authority.

## Administrative Regional Court upheld the Competition Council's decision about groundlessly enhanced value for entrance inside the Bus Terminal

Among the most significant court decisions, the Authority should point out a judgement of the Administrative Regional Court. In 2016 the Authority adopted a decision to fine **the SIA Rēzeknes autoosta for abuse of its dominant position**. The court upheld the Competition Council's decision, in which the Authority decided, that SIA Rēzeknes autoosta, when it became a lessee of the Bus Terminal in summer of 2013 without clear and objective justification included several costs into the calculation of entrance fee for the carriers, so the entrance price in 2014 and 2015 was groundlessly increased.

As the company did not appeal against the court judgement and Authority's decision entered into full force, SIA Rēzeknes autoosta has paid a fine into the state budget in amount of 4 026.53 €.

## The Constitutional Court recognizes the exclusive rights of the Authority to decide on the amount of a fine

At the end of the year **the Constitutional Court** has passed a significant verdict, which confirmed that **only the Competition Council is entitled to decide about the amounts of fines** in competition law violation cases. It means that also in the future when reviewing a decision by the Competition Council the court will not be able to change the amount of the fine by setting the fine itself.

The case was initiated by the Constitutional Court based on two applications by the Administrative Regional Court contesting the legal provision stating that in cases provided only by law a court may amend an administrative act and determine specific content thereof. The applicant held that neither Competition law or any other legal provision of competition law directly provides for the rights of administrative court to amend the decision adopted by the Competition Council.

Therefore, the contested provision, in Administrative Regional Court's opinion, restricts the jurisdiction of the administrative court and prohibits from ensuring a person's right to fair trial.





# CHANGES IN THE LEGAL FRAMEWORK

## Injured parties finally have a facilitated possibility to claim for compensation for damages

Among the most significant issues of regulation of competition law in 2017, the Authority should outline the **amendments to the Competition Law and Civil Procedure Law**, adopted on October 5 and entered into force on November 1, **regarding the compensation of damages**. Amendments provide that further on consumers, companies and other involved parties will have a simplified and more efficient possibility to claim damages from infringers of competition law.

Amendments simplify estimation of the amount of damage claim. The Law maintains also further the presumption that a cartel agreement causes a harm, as a result of which the price is increased by 10%, unless it has been proved otherwise.

Besides, the adopted amendments to the Competition Law provide that further on the claims for compensation of damages, as well as infringements of competition law, including infringements of a prohibition of unfair competition, will be adjudicated on the basis of special jurisdiction – by the Latgale Suburb Court of the City of Riga.

After the amendments were adopted, Latvia had completely implemented the Directive of the European

Parliament and the Council about compensation of damages, caused by the competition infringements.

In 2017 the Competition Council was actively participating in discussions with municipal organizations regarding the amendments to the Competition Law in order to be more effective taking actions against market distortions by public persons. Each year increasingly the Authority receives complaints on actions of public persons, especially some local municipalities, which grant unjustified privileges to their owned capital companies and ignore principle of the competitive neutrality. Unfortunately, no useful progression for these propositions was achieved within a year.

## The European Commission initiated to strengthen powers of competition authorities

In 2017 the European Commission published a proposal to the **ECN+ directive, to empower the competition authorities of the European Union Member States to be more effective enforcers and to ensure the proper functioning of the internal market**. The proposition has four purposes:

- ▶ to ensure that every competition authority of Member States has effective tools for investigation and decision-making;
- ▶ ensure that preventive penalties could be imposed;
- ▶ ensure that every competition authority of Member States has properly created leniency programme, which facilitates the application of leniency regime in several states;
- ▶ ensure that the competition authority of Member States would have enough resources and that these authorities could act independently, observing competition regulations of the EU.

Therefore, implementation of the Directive would stimulate performance of the competition authorities of the Member States, by applying the European Union competition law, simultaneously allowing Member States to take into account its legal traditions and institutional features.

Throughout the year, Latvia was cooperating within seven competition workgroups of the European Union Council to evaluate ECN+ proposal.

# IMPACTS ON COMPETITION OF DECISIONS TAKEN BY THE STATE AND MUNICIPALITIES

## Public persons' involvement into commercial activities is still endangering free competition

2/3 of respondents, participated in public opinion poll annually carried out by the Competition Council repeatedly confirmed, that **public persons' involvement into commercial activities is one of the most significant competition issue** in Latvia. Expressing in different ways, including adoption of favourable competition regulations to promote more successful business of capital undertakings, belonging to them, thereby discriminating possibilities of private entrepreneurs to participate in fair competition environment.

## The Competition Council evaluates whether involvement of public persons in business is grounded

State and municipalities are allowed to participate in business only in particular cases – if it is impossible to prevent defects of the market in other way, or it is necessary to create products and services, or manage properties which are strategically important for the development of state or municipal territory or state security. If public persons are deciding on the involvement in business activities, which are not corresponding to mentioned exclusions, there is a risk to hinder or even eliminate competition development among private entrepreneurs.

In accordance with Section 88 of the State Administration Structure Law, since 2016 public persons before establishing capital undertakings or re-evaluation of participation in an existing one, shall consult with the Competition Council. In 2017 the **Competition Council provided its opinion in seven cases.**

## Regulatory enactments which limit competition

To assure timely prevention of damage to competition due to adoption of various regulatory enactments, the Competition Council indicated **28 cases of risk to**

**competition potentially caused by the regulatory environment** in 2017. In a total of nine cases, the Authority achieved an outcome which is favourable for competition.

Moreover, the Competition Council throughout the year participated in at least 70 events (Parliament Commissions, Cabinet, interdepartmental workgroups etc.), related to regulation of the fields, expressing a position for observance of fair competition principles. The Authority expressed an opinion about such fields, like healthcare, informative publications by the municipalities, implementation of professional education and training, postal services, waste management, real estate market, state support, burial, parking services, etc.



**Antis Apsītis**

Director of the Legal Department:

It is important that decision-makers of the state and municipalities evaluate, what kind of effect there will be imposed to competition by their planned activities, incl. legislation proposals. In 2017 opinions of the Competition Council were observed in 1/3 of cases, indicating the necessity for public persons to search ways "friendlier" to the competition with even more care. This is the right way to encourage common growth of the state, ensuring benefits for all parties – consumers, businessmen and state administration itself.



# INTERNATIONAL OPERATION

## Competition Council and its employees receive international appreciation

With the high three-star rating in the prestigious **Global Competition Review Rating Enforcement** in 2017, the Competition Council was ranked among the top competition authorities in the world for the third year in a row. It is significant that the Authority still managed to keep three stars (of five possible), but the evaluator increased the Authority's positions, stating that it shall be much appreciated, that the Competition Council is able to ensure supervision of competitions, considering that it has the smallest budget of all included competition authorities.

In 2017 the Competition Council in the International Advocacy contest, held by the International Competition Network and the World Bank Group **received an Honourable Mention for the protection of competition neutrality principles** within the field of household waste management. Purpose of the contest was not only to honour the achievements of competition supervising authorities, but also to improve professional knowledge, sharing the best practices.



In 2017 representatives of the Competition Council were actively participating in international events, shared their success stories and implemented novelties, made significant contribution to the development of competition policy and improved identification of Latvia in the World.

## Representatives of the Authority provided a contribution to the events of international significance

In March 2017 18th Conference on Competition, highly appreciated among professionals, held in Berlin, Chairwoman of the Competition Council **Skaidrīte Ābrama was honoured to moderate questions and answers session for the European Commission commissioner Margrethe Vestager** after her introduction speech.

Meanwhile, at the end of the year, Chairwoman participated in the **Global Competition law forum in Paris held by the Organisation for Economic Co-operation and Development (OECD), presenting Latvian competition authority's successful achievements in cooperation management with other law-enforcement and market supervision authorities.**

## Expanding international cooperation with new partners

Chairwoman of the Competition Council Skaidrīte Ābrama and the Head of Georgian Competition authority Mr Nodar Khaduri during anniversary conference of the Georgian competition authority signed a **Cooperation Memorandum**. Memorandum provides that further cooperation will be encouraged and improved between both countries in the field of competition law application, including by ensuring mutual exchange of information and experience, holding expert trainings. Therefore, not only effective application of competition law will be ensured in both countries, but also partnership of Latvia and Georgia will be strengthened.



# COMMUNICATION AND COOPERATION

## 25th anniversary of promotion of fair competition in Latvia

On 16 November, during the **anniversary conference** on promotion of fair competition **“Towards fair competition: past, present, tomorrow”** former and the current chairpersons of the competition authority, representatives of the state and local governments as well as entrepreneurs **discussed the achievements** of application of the competition law over passed **during 25 years and future challenges** of the entrepreneurship.

The introductory speech during the anniversary conference on the meaning of competition law for the Latvian economics and public in general was made by the Prime Minister Mr Māris Kučinskis and the Deputy Prime Minister, the Minister of Economics

Mr Arvils Ašeradens, as well as the Chairwoman of the Competition Council Skaidrīte Ābrama. While Ms Michal S. Gal, one of the most recognized experts in the competition law and economics, honoured with the introductory presentation about the development of competition in small economies and new market models developed by companies on the digital environment, influence thereof to consumers in the future.

Three panel discussions were held during the conference, related to the evaluation of the competition law and the Authority. Discussions were directed by academician Dr. Econ. Raita Karnīte, the Member of the European Parliament Dr. oec. Roberts Zīle and Associated professor of The Stockholm School of Economics in Riga Dr. Arnis Sauka.

Experts of the Competition Council provided approx. 120 oral comments and 80 written replies to the media about issues of the Authority and field in general, including urgent topics, e.g. butter prices and several mergers. The Authority was mentioned more than 2200 times in printed and electronic media, which is the highest number in comparison with the last years.



Starting from the left:

Michal S. Gal, the Deputy Prime Minister, the Minister of Economics Arvils Ašeradens, the Chairwoman of the Competition Council Skaidrīte Ābrama and the Prime Minister Māris Kučinskis



## Educational seminars in the largest cities of Latvia

In 2017 the Competition Council in cooperation with the Corruption Prevention and Combating Bureau and the Procurement Monitoring Bureau initiated **two-years long cycle of seminars in the largest cities of Latvia**. Within the frames of the cycle of seminars “On fair entrepreneurship” in 2017 in Bauska, Liepāja, Daugavpils and Jelgava all three authorities educated two target groups – entrepreneurs and organizers of procurements.

The Competition Council in cooperation with other institutions organized seminars for public and municipal procurements to raise their knowledge on the procurement area and promote their operational efficiency. At the same time, entrepreneurs had a chance to expand their knowledge about their rights in order to be able to successfully use the cooperation opportunities allowed by the law, to defend their interests, if the law is violated by another company, and to avoid law infringements due to lack of knowledge.

In 2018 cycle of seminars “On fair entrepreneurship” is being planned in Rīga, Jūrmala, Valmiera, Rēzekne, Ventspils and Jēkabpils.

But at the end of the year, representatives of the Competition Council participated **in cycle of seminars, held by the Central Finance and Contracting Agency for recipients of the European Union funds and other interested persons** regarding good practices in use of European Union support funds. Events were held in Rīga, Kuldīga, Rēzekne, Cēsis, Jelgava and experts of the Authority were speaking about risks of competition violations within public procurements.

Also in 2017 Chairwoman of the Authority **signed a cooperation memorandum on the implementation of the “Consult first” principle, encouraging the customer-oriented activity of public administrations authorities**. The Competition Council follows the “Consult first” principle since 2013, when prioritization strategy was implemented. It expresses as

elimination of small violations by issuing warnings and implementation of negotiation procedure, but in merger cases – as pre-merger consultations.

## The Competition Council updates competition issues in different groups

The Competition Council in 2017 had approx. 40 meetings with field associations and private sector entrepreneurs, during which it has obtained current information about the events in market sectors or had described specific issues of application of the competition law. Communication and **cooperation with non-governmental sector** shall be especially outlined. In 2017 the Authority, supported by the Latvian Chamber of Commerce and Industry held a conference “Cooperation Between Traders and Suppliers: Does the Law Ensure Balance?” about the first year of the URPL, while in the fall representatives of the Authority were speakers at Entrepreneurs’ days in Daugavpils and Jēkabpils and participated in discussion about the application of legal provisions, held by the association.

Traditionally, for the fifth year in a row, the Competition Council held a Lawyer’s Forum – an annual discussion between representatives of the Authority and law offices. During the forum, experts and lawyers who otherwise meet at more formal context, discussed topical issues in application of the competition law, as well as mutually in an open conversation searched for the solutions to solve existing challenges.

To popularize competition law and meaning thereof in everyday life, the Competition Council in 2017 held or participated in several events, in target groups of which there were pupils and students. In October 2017, the Authority held an essay contest “Progress begins with competition” for pupils and students. All together the Competition Council received 20 essays, in which contestants expressed their vision of the necessity and advantages of competition. Participants were awarded on the International Competition Day on December 5.

# COMPETITION COUNCIL MANAGEMENT

## Key performance results

In 2017 the Competition Council had achieved resulting numbers, which were defined for the Authority by budget sub-programme "Implementation of Competition Policy".



Measure Activity	Targets 2017	Results 2017
<b>1. Ensured protection and control of competition by preventing or terminating anti-competitive activities in specific markets</b>		
1.1. Investigation of alleged violations/sector inquiries (number of cases), including the URPPPL implementation	31	<b>32</b>
1.2. Planned mergers impact assessment on competition in markets (number of cases)	15	<b>13</b>
1.3. Endured representation in proceedings (number of proceedings)	15	<b>24</b>
<b>2. Ensured development of competition policy and culture</b>		
2.1. Provided explanations, opinions and proposals, ensured drafting of regulations and guidelines (number of conclusions)	90	<b>88</b>
2.1.1. Provision of explanations related to legislation regulating competition; opinions and proposals for law improvements (number of conclusions)	84	<b>82</b>
2.1.2. Ensured drafting of regulations and guidelines (number of conclusions)	6	<b>6</b>
2.2. Organized press-conferences, lectures and seminars on competition issues (number of measures)	30	<b>45</b>
2.2.1. Organized informative/educational measures to inform market participants on competition law (number of measures)	14	<b>31</b>
2.2.2. Organized informative/educational measures to inform representatives of state and local municipalities (including organizers of procurements) and students on competition law (number of measures)	16	<b>14</b>
2.3. Ensured participation in the OECD (number of documents)	6	<b>7</b>
2.4. Consulted market participants about implementation of the URPPPL	80	<b>122</b>

# STATE BUDGET HIGHLIGHTS

In 2017, the Competition Council has used financing in the total amount of 1 214 866,99 €, which is 95,92% of the total financing allocated to the Authority.



Nr.p.k.	Financial indicators	Previous year (actual performance)	Reporting year	
			Approved by the law	Actual financial performance
1.	<b>Financial resources to cover expenditures (total)</b>	<b>1 079 584</b>	<b>1 276 779</b>	<b>1 266 592</b>
1.1.	Grants	1 061 989	1 276 779	1 266 592
1.2.	Chargeable services and other own income			
1.3.	Foreign financial assistance			
1.4.	Donations and gifts			
2.	<b>Expenditures (total)</b>	<b>1 069 483</b>	<b>1 276 779</b>	<b>1 214 867</b>
2.1.	Maintenance costs (total)	1 068 763	1 260 464	1 197 857
2.1.1.	Current expenditure	1 068 763	1 260 464	1 197 857
2.1.2.	Interests expenditure			
2.1.3.	Subsidies, grants and social benefits			
2.1.4.	Contributions to the European Community budget and international cooperation			
2.1.5.	Maintenance cost transfers	17 595		
2.2.	Expenditure on capital investments	720	16 315	17 009

# OPERATIONAL IMPROVEMENT

To optimise performance of the Competition Council, **restructuring of the Authority was concluded** in early 2017. Two separate legal structural units were merged, as well as two analytics units. New positions were created – the Head of strategical planning and development and the Head of procurements and administration.

In June, 2017 the Cabinet of Ministers of the Republic of Latvia appointed **Skaidrīte Ābrama for a second five-year term as Chairwoman** of the Competition Council of Latvia

**Working strategy of the Competition Council for 2017 – 2019** was approved in 2017. Along general tasks in implementation of competition politics and application of the Competition Law, the Competition Council will have new directions of development and corresponding financial indicators, e.g., strengthening of the capacity, grounding on professional and responsible personnel, improving the role and recognition of the Authority in international environment.

It shall also be particularly outlined, that at the end of the year the Parliament adopted amendments providing to change the **Competition Council remuneration system**, making it closer to the procedure, current for other institutions, regulating the market. Amendments provide no increase the budget of the Authority, but provide rights to take more elastic decisions regarding appropriation of financial resources. Amendments entered into force on January 1, 2018 and at the end of 2017 work on the creation of new wage system was started, including indication of job content evaluation criteria.

The Competition Council provides a mentor for each new employee, who shall stimulate successful integration of new colleague into the working environment. To improve mentoring system, the Authority shall **perform mentoring process analysis** for the last two years. Using data of questionnaires, the best mentoring procedures were established and proper conclusions were made together with recommendations for the future.

In 2017 personnel of the Competition Council participated in **34 trainings** on different topics, including procurement procedures, quality management system, obtaining and processing electronic evidences, etc. One representative of the Authority for a month was

on a course at the Directorate General for Competition of the European Commission and obtained good practices of the European Union regarding obtaining and processing electronic evidences. Experts of the Authority were educating their colleagues on the new issues, like establishment of particular geography market, obtaining electronic evidences and attaching them to the case, Latvian language in legal documents, etc.



# PRIORITIES AND TASKS IN 2018

In accordance with the working strategy of the Competition Council for 2017 – 2019, the Competition Council in 2018 will be working in four directions.

## 1st direction:

### Capacity strengthening, grounding on professional and responsible employees.

The Competition Council seeks to become more demanding and recognized employer, being able to employ and keep employed high-quality professionals. Taking into account significant labour turnover and non-competitive remuneration system, at the end of 2017 the Parliament supported amendments, providing to change remuneration system, making it closer to the procedure, provided for other similar institutions, regulating the market. It is expected that this will improve attraction of the Competition Council as an employer and will encourage employment and keeping of talented employees.

## 2nd direction:

### Disclosure and prevention of most severe competition infringements and market distortions, non-allowance of negative effects on the market.

In 2018 grounding on the market analysis and investigation methods, the Competition Council will ruthlessly stand against most significant competition infringements, including prohibited agreements and abuse of dominant position. In violations of smaller scale, the Competition Council will apply preventive methods, in conformity both to the rights of the Authority to prioritize its activities and to the “Consult first” principle of state administration.

The Competition Council will create suggestions regarding legal provisions to prevent market participants from prohibited agreements violations. The Authority believes it is necessary to implement personal responsibility of officials directing to the companies, as long as they are being responsible for conformity of the company to the principles of fair competition. Simultaneously, the Authority will continue to stand for the necessary amendments to the Competition Law to increase the Authority's powers to stand against unjustified competition distortions carried out by public persons.

In 2018 the Authority will continue to analyse reasons of the OCTA (the Motor Vehicle Owners' Compulsory Third Party Liability Insurance) price growth, grounds for increase of telecommunication tariff as the result of cancellation of roaming fees and will draw attention to the financial, medicine and transport services markets. In accordance with available resources, the Authority will be active in fields, where new digital economy solutions are being implemented.

## 3rd direction:

### Creation of understanding of market participants and public persons regarding free and fair competition, competition politics and culture.

In 2018 the Competition Council will be actively improving public understanding of competition to achieve greater support of the fair competition idea, by notifying and educating consumers, entrepreneurs, associations thereof, public persons, students and pupils. Society, which is aware of competition principles is able to discover infringements and unfavourable conditions for competition and protect its rights for the fair competition and to commit no violations in its own work.

The Competition Council will continue its cooperation with the Corruption Prevention and Combating Bureau and the Procurement Monitoring Bureau to educate entrepreneurs and organizers of procurements of biggest Latvian cities within the frames of seminars “On fair entrepreneurship”. Moreover, the Authority will continue the popularization of leniency programme among entrepreneurs.

## 4th direction:

### Strengthening of the Authority's role and recognition within the international environment.

The Competition Council in 2018 will continue learning good practices and experience of foreign competition authorities and international organizations to lead the combat against competition disturbances in Latvia and at international forums, to represent own “success stories”, stimulating recognition of Latvia and confidence that national competition authority in its own country is capable to effectively protect an environment open for the investments.

## REFERENCE AND COMMUNICATION

- ▶ Swiftly – **@KPgovLV** briefly of news
- ▶ Professionally - **@LinkedIn** opinions by professionals and job opportunities
- ▶ In detail – **www.kp.gov.lv** for decisions, guidelines, explanations and other materials of the Authority
- ▶ Concisely – subscribing to the newsletter “**Konkurence Tuvplānā**”
- ▶ Anonymously – reporting violations on **www.kp.gov.lv**
- ▶ Personally – applying for a free seminar for your association, undertaking or municipality
- ▶ Conventionally – asking questions by phone (+371 **67282865**) and email (**konkurence@kp.gov.lv**)
- ▶ In person – at 55 Brīvības iela, Rīga, LV – 1010, Latvia



