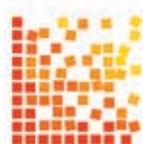


ANNUAL REPORT
2007



COMPETITION COUNCIL
OF THE REPUBLIC OF LITHUANIA



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HIGHLIGHTS OF 2007

JANUARY

January 25 With a view to avoiding the irreparable damage to the interests of undertakings the Resolution was passed to extend the term of application of interim measures upon the Finnish company *Rautakirja*.

FEBRUARY

February 21 The Competition Council held a meeting with representatives of ministries, municipalities and other institutions to update the information on the regulation on *de minimis* State aid to undertakings.

MAY

May 30 The meeting with the officers from the State aid Division of the Public Administration Policy Department of the Ministry of Finance of Estonia visiting the Competition Council with a view to familiarisation with the experience accumulated by Lithuanian counterparts.

May 31 Sanctions for misleading advertising imposed upon *Bitė Lietuva* and *Tele2*, two major Lithuanian mobile communications companies.

SEPTEMBER

September 5-6 Representatives of the Competition Council participated in the IV Regional Competition Conference in Tallinn.

September 13 The Competition Council acknowledged that *UAB Vilniaus energija* was abusing its dominant position by imposing unfair prices in the communications tunnels lease markets in Vilnius and subjected the company to a fine of LTL 178,000.

September 27 A fine of LTL 80,000 imposed upon *AB Lietuvos paštas* for abuse of its dominant position.

MARCH

March 1 The Competition Council published the findings of the wide-ranging survey of the market position of major retail trade networks.

March 15 The Resolution passed concerning the actions of undertakings participating in the public procurement tenders announced by the Economy service of Educational institutions of Klaipėda Municipality whereby the undertakings infringed the requirements of Article 5 of the Law on Competition.

JUNE

June 7 Having acknowledged the abuse of the dominant position International Vilnius airport was subjected to a fine of LTL 50,000.

June 14 Neelie Kroes, the European Commissioner for competition and the accompanying officials from the European Commission visited the Competition Council of the Republic of Lithuania and held meetings with the officials of the Lithuanian competition authority.

OCTOBER

October 15-18 Chairman of the Competition Council participated in the meetings of the Organisation of Economic Cooperation and Development (OECD). Observer status in the OECD Competition Committee was extended to Lithuania for the period 2008-2009.

October 24 The Government of the Republic of Lithuania approved the draft Law on the amendment of certain Articles and the Annex to the Law on Competition.

October 29 The Competition Council held a press conference to introduce to media the findings of the investigation of the reason of price rises of food products.

APRIL

April 26 The Competition Council passed the Resolution establishing that Resolutions of the Vilnius City Municipality related to the development of the Master plan of Vilnius granted privileges to the enterprise *Vilniaus planas* thus infringing Article 4 of the Law on Competition.

JULY

July 5 Resolution passed concerning misleading advertising whereby residents were solicited to sell their land to *UAB Žemės vystymo fondas*.

DECEMBER

December 17 TEO LT, AB was authorised to implement concentration by acquiring 100 percent shares in *UAB Nacionalinė skaitmeninė televizija* subject to an obligation.

December 28 The Competition Council resolved the completion of the investigation concerning the compliance of actions of the undertakings engaged in milk purchasing and processing activities and the association representing such undertakings with the requirements of Article 5 of the Law on Competition, and presented the findings of the investigation for familiarisation to the undertakings concerned.

December 29 The Finnish company *Rautakirja* was authorised to implement the concentration by acquiring 100 percent of *UAB Impress Teva* shares subject to conditions and obligations.

FOREWORD



Picture by Rita Stankevičiūtė

The strengthening of competition, enforcement of anti-trust measures, and disclosure and prevention of cartel agreements were the principal areas of activity of the Competition Council of the Republic of Lithuania during 2007. The competitiveness of market structures contributed to the addressing the economic problems of the State. The Annual Report 2007 is a clear representation of the activity of the Lithuanian national competition authority in pursuit of its principal objectives through both the enforcement of national competition policy and the European Union (EU) competition rules. The Report offers the reader a comprehensive overview of the activity of the Competition Council in the area of enforcing competition policy and promoting competition culture. This reflects the results of the activity while enforcing the Law on Competition and the Law on Advertising, coordinating State aid granted to undertakings, defending adopted resolutions in courts, and developing international and public relations, etc.

While enforcing the Law on Competition, the Competition Council focused its main attention to disclosing cartel agreements that are particularly detrimental both to the market of individual States, the Single EU market, and consumers. Further proceeding along the regulatory enforcement at the end of the year the Competition Council produced the findings of a wide-ranging investigation concerning an alleged prohibited agreement between entities purchasing and processing milk.

Each year the development of competition encounters new challenges because of expansion and changes of markets and

growing activity of undertakings. In view of increasingly frequent concentration among undertakings, in 2007 the control of concentration was an area that received a considerable share of time and attention by the Competition Council.

Based on the enforcement experience the Competition Council drafted and submitted to the Seimas for deliberation the draft Law on the Amendment of the Law on Competition, which was designed to provide an additional legal basis for the more efficient protection of fair competition, enforcement and promotion of the leniency system designed to encourage the interest of undertakings in eliminating any manifestations of unfair competition. In response to the European Commission's initiative, the Competition Council supported the necessity to provide a clear regulation of an institution for collective action in cases of damage for infringement of competition law as well as in other cases requiring the protection of the economic interests of consumers.

During 2007 the Competition Council further pursued its goal of maintaining its independence from the impact of political and business structures, addressing a wide range of problems in individual sectors of national economy, and supporting the efforts of public authorities to lessen the regulation of markets.

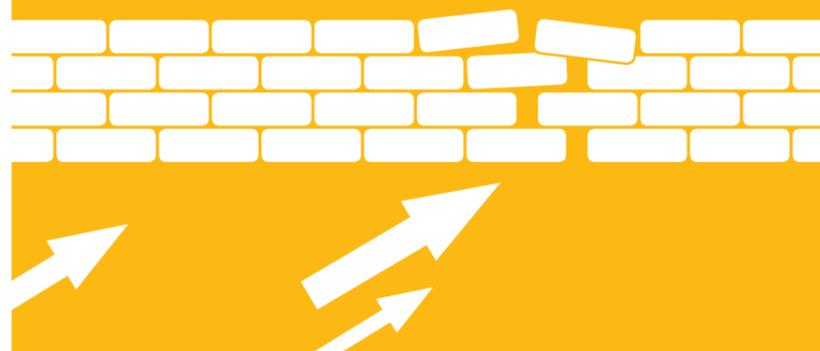
Looking at the prospects of the activities of the Competition Council in 2008, I am deeply convinced that we will continue attaining our objectives by professionally and efficiently conducting investigations, while the amended and supplemented

provisions of the Law on Competition will provide enhanced possibilities to even more effectively ensure fair competition for the welfare of the State and the good of all consumers.

Rimantas Stanikūnas

Chairman of the Competition Council

ACTIVITY OVERVIEW



The statistical data on the scope of the tasks and activities performed by the Competition Council (hereinafter – CC) in 2007 in accordance with the requirements of the Law on Competition (hereinafter – LC) and the Law on Advertising (hereinafter – LA) is presented in the Table below.

Total Resolutions by CC in 2007	148
According to the LC:	104
Resolutions concerning completed investigations	84
Of which:	
- investigations initiated ex officio	1
- investigations initiated according to received complaints	83
Refusals to initiate investigations	15
Terminated investigations	5
Extended investigations	14
According to the LA	27
Other Resolutions	3
Positions on the EU legal acts submitted via LINESIS system* of the Government of the Republic of Lithuania	2
Agreed positions on the EU legal acts prepared by other authorities via the LINESIS system	41
Comments on draft laws and resolutions of the Government of the RL	47
Comments on draft regulations of other authorities	19
Written responses to inquiries	243
Approved prices and tariffs	352
Approved procedures for fixing prices and tariffs	7

* Information system on Lithuania's membership in the EU

The activity of the CC in the enforcement of the LC in the course of seven years is illustrated by comparison of the number of Resolutions as shown in the Table below.

Number of Resolutions passed in accordance with the requirements of the LC

Year	2001	2002	2003	2004	2005	2006	2007
Resolutions	73	70	73	79	81	85	104

1. Prohibited agreements (Article 5 of the LC)

In 2007 the Competition Council designated horizontal (cartel) agreements in all markets of economic activity in Lithuania as one of its major priorities. As the most important could be noted the investigations of cartel agreements in milk and meat purchasing and processing markets, also the investigation of the public procurement tenders in the markets for the installation and operation of energy equipment, and others. In certain cases in view of the scope and complexity of the investigation *ad hoc* working groups were set up specifically for the purpose of individual investigations.

During 2007, 9 investigations of prohibited agreements were opened.

Having completed the investigations according to Article 5 of the LC, the CC passed 4 resolutions.

Fines in the amount nearly reaching LTL 172,000 were imposed upon the infringing undertakings.

CARTEL AGREEMENT IN THE AUDIT SERVICES MARKET

The investigation concerning the compliance of actions of undertakings operating in the Lithuanian market for audit services with the requirements of Article 5 of the LC was initiated in response to applications filed in 2006 by companies *Audata* and *Baltijos auditas*. The investigation sought to establish whether the actions of the Presidium of the Lithuanian Chamber of Auditors (LCA) could have possibly restricted competition. The investigation concerned the decisions of LCA to establish the minimum audit rates, minimum labour costs and the minimum hourly rates in respect of the EU structural support funds whereby directly imposing upon other auditors the unjustified rates for the provision of audit services. Having established that President of LCA and the structural divisions of the LCA could set up the minimum rates for the audit services in respect of the audit of EU structural support funding and other services the CC turned to consider a range of other factors and related circumstances.

In the course of investigation the CC analysed the audit service provided by

certified auditors and audit companies which in case of the EU structural support funds significantly is more extensive than a regular audit of financial statements of companies and is specifically important in order to ensure a proper usage of the EU structural support funds. The LCA is the only association uniting all certified auditors (over 400) and audit companies (over 200) and exercising the self-administration in the entire territory of the Republic of Lithuania.

In 2004, the information posted in the website of LCA concerning the minimum rates of the audit of the EU structural support funds was accessible exclusively to auditors and audit companies. Publication of this kind of information created preconditions for restriction of competition since the undertakings providing the services, as well as those intending to procure them were referring to the minimum rates fixed by LCA and published in the website, even though in most cases such rates were only reference rates. Thus, LCA infringed Article 5 of the LC that prohibits any agreements to directly or indirectly fix prices of certain goods, or other terms of purchase or sale.

Furthermore, the LCA Presidium also committed an infringement of the LC when in January 2006 approved and circulated to the auditors and audit companies the recommended minimum working time costs standards for the purpose of the audit of projects funded under the 2004-2006 Single Programming Document of Lithuania together with the working time costs schedule. It had been established that through the modification of the methodology for the selection of the audit companies the LCA Presidium sought to create a situation in which the audit companies seeking to avoid the regular inspections would increase the charges for the audit services. The LCA also employed other measures (such as letters, considerations in the meetings, etc.) intended to induce the audit companies to increase the rates of the audit services and, in particular, following the above documents drawn up by the LCA.

Neither the EU, nor the Lithuanian legal acts contained any provisions obligating the LCA to recommend any minimum rates for the audit of the EU structural funds, or

minimum working time costs standards, or minimum hourly rates. On the contrary, the charge for the audit service must be established under the agreement between the auditor and the head of the entity being audited. Further, in one of its reports on competition in the liberal professions the European Commission (the Commission) has indicated that the recommended prices, like fixed prices may have a significant negative effect on competition: on the one hand recommended prices may facilitate the coordination of prices between service providers, on the other hand, they can mislead consumers about reasonable price levels. In this case the CC referred to the decisions of similar nature adopted by the competition authorities of other EU Member States.

Having assessed the findings of the investigation the CC resolved that by establishing the minimum rates, the minimum working time costs standards and the minimum hourly rates for auditing of the EU structural support funds the LCA infringed Article 5 of the LC. For this infringement the LCA was fined LTL 30,000 and was obligated to terminate the actions infringing the requirements of the LC.

CARTEL AGREEMENT IN THE ENERGY EQUIPMENT OPERATION AND MAINTENANCE MARKET

The investigation concerning a possible prohibited agreement between the undertakings that in 2005-2006 participated in the public procurement tenders called by the Maintenance service of educational institutions of the Klaipėda municipality was initiated in response to the application from the Public Procurement Office under the Government of the RL.

When conducting this investigation the CC analysed the activities of undertakings operating in the relevant energy equipment market, i. e. offering to customers a package of energy equipment operation services (technological administration of the equipment, repair, upgrading, testing and technical maintenance). The relevant market was defined as the heat equipment maintenance service market, which being a segment of the energy sector from the consumers' viewpoint cannot be substituted

by any other segment of the same market (electricity, natural gas or liquidified oil gas) due to the essentially different nature of the energy objects, technical construction of the energy (heat) constructions and their maintenance.

The analysis of 15 public procurement tenders organised by the Maintenance service of educational institutions of the Klaipėda municipality showed that a number of participants in the tender, such as *UAB Lamberta*, *UAB Sobo sistemas* and *UAB Termoforma* were coordinating their tenders and assisting each other in price calculations. Such activities to a large extent facilitated the companies to win the tenders. *UAB Lamberta* was a regular winner in tenders for renovation works in the school buildings and *UAB Sobo sistemas* – of pre-school educational institutions. *UAB Termoforma* would often offer higher prices thus creating an impression of competition, though it was never awarded a tender allowing other bidders to win. As a result *UAB Lamberta* was awarded two tenders to perform the works in general education schools, and *UAB Sobo sistemas* was announced a winner in tenders for the pre-school educational institutions on 13 occasions.

While the investigation was still in progress the three companies filed with the CC the acknowledgements that the managers of the companies had been coordinating their actions with other competing companies concerning participation in the 15 tenders.

Having examined the findings of the investigation the CC resolved that the competing companies *UAB Lamberta*, *UAB Sobo sistemas* ir *UAB Termoforma*, when participating in the public procurement tenders called by the Maintenance service of educational institutions of the Klaipėda municipality were concerting their actions regarding the terms of the tenders and sharing of the objects of public procurement (schools and kindergartens) by type of activity of the buyers thus infringing Article 5 of the LC.

The companies were fined accordingly: *UAB Lamberta* – LTL 71,755, *UAB Sobo sistemas* – LTL 62,774, and *UAB Termoforma* – LTL 7,252. When establishing the fines the CC took into account the proceeds generated by the companies due to the former prohibited agreements as well as the alleviating circumstances – even prior to the completion of the investigation the companies concerned filed with the CC the applications whereby they admitted the established facts and undertook to refrain in the future from any actions possibly infringing the requirements of the LC.

SPECIALIST COMMENT

THE INVESTIGATION PROMPTED BY THE PRICE LEAP



Lina Kasperavičienė
Chief specialist of the Cartel Division

The investigation seeking to assess the compliance of actions of undertakings purchasing and processing milk, and the association joining such companies with Article 5 of the LC was initiated in September 2007 by the CC ex officio. The incentive to start the investigation was the leap in prices of food products in mid-year and the interim findings of the analysis of the prices increase conducted by specialists of the CC.

The investigation involved a wide-scope survey of markets related to dairy industry that covers different levels of supply chain – purchasing of raw milk and marketing of various dairy products. For the purpose of the investigation the following markets were defined: the relevant market of purchasing of raw milk for processing, and the relevant markets of milk, sweet cream, sour cream, yoghurt, curd, butter, soft/semi-soft, semi-hard, hard/very hard cheeses, processed cheese and other markets.

The major participants in the raw milk purchase and milk processing markets were AB Kelmės pieninė, UAB Kelmės pieno centras, UAB Marijampolės pieno konservai, UAB Modest, AB Pieno žvaigždės, AB Rokiškio sūris, AB Žemaitijos pienas and AB Vilkyškių pieninė. All these companies are members of the Lithuanian Milk Producers' Association Pieno centras except AB Žemaitijos pienas.

The investigation, inter alia, assessed the possibility for the companies – members of the Association to exchange information, including confidential, the possession whereof could have an impact upon the ultimate decisions of undertakings in the relevant markets. The membership in the Association by itself did not entitle to access to confidential or restricted information. Such information was made accessible only to those members who themselves agreed to disclose their proprietary information by signing a consent to the information being used by others.

The exchange in confidential information, given the level of specificity of such information, frequency and scope of the exchange, the impact of such exchange upon competition is assessable as an infringement of the LC of medium severity. The EU experience has reported a significant number of cases in which the associations of undertakings were sanctioned for the transfer of complete or partial proprietary information in an allegedly official manner during the meetings of associations.

As established in the course of the investigation the confidential information was being exchanged on regular monthly basis in the period from 2000 to 2007 which is assessed as long-term (8 years) continued infringement. Furthermore, the data concerning the sale prices of individual dairy products were exchanged in individual cases in response to the changes of the situation in foreign and domestic dairy product markets. For example, the investigation established individual instances of price coordination in March and April 2007, and later on in July-August, therefore each instance in terms of its duration should be assessed as an alleged individual infringement of the LC.

The investigation also produced the conclusion that the prices of certain types of dairy products had been established having regard to the price level of competitors of respective level in the relevant markets.

The investigation was completed in 2007, and the respective Resolution of the CC will be passed in 2008.

INVESTIGATIONS PERFORMED IN 2007:

▪ Taxi services provision market

Within the framework of its extensive investigation of the taxi services markets in Lithuania and for the purpose of comparing the competition conditions under which taxi services are provided to residents in some towns and cities, in July the CC decided to initiate the investigation of the compliance of the taxi service providers in Klaipėda with Article 5 of the LC. The investigation will be continued in the course of 2008.

▪ Meet processing market

Late in 2007, the CC launched the investigation concerning the compliance of actions of entities engaged in meat processing and the association of such companies with Article 5 of the LC.

Among a huge number of Lithuanian companies ranking as largest are *UAB Agroviet*, *UAB Agaras*, *UAB Biovela*, *UAB Kaišiadorių agrofirmas*, *UAB Mažeikių mėsinė*, *ŽŪB Nematekas*, *ŽŪB Krekenavos mėsa*, *UAB Rovisa*, *UAB Samsonas*, *AB Tauragės maistas*, *UAB Utenos mėsa* and *UAB Klaipėdos mėsinė*, that in total produce in excess of 60 percent of all processed met output. Also operating in the market is the Lithuanian meat Processors' Association and the Lithuanian Pig Breeders' Association joining the above undertakings.

The investigation conducted a thorough analysis of the meat purchase and the processed meat product prices and the fluctuations of such prices in 2006-2007. Two relevant markets were distinguished for the purpose of the investigation – the meat carcass purchase market; the meat carcass sales market, the market for production and sales of finished meat products.

The investigation targets to examine and disclose the nature of the confidential information that the undertakings might have been allegedly exchanging, and whether this could have possibly affected their final decisions.

▪ Waste management, use and recycling markets

The investigation initiated in 2007 sought to assess the compliance of the actions of undertakings engaged in the management, use and recycling of glass, plastic, metal and PET packaging with the requirements of Article 5 of the LC.

Since spring 2007 the prices in the waste packaging management market increased, in respect of individual types of package – up to 5 times. The investigation was initiated with a view to clarifying the reasons for this sharp increase in the prices.

▪ Buildings reconstruction works market

On 19 July 2007, the CC, in response to the application of the Public Procurement Office of the RL started the investigation seeking to establish the compliance of actions of undertakings-participants of the simplified open procedure for the reconstruction of buildings called by Varėna technology and business school with Article 5 of the LC. The investigation will be continued through 2008.

▪ The market for advisory services in respect of the EU structural funds

Two investigations were launched in 2007 concerning the compliance of actions of undertakings participating in the public procurement tender for the implementation of environmental investment projects funded from the EU structural support funds with the requirements of Article 5 of the LC.

In both cases the CC established that the tenders' participants had been exchanging information on the prices of tenders which may constitute an indication of an agreement to submit the concerted tender proposals. Both investigations will be continued in 2008.

▪ Concerning actions of companies marketing new vehicles

In April 2007, the CC received an application from *UAB Martonas* with a request to establish whether or not the companies selling new vehicles were rightfully requiring the technical service of such vehicles to be performed in authorised service stations only. According to the applicant, in the opposite case (with the technical maintenance provided in unauthorised service stations) the owners of the vehicles were deprived of the right to be serviced under warranty clause.

The investigation was launched there being a reason to suspect that the actions concerned were infringing Article 5 of the LC. The investigation involved a thorough analysis of the information provided by companies selling new vehicles, the CC officers also referred to the provisions of the Commission Regulation No. 1400/2002, and to the practice of the cases investigated by the Commission. The CC will pass the final decision in 2008.

TERMINATED INVESTIGATIONS:

▪ Concerning actions of AB flyLAL – Lithuanian Airlines

The CC terminated the investigation concerning the compliance of actions of *AB flyLAL – Lithuanian Airlines (AB flyLAL)* with Article 5 of the LC. The investigation was launched in 2006 according to the application filed by the Lithuanian branch

company of *Air Baltic Corporation* with a request to establish whether or not the air carrier *AB flyLAL* had come into agreements with travel agencies whereby it was restricting or sought to restrict competition in the market of distributing the air tickets via travel agencies. The investigation involved a thorough analysis of the air tickets distribution via travel agencies, assessment of the system of commission remuneration to the travel agencies, the air tickets booking system and the related peculiarities of the operation of the market. The CC did not establish any evidence of the agreement referred to in the complaint.

▪ Concerning the tender for the heating systems replacement

In 2007, the CC performed the investigation in respect of the actions of undertakings that tendered for the public procurement procedure for the replacement of heating units - heating systems – having suspected that the participants of the tender – *TŪB Ekostata* and *UAB Katra* – could possibly be coordinating their tender proposals thus infringing Article 5 of the LC. Having failed to establish evidence sufficient to substantiate the infringement, the CC terminated the investigation.

2. Abuse of a dominant position (Article 9 of the LC)

During 2007, the CC passed a number of resolutions concerning abuse by undertakings concerned of their dominant position. The relevant investigations were initiated in response to applications filed with the CC by a number of complainants who in most cases were claiming being subjected to unfair prices, discriminatory terms of agreements, etc. Having performed thorough investigations in a number of cases the allegations were not confirmed and the investigations were terminated. However, on three occasions, having established the relevant facts and proven the infringements three undertakings were fined in the amounts specified in the relevant regulations.

During 2007, the CC initiated three investigations concerning abuse of a dominant position.

Having completed the investigations in accordance with the requirements of Article 9 of the LC, the CC passed 6 appropriate resolutions.

For the proven infringements the undertakings concerned were subjected to fines in the amounts of LTL 308,000.

CONCERNING THE UNFAIR RATES FOR THE LEASE OF COMMUNICATIONS TUNNELS

The investigation concerning the compliance with the provisions of Article 9 of the LC by UAB Vilniaus energija was initiated in 2006 on the basis of the application furnished by the public enterprise Teleradijo kompanija Hansa. The investigation sought to establish whether UAB Vilniaus energija had been allegedly abusing its dominant position in the market for the lease of the underground technical corridors (hereinafter – communications tunnels) in Vilnius.

UAB Vilniaus energija is the only company leasing to other companies communications tunnels used for the installation and operation of the municipal engineering communications in Vilnius, the lessees having no alternative communications facilities providers for laying down their communications installations. The investigation initiated required a clear identification and a thorough analysis of the upstream communications tunnels lease market. For that purpose the CC distinguished and later on examined 9 local geographical markets, and also defined 9 relevant markets in the residential areas of Vilnius. It has

been established that UAB Vilniaus energija operating as a manager of essential facilities was also dominating in the upstream communications tunnels markets, enjoying the 100 percent share of the markets concerned.

Having considered the findings of the investigation the CC resolved that the agreements between UAB Vilniaus energija and the lessees of the communications tunnels provided for the lease rates that, having regard to the space occupied by the communications installations, definitely represented instances of unfair pricing in respect of the lessees (thus subjecting them to unfair prices in contradiction to the rates and the principles of the establishment thereof approved by Resolution No. 843V of 1996 of the Council of Vilnius Municipality), that constituted an infringement of Article 9 of the LC.

For this infringement the CC imposed upon AB Vilniaus energija a fine in the amount of LTL 178,000 and obligated to cease the actions prohibited by the LC.

SPECIALIST COMMENT

ACTIONS OF VILNIUS INTERNATIONAL AIRPORT RESTRICTING COMPETITION



Kęstutis Šukvietis
Chief Specialist of the Industry and Transport Division

The investigation concerning the compliance of actions of the State Enterprise Vilnius International Airport with the requirements of Article 9 of the LC was launched in 2006, on the basis of the complaint lodged

by UAB RSS MOTORS. The investigation sought to establish the alleged abuse of a dominant position by Vilnius Airport that, being the operator and the manager of the airport infrastructure holding the dominant position in the market for the management and organisational services in Vilnius International Airport. The allegations concerning the abuse of a dominant position referred to the possible influence of the company in the related market – that for the supply of jet fuels to airplanes. The investigation conducted by the CC first examined the upstream market for the management and organisational services in Vilnius International Airport and the market related thereto – the downstream market for jet fuels supply to the airplanes in the same airport. The findings of the investigation established that Vilnius airport, being the manager of the essential facilities, holds the dominance in the relevant upstream market (market share is 100 percent), and in the operation of management and organisation services market it competes together with UAB RSS MOTORS in the market for the provision of air planes by jet fuels in the Airport, i.e., is engaged in commercial activities.

Having considered the findings of the investigation the CC resolved that the requirement from the part of the Airport to UAB RSS MOTORS to submit the customer agreements concluded by the latter had no substantiation even for the purpose of the administrative function of the Airport. Therefore such actions of the Airport that clearly granted to it certain competitive advantage were acknowledged as the abuse of a dominant position held by the Airport. Furthermore, the CC resolved that the administration of the Airport had no authority to decide whether or not UAB RSS MOTORS for the purpose of the engagement in its activities needed the second fuel filling vehicle. By its unsubstantiated refusal to allocate a site for storage of the second vehicle to UAB RSS MOTORS the Airport administration restricted the latter's possibility to operate in the relevant market. The actions of the Airport heavily impeded UAB RSS MOTORS possibilities to increase the scope of its activities, ensure reliability and compete with the Airport.

Having acknowledged that the Airport infringed Article 9 of the LC, the CC fined the violating company LTL 50,000.

CONCERNING ACTIONS OF AB LIETUVOS PAŠTAS

On 8 February 2007, the CC renewed the investigation concerning the compliance of the Lithuanian mailing company AB Lietuvos paštas with the requirements of Article 9 of the LC. The investigation was renewed on the basis of the ruling of the Supreme Administrative Court of Lithuania that overruled the Resolution of 5 January 2006 of the CC and returned the case for additional investigation. Having performed additional investigatory actions and specified the definition of the relevant market the CC, by its Resolution of 27 September 2007, acknowledged an infringement of Article 9 of the LC by AB Lietuvos paštas that was subjected to a fine of LTL 80,000. The investigation concerning the compliance by AB Lietuvos paštas with the requirements of Article 9 of the LC was conducted in response to the application of UAB Biznio mašinų kompanija to evaluate whether actions of AB Lietuvos paštas in establishing different rates for the delivery services constituted abuse of a dominant position.

INVESTIGATIONS CONDUCTED DURING 2007:

Concerning actions of Vilnius International Airport

In 2007, the CC initiated the investigation concerning the compliance of actions of the State Enterprise Vilnius International Airport with the requirements of Article 82 of the EC Treaty and Article 9 of the LC. UAB Naftelf applied to the CC with the request to investigate whether or not the SE Vilnius International Airport was abusing its dominant position and discriminated the applicant by refusing to call a tender for the selection of the jet fuels supplier in Vilnius International Airport.

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In December 2007, the CC initiated another investigation concerning the compliance of certain actions of the State Enterprise Vilnius International Airport (the Airport) with the requirements of Article 9 of the LC. The investigation was launched in discharging the ruling of the Supreme Administrative Court of Lithuania to conduct the investigation according to the application of 6 October 2006 of AB flyLAL – Lithuanian Airlines. The applicant claimed that the Airport prevented the company from building a hangar on the plot of land in the territory of the Airport despite the fact that the company had obtained the respective building permit. On 2 November 2006, the Resolution of the CC refused to initiate the investigation having resolved the issues of concern to the applicant related to construction of the plane hangar,

the legitimacy of the construction permit and other related issues are to be dealt with in accordance with the requirements of other laws and regulations of the Republic of Lithuania. Since the applicant had submitted additional evidence concerning possible infringement of Article 9(2) of the LC (restriction of trade, production and technical progress by causing damage to the consumers), based on the ruling of the Court the CC renewed the investigation.

Both investigations are still in progress during 2008.

TERMINATED INVESTIGATIONS:

Concerning actions of AB Lietuvos dujos

In 2007, the CC terminated the investigation the purpose whereof was to assess the compliance with the requirements of Article 9 of the LC of the actions of the national gas company AB Lietuvos dujos. The investigation had been initiated according to the application of UAB Akmenės energija there being a basis to believe that AB Lietuvos dujos had been abusing its dominant position in the market for the supply (transmission) of natural gas to free consumers when it performed certain actions not compatible with Article 9 of the LC by refusing the natural gas sale-purchase agreements with individual undertakings.

Having considered the findings of the investigation the CC concluded that the position of AB Lietuvos dujos did not enable the company to exercise a unilateral decisive influence in the relevant market for the supply (transmission) of natural gas to free consumers in the Republic of Lithuania thus restricting competition therein. Apart from AB Lietuvos dujos, UAB Dujotekana is another undertaking operating in the same relevant market. Since natural gas is imported into Lithuania from a single source – the Russian company OAO Gazprom and the latter established quotas for both companies, the possibilities of AB Lietuvos dujos to supply gas to all free consumers are rather limited. In view of the above circumstances the refusal to conclude the natural gas purchase-sale agreement with UAB Akmenės energija could be treated as objectively justifiable.

Concerning actions of UAB AGA and UAB Elme Messer Lit

The CC terminated the investigation concerning the compliance of the actions of UAB AGA and UAB Elme Messer Lit with Article 9 of the LC. The investigation had been initiated back in 2006 according to the applications of UAB Mažeikių acetilenas, UAB Žemaitijos deguonis and UAB Jungalo dujos to investigate whether the companies indicated in the application were abusing their dominant position in the industrial gas markets by performing actions seeking

to exclude the applicants from the market.

Within the framework of the investigation the CC examined six relevant markets (industrial oxygen, acetylene, argon, carbon dioxide, nitrogen and gas mixtures) in the territory of the Republic of Lithuania.

The investigation did not provide any evidence that UAB AGA and UAB Elme Messer Lit had been unjustifiably applying different prices in similar agreements in different regions of Lithuania, also no cases had been established of application of prices below costs or any instances of taking over of the applicants' customers.

Concerning actions of AB Lietuvos paštas

In 2006, the CC had initiated the investigation concerning actions of AB Lietuvos paštas in terms of the company's compliance with the requirements of Article 9 of the LC according to the application of AB Rytų skirstomieji tinklai, AB Lietuvos dujos, UAB Vilniaus vandenys and UAB Aukštaitijos vandenys. The investigation concerned the actions of AB Lietuvos paštas related to the acceptance of payments and fees for the services provided. The investigation concluded that AB Lietuvos paštas did not hold a dominant position in the relevant market, therefore on 26 February 2007 the investigation was terminated.

REFUSALS TO INITIATE THE INVESTIGATIONS:

Concerning actions of the Lithuanian leasing companies and insurance brokers

No sufficient evidence had been established to substantiate the allegations of the abuse of a dominant position by a number of Lithuanian leasing companies. The CC established that none of the leasing companies was the holder of the market position enabling it to exercise the unilateral decisive influence in the market, consequently there was no basis to suspect the presence of infringement of Article 9 of the LC.

Concerning actions of TEO LT, AB

UAB Alpha komunikacijos – 2 lodged an application with the CC whereby the claimant requested the authority to investigate whether actions of TEO LT, AB whereby the company defaulted on the contractual obligation constituted an infringement of Article 9 of the LC. The CC indicated that, on the basis of the Civil Code of the RL a failure to comply with contractual terms was considered to constitute a failure to fulfil the contract; however, the failure to fulfil a contract could not be treated as a circumstance justifying a conclusion on

3. Concentration control

the abuse of a dominant position within the meaning of Article 9 of the LC. The rights of the applicant infringed as a result of the failure to fulfil the contractual obligations may be remedied in accordance with the provisions of the Civil Code of the Republic of Lithuania. On the basis of the above considerations the CC refused to initiate the investigation.

▪ **Concerning actions of Palanga international airport**

The CC refused to launch the investigation concerning the compliance of actions of the *SE Palanga International Airport* (the Airport) with the requirements of Article 9 of the LC. The applicant – *UAB, Baltic Ground Services* claimed that the Airport was deliberately and without any objective justification preventing *UAB Baltic Ground Services* from commencing its activities in the Airport by refusing to conclude the ground service agreements and thus granting the exclusive rights to provide the air planes ground handling services to one undertaking only, namely, *UAB Orlaivių aptarnavimo agentūra*.

Having analysed the information provided the CC concluded that the Airport had passed the decision to conclude the ground service agreement with *UAB Baltic Ground Services* in view of objective circumstances. In terms of its size Palanga airport is attributable to smaller international airports whose capacity and limited area of operations objectively limit the number of possible ground service providers. According to the provisions of the Regulations of the provision of ground services in the airports, competition possibilities in the ground services market(s) is heavily dependant upon the size of the airports which justifies a heavier restriction of competition in smaller airports caused and determined by objective factors.

SITUATION OVERVIEW

During 2007, the scope of the activity of the CC in the area of concentration control had largely increased: the competition authority was lodged 78 notifications applying for authorisations to implement the concentration of market structures. In 74 instances the CC, by its resolutions authorised the intended concentrations, and in one case the authorisation was refused. In 3 cases the examination of the applications was terminated in response to the requests of the applicants, and in 3 cases the resolutions authorising the concentrations established certain conditions and obligations in respect of the applicant undertakings. In the course of the year the CC was proceeding with the investigation concerning the possible failure to fulfil the obligations and conditions imposed by Resolution of the CC of 27 October 2005 upon *Rautakirja Oy*, and the compliance of the actions of *Rautakirja Oy* (the undertakings controlled thereby) with the requirements of Article 9 of the LC. With a view to ensuring that the existing competitive situation is maintained and any significant damage or irreparable consequences to other undertakings are prevented, the CC, on three individual occasions, extended the application of interim measures upon the merging undertakings.

On five occasions, seeking to more expediently authorise applications of the undertaking to implement the concentration and having concluded that the intended deal will not result in a creation or strengthening of a dominant position, on the basis of Article 12(3) of the LC, by its appropriate resolutions the CC authorised the implementation of individual actions of concentration pending the final decision.

Most of the applicants, prior to filing the applications were seeking advice from the CC specialists which appreciably improved the quality of the applications filed by the undertakings, at the same time restricting the scope of information required to be provided and necessary for passing the decisions by the CC. In certain cases, having consulted the CC specialists, the undertakings abandoned their intentions to implement the concentration. On 23 occasions the CC was replying to the inquiries of the undertakings in writing, besides, the authority was regularly providing advice to inquirers by electronic mail or verbally.

The undertakings have been increasingly closely following the actions of their competitors, and assessing the validity of the Resolutions of the CC. The decision of the CC concerning the application of interim measures was appealed to court, however the Administrative court rejected the appeal as ungrounded. In the period from 1996 until 2008, i.e., in the course of 12 years not a single decision of the CC in concentration cases was ever changed by the court. This obviously demonstrates that the decisions of the CC on concentration issues were objective and well grounded, despite the obvious complexity of the cases, since in three instances the concentration cases have been, directly or indirectly, examined in the Constitutional Court of the Republic of Lithuania.

Situation in the retail trade market is gradually changing and a significant intensification of competition is expected after one of the major German trading centre *REWE International* obtains the authorisation from the Competition DG of the Commission to acquire the control of *UAB Palink* currently managing the *Iki* trading network.

AUTHORISATIONS TO FOREIGN UNDERTAKINGS

The number of authorisations issued to foreign undertakings did not change since the previous year -14 (see the Table), of which only in 4 cases the concentration was implemented between the undertakings registered in foreign countries at the same time operating in the Lithuanian commodity markets. The concentrations implemented by foreign undertakings in 9 instances were assessed as horizontal concentrations which significantly increased the degree of concentration in Lithuania. During 2007, 2 Lithuanian-registered undertakings were incorporating joint ventures in foreign States.

CONCENTRATION OF LITHUANIAN ENTITIES

Concentration among the Lithuanian-registered undertakings was performed in 62 cases, of which on 11 occasions the authorisations were issued to undertakings controlled by foreign capital, and in 4 cases – to undertakings controlled by joint domestic and foreign capital. There has been an obvious increase in the degree of concentration among entities operating in the same markets. In as many as 38 cases concentration was assessed as horizontal.

The continued observable trend was the concentration in the residential and commercial immovable property development markets with 12 individual cases reported (13 in 2006). Horizontal concentration was recorded in the trade sector (4 cases), industry – 7, transport and service sector – 7, 6 concentrations were reported in the information technologies, public information and advertising sectors, and 2 in the agricultural products production and purchase sectors.

In as many as 18 cases concentration was assessed as vertical, and in 11 cases the CC issued the authorisations for the joining of new undertakings.

In 2007, the market observed a trend of large business groups acquiring the mass media sectors – publication of newspaper and magazines, and the TV stations. These trends in the long run may be justifiably expected to create problems regarding the objective public information since this area of activity is subject to competition rules identical to those applicable in other commodity (service) markets.

CONCENTRATION CASES: STATISTICS

The data presented in the Table show that the number of concentration notifications remained nearly stable in the course of the several previous years, with a significant increase in 2007 due to the intensified conglomerate (capital) concentrations and still not alleviating concentration processes in the residential and commercial purpose construction and immovable property development markets. Hardly concentrated remains the meat processing sector with about 200 meat processing undertakings operating therein. The milk purchasing and processing sector has been observing the growing significance of undertakings controlled by large or foreign capital, such as *Alytaus pieninė*, *UAB Varėnos pienelis*, *UAB Marijampolės pieno konservai* and others. The major milk processing enterprises have been purchasing increasing amounts of milk in Latvia.

According to the data of the Department of Statistics, in 2007, in Lithuania there were about 82,000 operating companies, of which over 700 companies reported the gross annual turnover in excess of LTL 5 m, and over 400 undertakings indicated their gross annual turnover of LTL 30 m. This means that the undertakings that according to the provisions of the LC could possibly fall within the scope of concentration control accounted for as little as 0.8 percent of all operating undertakings. Therefore in 2007, less than 0.1 percent of total operating Lithuanian companies were subjected to concentration control enforced by the CC.

DEVELOPMENT OF CONCENTRATION CASES

Year	2002	2003	2004	2005	2006	2007
Notifications received	52	54	56	64	61	78
Authorisations issued	48	52	54	59	59	74
Of which the concentration authorisations for undertakings registered in foreign States	15	10	15	22	15	14
Authorisations subject to conditions and obligations	5	6	5	4	1	2
Refusals to issue authorisations						1

In 2007, the undertakings paid the total of LTL 319,800 in stamp duty for the examination of concentration notifications.

CASES EXAMINED IN 2007:

▪ **Road building market**

On 19 July 2007, the CC refused the authorisation for the concentration intended by *UAB Šiaulių plentas*, *UAB Alkesta* and *AB Kauno tiltai* by incorporating the consortium *Titra* of *AB Kauno tiltai*, and obliged the undertakings participating in the concentration to perform actions ensuring the restoration of the previous situation. This obligation was fulfilled by the undertakings within the time limit established by the Resolution of the CC.

The principal activity of *UAB Alkesta*, *AB Kauno tiltai* and *AB Šiaulių plentas* is building and repair of highways and roads, also construction of bridges, viaducts and other major objects. At the time of the examination of the concentration *Alkesta* withdrew from the newly incorporated undertaking. All undertakings participating in the concentration were also operating the asphalt concrete production facilities in different locations in Lithuania and Poland.

The analysis of the road building, repair, construction and the associated markets showed *UAB Šiaulių plentas*, *AB Kauno tiltai*, *UAB Alkesta* and *AB Panevėžio keliai* as the major participants of the markets. All other undertakings are notably smaller, and the State enterprises in most cases operate only on the level of an individual municipality or region, and are essentially involved in minor operations related to road maintenance.

Furthermore, it was established that virtually no tenders called by the Lithuanian Road Administration for construction of roads and other major objects have ever been awarded to any foreign undertakings, in nearly all cases the winner being the participants of the consortium *Tiltra* and *AB Panevėžio keliai*. Quite often the undertakings of the group were also participating as sub-contractors in the process of the project execution.

Having considered that the participants

of the consortium *Tiltra* included 2 major market participants (each holding 15 percent of the market), that are economically linked to 2 other major market players (that hold, respectively 15 and 10 percent of the market), an assumption seemed justified that such concentration could have created conditions specifically conducive to restriction of competition in road building and repair, construction of bridges and other major objects and the related markets. The situation could facilitate concerting of certain actions (due to the economic relations as mentioned above) when participating in tenders, or jointly performing tasks through the provision to each other subcontracting services. Besides, each of the major undertakings was seeking to strengthen its position in the market by acquiring the smaller undertakings, attracting large and financially sound companies to acquire a participation in the capital of its companies, and participating in the joint management of consortia and other undertakings.

▪ **Communications and television sector**

TEO LT, *AB* was granted the authorisation to implement the concentration by acquiring up to 100 percent holding in *UAB Nacionalinė skaitmeninė televizija* according to the submitted notification, subject to the obligation within one month to put in place and make operational segregated accounting arrangements for the digital television services.

In its notification on concentration *TEO LT*, *AB* indicated that the principal purpose of the intended concentration was to acquire the business of the rebroadcaster of the terrestrial digital television (DBV-T) and thus integrate the retail and wholesale DBV-T services. *TEO LT*, *AB* had envisaged the development of associated and technologically intensive businesses including in the area of television signals broadcasting networks and the multi-channel subscriber television broadcasting.

When examining this concentration the CC distinguished and defined two markets affected by the concentration: the wholesale market for the television signal transmission

in the Republic of Lithuania and the retail subscriber multi-channel television services provision market in the Republic of Lithuania. In terms of the nature of the provided services the two markets are vertically related.

At the time the notification was examined the terrestrial digital television (DVB-T) program transmission services in Lithuania were provided by two broadcasters: the *Lithuanian Radio and Television Centre and TEO LT, AB*.

There were in excess of 50 undertakings operating in the multi-channel subscriber television market in Lithuania.

The investigation established just a negligent movement of concentration degree in the relevant retail multi-channel subscriber television services market. However, having considered that *TEO LT, AB* is currently operating a well developed fixed telephone network and the fixed data transmission infrastructure with the Lithuania-wide coverage, furthermore, the company is dominant in the broad band access and the leased line service market, *TEO LT, AB*, in cooperation with other associated undertakings is developing the alternative internet access and data transmission technologies, it was concluded that following the concentration the company will potentially cover a more significant share of the relevant market for the retail pay-TV services. Furthermore, while developing the new digital television services and networks, *TEO LT, AB* with associated undertakings has a potential to strengthen its position in certain service markets, specifically in the markets currently dominated thereby and render the fixed telecommunications, internet access, internet television services and intends in the future to provide the DBV-T services packages. Since *TEO LT, AB* intends to become both the broadcaster of television signals and the rebroadcaster of television programmes, it was absolutely vital to segregate the digital television activities in order to avoid the cross-subsidising of services and any abuse in fixing the rates. For that purpose the retail digital terrestrial television services shall retain the separate income and expenses accounting, in addition to a segregated accounting of income and expenses of all other digital television services including the wholesale terrestrial television broadcasting and the internet television services.

SPECIALIST COMMENT

PECULIARITIES OF THE PUBLICATIONS DISTRIBUTION MARKET



Irena Kudzinskienė
Chief specialist of the Concentration Division

Rautakirja Oy submitted the notification on concentration by acquiring the 100 percent holding in UAB Impress Teva. The intended acquisition of the remaining block of shares was assessed as the replacement of the joint control by single-person control as Rautakirja Oy had been the holder of the 51 percent of the company to be acquired. The purpose of the intended concentration was to expand the range of logistics and other distribution-related services to publishers, publication houses and distributors.

Rautakirja Oy via its subsidiaries is engaged in the business of publication distributions and retail trade via press stands in Finland, Latvia, Estonia and Russia. In Lithuania the company performs its activities via its subsidiary UAB Impress Teva thus providing the publications logistics, transportation services and the sale of publications in retail venues, as well as the marketing and advertising services. The undertaking related to Rautakirja Oy – the Vilnius agency of UAB Lietuvos spauda operates in the retail market for distribution of publications and staple commodities.

Through the intended concentration Rautakirja Oy is enhancing the vertical integration of wholesale and retail operations of publications distribution. Alongside the notification Rautakirja Oy submitted a package of new commitments intended to address the problems arising in the markets for the distribution of publications.

In 2006, the share of UAB Impress Teva in the wholesale publications distribution market accounted for about 50-60 percent. It was established that Rautakirja Oy, dominant in the wholesale publications distribution market and possibly

strengthening its position through the intended logistics, warehousing and other services related to the distribution of publications acquires a potential to inhibit the possibilities of publishers and competitors (press distributors) to enter the commodity retail market for distribution of publications and daily consumer goods, and specifically the news stands. Furthermore, by acting independently from its competitors Rautakirja Oy would have a possibility to increase the rates (commissions), thus possibly causing small publishers to terminate the publication of some of their items. Besides, the survey of publishers, publishing houses, and distributors showed that the commission system employed by Rautakirja Oy is not sufficiently clear and transparent, specifically noting the issues as the possibility to access in advance the commission table applicable to a specific publications category.

Having considered the obligations submitted by Rautakirja Oy and the recent developments in the market, on 29 December 2007, the CC passed the Resolution establishing in respect of Rautakirja Oy a series of new, wider obligations and the conditions of the concentration. The Resolution stipulates that the commission remuneration system will be differentiated in respect of each of the companies – the Vilnius agency of UAB Lietuvos spauda, and UAB Impress Teva, furthermore it shall be differentiated for each publication category. With a view of ensuring the transparency of the commission system, publicity and avoiding any discrimination, each publisher and the publishing house should be provided in advance the commission fee tables, also familiarised with the principles of fee calculation as well as the list of additional premiums and the rates.

The Vilnius agency of UAB Lietuvos spaudos shall be open to all providers of publications (publishers, distributors and publishing houses) irrespective of the route of the delivery of publications into the network of news stands (directly, or through UAB Impress Teva) with the pre-established and publicly announced criteria of the delivery of the publications to the news stands. For that purpose it is necessary to conclude the individual direct agreements between the publications providers and UAB Impress Teva and the Vilnius agency of UAB Lietuvos spaudos regarding the distribution of publications.

The supervision over the fulfilment of the obligations was delegated to an observer whose candidacy is to be approved by the CC. With a view to ensuring the efficiency of the obligations and accelerating the settlement of the disputes between publishers, publishing houses and distributors and UAB Impress Teva and (or) the Vilnius agency of UAB Lietuvos spauda the observer is also obligated to mediate in the disputes concerning the proper discharge of obligations under the undertakings assumed.

ACTIVITY OVERVIEW

In 2007, having completed the investigations according to the requirements of Article 4 of the LC, the CC passed 4 resolutions on infringements, initiated 6 new investigations and 1 investigation was renewed.

CONCERNING ACTIONS OF TELŠIAI COUNTY MEDICAL SERVICE

During 2007, the CC completed the investigation concerning the compliance with Article 4 of the CC of the actions of the Telšiai County Medical Service whereby the Service refused to recommend *UAB Plungės sveikatos centras* for the conclusion of the agreement with the Šiauliai territorial patients' fund. *UAB Plungės sveikatos centras* applied to the CC with the request to investigate and assess the actions of the Telšiai County Governor's Administration and the Šiauliai territorial patients' fund when refusing to recommend to conclude and sign the agreement with *UAB Plungės sveikatos centras* concerning the provision of the second level pulmonologist, orthopaedist, neurologist, traumatologist and echoscope specialist and the payment for such services from the Mandatory Health Insurance Fund. By its Resolution of 29 March 2007 the CC acknowledged that Telšiai County Governor's administration, by its ungrounded refusal to recommend *UAB Plungės sveikatos centras* for the conclusion of the agreement with the Šiauliai territorial patients' fund had committed an infringement of Article 4 of the LC, and obligated the Telšiai County Governor's administration to amend its Resolution bringing it into line with the provisions of the LC.

CONCERNING THE DESCRIPTION OF THE PAYMENT PROCEDURE

On the basis of the application filed by *UAB Baltic Orthoservice*, on 31 May 2007 the CC initiated an investigation concerning the compliance with Article 4 of the LC of item 10 of the Procedure for the personal health services approved by Order No. V-1113 of 22 December 2006 of the Minister of Health.

4. Restrictive actions of public and municipal authorities (Article 4 of the LC)

The investigation established that the advance appropriation of the funds having regard to item 6 of the Description and the mechanism for the application of the criteria specified in item 10 thereof is discriminating the health care institutions thus causing different competition conditions for undertakings providing selected health care services. The investigation will be continued during 2008.

CONCERNING THE PROCEDURE AND THE TERMS FOR THE ANNOUNCEMENT OF THE TENDER

The CC resolved to refuse to start the investigation concerning the compliance with the requirements of Article 4 of the LC of the procedure and the terms of the tender announced by Mykolas Riomeris University concerning the lease of the premises. On the basis of the Law on the Higher Education of the Republic of Lithuania, university is considered an independent economic entity whose actions fall outside the scope of Article 4 of the LC. In accordance with the Rules on the Organisation of Tenders for the Public Lease of the State-Owned Material Property, tender participants are entitled to appeal the results of the tender in the manner defined in the Law on Administrative Proceedings of the Republic of Lithuania.

DECISIONS OF THE LOCAL GOVERNMENT AUTHORITIES (MUNICIPALITIES)

▪ The Vilnius City Municipality

PI Naujosios viešosios vadybos fondas applied to the CC with a request to assess the compliance of item 5.2 of the Resolution No. 1-537 of 13 October 2004 with Article 4 of the LC.

The investigation was launched on the basis of a suspicion that the Council of the Vilnius City Municipality, having by its resolution obligated the Director of the Development Department of the Vilnius City Municipality Administration to conclude the contract with the Municipal enterprise (ME) *Vilniaus planas* concerning the development of the Master Plan of Vilnius until the 2015 had possibly privileged *Vilniaus planas* enterprise in respect of other undertakings also having sufficient capacities to develop the Master Plan of Vilnius.

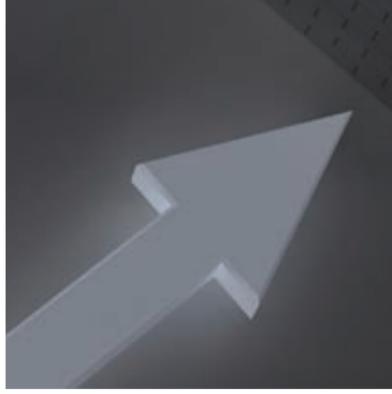
The investigation established that the relevant market should be defined as the market for the development of the relevant solutions for the General planning of the Vilnius city territory. The CC also concluded that *ME Vilniaus planas* is not the only enterprise capable of developing the Vilnius city Master plan. With a view to ensuring the equal competitive conditions for all undertakings a possibility to develop such plan should be provided to all market participants. Therefore by its decisions to conclude the agreement with the *ME Vilniaus planas* the Municipality had granted the exceptional right to its enterprise and thus committed an infringement of Article 4 of the LC.

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The CC acknowledged that the Resolution of the Council of the Vilnius Municipality „On the procurement of services from *UAB Rubicon Eventus*, for the purpose of organising the non-commercial events of non-government and other organisations“ and the subsequently concluded premises lease agreement between the Administration of the Vilnius Municipality and *UAB Rubicon Eventus* constituted an infringement of Article 4 of the LC. The Administration of the Vilnius Municipality was obligated to terminate the concluded lease agreement, or, alternatively, amend the provisions of the agreement to bring it into line with Article 4 of the LC.

The investigation was initiated upon receipt of the application from *UAB Versenta*, and, having, on the basis of the facts included therein, suspected that the Council of the Municipality, by its commitment to purchase the services from *UAB Rubicon Eventus* was possibly granting certain privilege to this company in respect of other undertakings operating in the same market. The investigation was terminated after the Council of the Vilnius City Municipality revoked its decision. However, with a number of new circumstances having emerged the investigation was supplemented and renewed.

In the course of the investigation the CC established that the Council of the Vilnius Municipality, by obligating its Administration every year to procure services from *UAB Rubicon Eventus* for LTL 1.5 m, thus securing certain regular



revenues for a single selected undertaking, created different competition conditions for undertakings operating in the relevant market. The CC duly considered other undertakings operating in the same service market and providing similar services. Therefore, for the purpose of hosting non-commercial events, the Vilnius City Municipality could lease premises not only from the multi-purpose “Siemens” arena managed by *UAB Rubicon Eventus*, but likewise, from other undertakings. Since the agreement concerning the procurement of services from *UAB Rubicon Eventus* is to be assessed as a long-term undertaking (up to 2010), the agreement can possibly have an impact upon other undertakings operating in the same markets. Furthermore, one company had been definitely granted some exceptional terms since it did not have to compete in terms of quality or prices in respect of a certain share of its revenues.

■ ■ ■

An investigation was started concerning the compliance with Article 4 of the LC of the decision of the Council of the Vilnius City Municipality „Concerning the approval of the agreement between the Vilnius City Municipality and *UAB JCDecaux Lietuva* and the agreement concerning the advertising on outside installations of the events related to the “Vilnius – European capital of culture 2009” campaign in foreign States. The investigation was initiated in response to the request of the city Mayor and upon the receipt of the applications from *Clear Channel Lietuva*, *ETN-BALTIC*, *Baltijos vaizdinė reklama* referred to the CC by the Anticorruption Commission of the Seimas of the RL claiming the creation of dissimilar competition conditions. As claimed by the applicants by approving the above agreements the Vilnius City Municipality was allegedly granting the privileges to *UAB JCDecaux Lietuva* and created legal and other obstacles for the operation of competitors in the relevant market. The investigation is still in progress in 2008.

■ ■ ■

UAB Švara visiems applied to the CC with a request to assess the decision of the Council of the Vilnius City Municipality approving the terms for the tender for the selection of the provider of the public household waste

management service. The investigation that is still in progress during 2008, was started there being a basis to suspect that the qualification requirements established in the decision of the Council granted privileges or were discriminating individual undertakings which may cause distortions of competition in respect of the undertakings operating in the relevant market.

■ *Neringa town*

On 13 December 2007, the Resolution passed by the CC acknowledged that relief from the local charges approved by the Council of the Neringa Municipality for the permit to enter, by motor vehicles, the State protected territory of the Kuršių Nerija National Park territory under the administration of the Neringa Municipality constituted an infringement of Article 4 of the LC and obligated the Council of the Neringa Municipality to accordingly amend the provisions of the decision contradicting the LC.

The investigation established that through the application of the reliefs for the local charges the Council of the Neringa Municipality granted a competitive advantage to the carriers operating of the Neringa Municipality since they were able to offer a lower service charge than the carriers from Klaipėda city or region. Price is one of the most important factors for the selection of the carriers by travel agencies, therefore the carriers that are able to offer a lower service price definitely acquire certain competitive advantage.

■ *Palanga town*

In 2007, the CC was lodged an inquiry concerning the decision of the Council of Palanga Municipality „On the amendment of the decisions of the Council regulating trading and the provision of other services in public places“. Having assessed the legal acts and regulations governing the use of temporary structures, the CC resolved that by establishing the obligation to erect the temporary structures in accordance with the project provided thereby, the Municipality was acting in accordance with the effective Lithuanian legislation. In the opinion of the CC, the evidence obtained during the investigation did not provide a sufficient basis to suspect an infringement of the LC.

■ *Other cities and towns*

The Lithuanian Communal Services and Waste Management Association applied to the CC with a request to investigate whether the regional waste management centres could be obligated to engage in the economic activity, and the conformity of such obligation with Article 4 of the LC. In July 2007, the CC launched an investigation concerning the decisions of Šiauliai, Telšiai, Klaipėda and Utena County Municipalities whereby the regional waste management centres were authorised to engage in the commercial waste management activities in the territory of the municipalities in terms of the compliance of the decision with Article 4 of the LC. The investigation established that the decisions passed by the municipalities, whereby the regional waste management centres were obligated to engage in commercial activity without any tender procedure, granted such centres certain competitive advantage in respect of other undertakings operating in the relevant waste management markets and thus constituted an infringement of Article 4 of the LC. The CC will pass its final decision in 2008.

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The CC refused to initiate an investigation concerning the compliance with Article 4 of the LC of the actions of the Ukmergė regional Municipality. The applicant – the National League for the Protection of Water, Electricity and Heat Consumers claimed that the decision of the Municipality „On the approval of the rules for the subsidisation of the heat energy price for residents“ was contradictory to the LC. The CC resolved that in certain cases the decisions of municipal institutions concerning the subsidisation of the prices of services (goods) had a potential to create different competition conditions for the undertakings competing in the relevant market; however in this specific case the available data did not provide for the basis to reasonably suspect an infringement of Article 4 of the LC. The CC passed the decision having thoroughly considered all relevant circumstances.

ACTIVITY OVERVIEW

5. Market research

Mandated by the Government on 17 August 2007, the CC engaged in the analysis of the reasons for the major changes in prices of staple food products in the period from July 2006 until September 2007; the analysis involved a thorough assessment of the data obtained from the major bread and bakery manufacturers, grain, milk and meat processors, poultry farms and the major trade networks on the major changes in prices of such food products during the period concerned.

The analysis showed that the major factor causing the price increase was a nearly double jump of grain prices in global markets as a result of poor grain harvest in the EU Member States and Australia, rising demand in the Chinese and Indian markets, also the growing demand for bio-fuels produced of grain. The increase in prices of grain that accounts for 70-80 percent of flour production costs caused a rise in the flour sale prices, besides, partly the overall increase was caused by higher labour costs that had increased by 17-28 percent. As a result, bread and bakery manufacturers were also forced to increase the prices of their production. Some entities, rather, covered the cost increases caused by higher energy, transport services prices from their profits.

However, in view of higher prices of principal raw materials and labour costs, that definitely is a principal constituent in bread and bakery production costs (account for 60-70 percent, and in some enterprises – up to 80 percent of the total production costs), were forced to increase their sale prices. The increase in meat product prices was mainly caused by higher labour costs and some increase in prices of raw materials used in the production, such as spices and other additives. However, due to the intense competition in the market the meat products during the period concerned increased least of all. The analysis of the dairy product prices showed that to quite a tangible extent the price increase was caused by the increase in raw materials purchase prices, as a result of an increased demand, export volumes and labour costs; however, certain actions of milk processing enterprises in increasing the dairy product prices still caused certain suspicion to the effect that while increasing the milk prices the enterprises might have concerted their actions and concluded

the prohibited agreements. With the CC's suspicions confirmed, an investigation was started in September 2007.

The analysis of the data on the changes in retail prices of staple food products in the period from the beginning of 2007 until September obtained from the major trade networks – *Maxima Lt*, *Iki*, *Rimi* and *Norfa* holding nearly 65 percent of the retail food product trading market showed a rather diversified pattern in the manner of changing the flour, bread and bakery products, meat and meat products, poultry and dairy product prices. In most cases the trade networks would increase the prices following the increase by the producers. On individual occasions the trade networks would increase the prices to a higher rate than the producers, and vice versa, on other occasions. The investigation also established a number of cases where, following the reduction of prices by producers, at the trade networks the prices remained unchanged or even went up.

In 2007, the CC also performed other general market research in wood processing, connection to or disconnection of undertakings from power networks; wholesale natural gas markets.

6. Legislation and promotion of competition culture

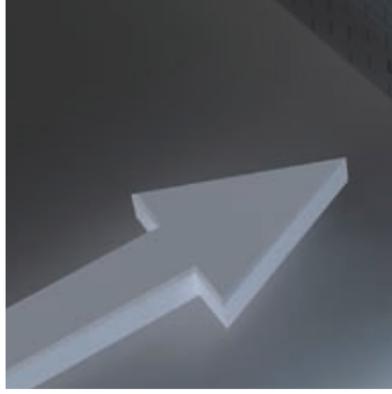
During 2007, the CC was, already traditionally, an active participant in the legislative process; the authority analysed and assessed from competition point of view 23 draft laws and their amendments, 24 draft Resolutions of the Government, and 19 other legal acts and regulations.

HARMONIZATION OF LEGAL ACTS

The CC expressed its opinion in respect of the draft Law on the Amendment of the Law on Electronic Communications designed to transpose into the national legislation the Directive 2006/24/EC of the European Parliament and of the Council on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks.

The transposition of the Directive into the national legislation involves certain additional obligations in respect of the undertaking (the obligation to retain certain data) which invokes the necessary additional investment in respect of the service providers. The CC recognised that a possibility of reimbursement of such expenses was hardly feasible, in view of the complexity of the task to develop a non-discriminatory compensation system compliant with the principles of fair competition, therefore the CC in principle agreed with the second alternative provided for in the draft law establishing that the electronic services providers will not be reimbursed the increase of the costs incurred in relation to the implementation of the draft law.

The CC also submitted its conclusions to the Ministry of Communications concerning the draft law on the amendment of Article 10 of the Law on the Funding of the Road Maintenance and Development Programme of the RL. Article 10 of the draft law proposed to abolish the relief on charges for ferry transfers to/from Kuršių Nerija for the range of vehicles and persons, such as tankers transporting fuel to Kuršių Nerija; vehicles of legal persons operating a registered office in Kuršių Nerija; persons working in Smiltynė part of Klaipėda city. The CC concluded that the current discounted ferry transfer charges applicable for vehicles owned or operated by legal persons holding



registered offices in Kuršių Nerija, where the vehicles are used for commercial purposes by providing transportation and carriage services to other persons may discriminate other persons who do not have a registered office in Kuršių Nerija, thus creating differences in competitive conditions in respect of the undertakings competing in the relevant market. On the basis of the above considerations, in the opinion of the CC, the proposed amendments would be instrumental in eliminating the differences of competitive conditions for the undertakings competing in the relevant market.

When submitting its comments concerning the draft Law on the Amendments of the Law on Waste Management of the RL, the CC specifically noted the necessity to define in the Law very clearly the economic functions of waste management and the activity of the administration of waste management system, as well as the procedure for the selection of undertakings operating in the market.

Comments were submitted concerning the draft Law on the Amendment of Article 3 and 8 of the Postal Law prepared by the Ministry of Communications of the RL. The draft provided for a possibility to compensate the costs related to the delivery of newspapers and magazines to rural areas as a universal postal service. In its comments the CC maintained that any reimbursement of the delivery costs could potentially distort the competitive conditions between the universal service provider who acts under obligation to provide the services in rural areas and other entities rendering the same services. Furthermore, such reimbursement may correspond to the criteria of State aid within the meaning of Article 87(1) of the EC Treaty. Any implementation of the State aid measure provided for in the draft Law should be preceded by the submission of the relevant notification to the Commission and the authorisation in respect of the measure as provided for in Article 88(3) of the EC Treaty.

Furthermore, the CC submitted its comments to the draft Resolution of the Government „On the criteria for the investment of public and municipal property and the approval of the procedure

for passing the decisions”. In this respect the CC noted that the Commission in its Opinion on the application of Articles 87 and 88 of the EC Treaty to public authorities’ holdings has laid down the conditions under which such participation may be treated as State aid within the meaning of Article 87(1) of the EC Treaty. The CC has also noted that in cases where the application of the provisions of the Resolution of the Government may involve the provision of State aid, compliance with the provisions of Article 88(3) of the EC Treaty must be ensured, by submitting a notification to the Commission and the authorisation of the Commission shall be obtained prior to the implementation of the intended investment, or, alternatively, the aid shall be granted in accordance with the requirements of the relevant exemption regulation.

An opinion was submitted concerning the draft Resolution of the Government „On the approval of the highest rates for universal postal services“ drafted by the Communications Regulatory Authority. The CC in its comments indicated that the increase of the reserved postal services rates may not invoke the cross-subsidising of non-universal services, and highlighted the requirement to ensure that the universal postal services rates are transparent, non-discriminative, accessible to consumers and related to the costs of the provided services.

The CC also submitted its comments to the draft Resolution of the Government “On the approval of the rules on the calculation of the remuneration to the joint-stock company *Turto bankas* for the debt administration and the organisation and the coordination of the State-owned immovable property”. When assessing the draft Resolution the CC pointed out that the functions of *Turto bankas* as identified in the draft Resolution are assigned to the company by the Law, therefore the determined remuneration must cover the economically grounded services costs and ensure the profit enabling the growth and improvement of the infrastructure. Therefore the comments of the CC included a proposal to align the remuneration amount with the administration costs incurred by *Turto bankas* rather than the value of the contractor’s work or that of the object being renovated.

PARTICIPATION IN THE WORKING GROUPS

The specialists of the CC participated in the working group set up by the Ministry of Justice of the RL on fixing the fees charged by notaries for the performance of notary and other actions. With a view to supporting the liberalisation of the notary service market the CC endorsed the idea to fix only the maximum notary’s fees, as well as other measures designed to liberalise the market and promote competition therein, such as the increase in the number of notaries, establishment and a more efficient territorial distribution.

The CC officers also participated in the discussions of draft Laws on Natural Gas and on Heat Economy; submitted comments and proposals to the drafts of other laws, Resolutions of the Government and other legal acts drafted by ministries and authorities.

ACTIVITY OVERVIEW

LEGISLATION IN THE AREA OF STATE AID

Acting as a coordinating institution and with a view to fulfilling its functions defined in Article 48(3) of the LC, the CC has been closely cooperating with the Commission and public authorities of Lithuania on issues related to State aid, provided comments and proposals to regulations drafted by the Commission, also submitted responses to the inquiries of the Commission. During the accounting period the CC, in cooperation with other public authorities submitted its comments regarding the drafts of the following regulations of the Commission:

- Commission regulation (EC) on the application of Articles 87 and 88 of the EC Treaty to declaring certain types of State aid compatible with the common market;
- Commission regulation (EC) on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the agricultural production sector;
- Commission regulation amending Regulation (EC) No.794/2004 implementing Council Regulation (EC) No. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty;
- Commission regulation (EC) on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of fishery products;
- Community guidelines on State aid for environmental protection;
- Revised Commission notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees;
- Amendment of the Commission Communication on the method for setting the reference and discount rates;
- Commission notice on the efficient implementation of the Commission decisions ordering Member States to recover the illegal and incompatible State aid.

In response to the invitation of the Commission to share experience the CC in cooperation with other public authorities of the RL drafted and submitted to the

7. Coordination of State aid

Commission replies, proposals and comments concerning the Community guidelines on State aid for rescuing and restructuring firms in difficulty, also on the improvement of State aid procedures.

Having regard to the most recent developments in the EU law and the new legislation adopted by the Commission, the CC during the accounting period also drafted six national legal acts.

For the purpose of the implementation of Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings (as last amended by Commission Directive of 28 November 2005), the CC drafted Resolution of the Government of the Republic of Lithuania “On the amendment of Resolution No. 768 of 14 July 2005 of the Republic of Lithuania “On the approval of the rules for the accumulation of the information on financial relations between public authorities and the undertakings to which public authorities may exercise the decisive influence and within certain undertakings” that was adopted by the Government (Official Gazette, 2007, No. 18-659) on 31 January 2007.

With a view to ensuring that the provisions of Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings are transposed into the national legislation, the CC drafted the Law on the amendment of Article 8 and the Annex of the Law on Local Self-Government of the Republic of Lithuania that was on 14 June 2007 adopted by the Seimas of the Republic of Lithuania (Official Gazette, 2007, No.72-2832).

Acting in accordance with item 34 of Article 8 of the Law on Local Self-Government of the RL and with a view to implementing Directive 2006/111/EC, the CC drafted Resolution of the Government “On the amendment of Resolution No. 768 of 14 July 2005 of the Government of the Republic of Lithuania “On the approval of the Rules for the accumulation of the information on financial relations between public authorities and the undertakings to which public authorities may exercise the decisive influence and within certain undertakings” which was passed by the Seimas on 12

December 2007 (Official Gazette, 2007, No.135-5477). The Resolution approved the Rules for the accumulation, safekeeping and the submission to the Commission of the information on financial relations of public or local authorities and the undertakings controlled by public or local authorities, and the undertakings obliged to manage separate accounts.

During the reporting period the CC also prepared another four draft amendments of Resolutions of the Government. Three draft Resolutions were passed by the Government, and the draft Resolution of the Government “On the amendment of Resolution No. 35 of 19 January 2005 of the Government of the Republic of Lithuania “On the establishment of the Register of State aid, approval of the Regulations and the beginning of the operations of the Register” was on 23 November 2007 submitted to the Government for deliberation.

During the accounting period the CC assessed 85 draft national legal acts prepared by the Ministries of Agriculture, Economy, Finance, Communications, Education and Science, Environment, also the State Tax Inspectorate under the Ministry of Finance, the Fisheries Department under the Ministry of Agriculture, AB *Turto bankas* and other institutions. The CC submitted its comments and proposals in respect of 54 such legal acts.

NOTIFICATIONS TO THE COMMISSION

In performing its functions of the coordinating authority in State aid-related issues the CC closely cooperated with the State aid providers in drafting notifications to the Commission, and submitting other information related to State aid. Within the reporting period the State aid providers submitted 32 notifications to the Commission, of which 13 concerned the application of block exemptions. The largest number of State aid notifications (24 cases) was submitted by the Ministry of Agriculture. During the period concerned, the Commission passed favourable decisions in respect of 10 State aid cases. On one occasion the Commission concluded that the measure notified could not be treated as State aid. At the end of 2007, 9 State aid cases were still being considered by the Commission.

PERFORMANCE OF OTHER FUNCTIONS

The CC in writing and verbally provided advice to State aid providers and recipients, arranged a number of meetings with specialists from different institutions of the RL in charge of the preparation of the projects. The 11 meetings thus arranged were dedicated to the discussion of aid measures intended to be granted by the Ministries of Economy, Finance, Social protection and Labour, the Ministry of Agriculture, and the State Tax Inspectorate under the Ministry of Finance.

In July 2007, an officer of the CC participated in the workshop hosted by the Board of the State Social Insurance Fund during which introduced the provisions of Commission Regulation (EC) No. 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid, and the peculiarities of their application. In September, two officers in the workshop hosted by the Training Centre of the Ministry of Finance conducted trainings for employees of the territorial labour exchanges on the following topics: “*De minimis* State aid” and “The peculiarities of the submission of the report of *de minimis* State aid providers to the CC.”

Officers of the CC, during 2007, participated in thirteen expert meetings held in Brussels on State aid issues.

Due to the improvements in the structure of the submission of information in the “State aid” section of the CC website now State aid providers and recipients can expediently access complete and most updated information on the newly adopted or amended EU legal acts and the Commission decisions governing the provision of State aid.

Further improvements have been introduced in the operation of the State aid Register; from the outset of the Register operation (1 October 2005) until 31 December have been recorded

Total State aid notifications to the EC	32
Of which:	
Notifications on State aid under schemes	19
Notifications on State aid under schemes under block exemption	13
Notifications on State aid approved by the EC (including the notifications submitted during 2005 - 2006 and resolved in 2007)	10
Of which:	
State aid under schemes	8
Individual State aid to undertakings	2
Measure that is not considered to constitute State aid	1
Withdrawn notifications	2
State aid cases still under consideration at the EC during the accounting period (according to the submitted notifications)	9

the data on 30,659 *de minimis* aid cases (including *de minimis* aid in agriculture and fisheries sectors) and 73 State aid schemes and individual aid cases. The CC, as the institution in charge of administration and management of this Register, on the basis of the amendments of the relevant legal acts and seeking to ensure the efficient operation of the Register, in 2007 introduced the necessary updating of the software of the Register.

The officers of the CC were efficiently sharing their experience in the area of the State aid coordination and the development, management and upgrading of the State aid Register with their counterparts from Bosnia and Herzegovina and the experts from the Ministry of Finance of Estonia.

VOLUMES OF STATE AID

According to the data available to the CC, the value of State aid granted in Lithuania during 2006 amounted to EUR 128.27 m.

In 2006, State aid granted in Lithuania represented 0.54 percent of the national GDP (at current prices), with 0.54 percent in 2005. For the purpose of comparison – the EU-25 average in 2006 was 0.58 percent, EU-15 average – 0.56 percent, and the average of the ten new Member States was

0.91 percent. The average national State aid per working person was EUR 85.57 m. The tables and graphs presented in the “Statistics” Chapter show that in 2006, the volume of granted State aid was slightly higher than in 2005 (EUR 119.16 m), and 2004 (EUR 120.38 m). The volumes of sectoral State aid (in particular, in agriculture and fisheries sectors) in 2006 were slightly lower than in 2004 and 2005. State aid granted for horizontal purposes (including regional aid) in 2004 accounted for EUR 25.05 m, in 2005 – EUR 25.66 m, while in 2006 – EUR 53.54 m. This readjustment of State aid structure comes in compliance with the objectives defined by the European Council to provide less but more targeted State aid, with higher volumes of aid resources channelled to horizontal general purpose objectives, i.e., regional development, small and medium-sized enterprises, research and development, and the implementation of employment programmes. Notably, the volumes of State aid as presented here do not include the funds received from the EU structural funds. The breakdown data of State aid by principal sectors are presented in the “Statistics” Chapter of the present Report.



Experts from the Ministry of Finance of Estonia visited the CC and were introduced to the experience acquired by the State aid specialists of the CC.

ACTIVITY OVERVIEW

8. Enforcement of the Law on Advertising

With a view to fulfilling its functions to enforce the provisions of the Law on Advertising (LA) on misleading and comparative advertising, in 2007 the CC examined 33 cases related to the use of misleading or impermissible comparative advertising. In 16 cases the CC established the infringements and applied sanctions, in 6 cases the CC refused to initiate the investigation and in 5 cases the investigations were terminated without having collected the sufficient evidence of the violation of the LA. Six investigations are still in progress. Having assessed the statements included in public communications and in the view of the negligent character of possible infringements the CC applied preventive measures – on 12 occasions, the advertising providers were warned in writing and ceased the use of misleading advertising. In the view of possible use of misleading and impermissible comparative advertising on 105 occasions applicants were consulted and explained in writing on the requirements of the LA and their application in practise, explained the procedure of submission of the data necessary to start an investigation and the liability for the failure to fulfil the requirements of the Law on Advertising.

As evident from the data submitted in the Table below, in 2007 the number of cases related to the provisions of the LA had increased as compared to previous years.

INDICATORS ON THE APPLICATION OF THE LAW ON ADVERTISING

Year / Established infringements				
2003	2004	2005	2006	2007
9	12	9	5	16

CASES EXAMINED:

Concerning the advertising of the entertainment and trade centre

The CC, *ex officio*, conducted the investigation concerning the advertising statements published in the outdoor billboard in Panevėžys city, internet website and the stands claiming: “Everything in the *Babilonas* entertainment and trade centre from now on – at half price! You buy one half and we are giving you the other”. In the course of the investigation *UAB Mulga*, the initiator of the advertising failed to produce any evidence that at the time of advertising

all goods in the *Babilonas* trade centre were actually sold at half retail price. The company acknowledged that the statements used in the advertising were incorrect. When assessing the possibility that such advertising could mislead consumers, account was taken of the fact that price is one of the most important and determining factors shaping the buyer's decision in selecting goods and services, which could also impair the other undertakings' possibilities to compete. The CC acknowledged the advertising to be misleading and fined *UAB Mulga* LTL 10,000.

Concerning the weight-loss preparation

The CC completed the investigation concerning the compliance of the advertising used by *UAB Direct Best Sellers* with the requirements of the LA. In the weekly “*TV Antena*” the company posted a promotional article “How I managed to loose 17 kg in 20 days while eating anything I wanted <...>. No efforts and no medications”. The article promoted the preparation *Removyl* marketed by mail and claimed that by using the preparation and eating absolutely anything, without any extra efforts, one will lose the established number of kilograms within the established time. For the purpose of the investigation the company could not provide any evidence that the usage of *Removyl* will definitely cause the loss of weight by an established number of kilograms. Having performed the investigation *ex officio*, the CC recognised the claims of *UAB Direct Best Sellers* to constitute misleading advertising, also considered the aggravating circumstance whereby the company was impeding the investigation, and imposed a fine of LTL 21,000 upon the infringing company.

Concerning the prices of DVDs

On the basis of the application filed by *UAB Real Exsperts* the CC performed the investigation concerning the marketing of DVDs advertised in the internet website of *UAB Media Incognito* misleadingly claiming that any DVD can be purchased much cheaper in the internet website www.level.lt. Besides, the statement contained a reference to the prices of DVDs in other places with an indication of savings by buying DVDs in this internet website. The investigation established that DVDs were marketed in the

internet, trade centres, shops, gas stations and/or other trading places. The consumer is not in a position to find out the prices of the DVDs in all points of sale, therefore has no reasons to doubt that when buying the DVDs in the internet website www.level.lt, he will pay much less than anywhere else. The CC acknowledged the claims used by *UAB Media Incognito* in the advertising, such as “Buy any movie DVD cheaper at www.level.lt”, “Price elsewhere”, or “Save” as misleading. Having considered that the misleading advertising was published just for a limited period of time which definitely alleviated the damage to the interests protected by laws, the CC fined *UAB Media Incognito* LTL 3,000.

Concerning the promotion to sell land

Ex officio the CC conducted the investigation concerning the advertising statements disseminated by *UAB Žemės vystymo fondas* inducing to sell plots of land to the company claiming that at that time the land prices were most favourable, and would allegedly halve in several years after the ES subsidies are phased-out. *UAB Žemės vystymo fondas* 18, the provider of the advertising failed in the course of the investigation to provide the evidence that after the EU subsidies to farmers are phased out the land will become cheaper, therefore the advertising claims were recognised as misleading. In the course of the investigation it was established that the advertising was encouraging the farmers to apply to *UAB Žemės vystymo fondas*, which, same as *UAB Žemės vystymo fondas* 18, is part of the same investment company group engaged in the purchase, lease and management of land of agricultural purpose. The CC established that the advertising had been published in the interests of the two foundations, who, jointly and for the use of misleading advertising were fined LTL 19,000.

Concerning the advertising of the service

In response to complaints lodged by consumers the CC conducted the investigation concerning the compliance of the advertising campaign launched by *UAB Bitė Lietuva* with the requirements of the LA. The advertising provider was promoting the advantages of *LABAS* pre-paid service claiming that *LABAS* users could exchange SMS free of charge with no additional conditions and for an unlimited period of



time. Induced by the advertising claims the consumers acquired the pre-paid service cards *LABAS* expecting to be able to send free SMS as long as they remain the users of the service. Starting from 1 September 2006, *UAB Bitė Lietuva*, however, introduced some new conditions for the use of the service. The advertising claims and statements thus mislead the consumers by claiming that the service will be available with no additional conditions and for the unlimited period of time. *UAB Bitė Lietuva* was sanctioned for the use of misleading advertising to a fine of LTL 18,000.

▪ Concerning the characteristics of plastic windows

Upon a request of the Household Consumer's Association the CC was examining the compliance of actions of *UAB Pergesas*, when advertising plastic windows with the requirements of the LA. In the period from May 2006 until September 2006, the company was using the advertising consisting of statements such as "Don't be suicidal! Take the non-toxic *Royal Europa*" windows. The plastic profiles of *Royal Europa* windows are free from any lead or cadmium harmful to your health and environment" and accompanied with a picture of the male with his eyes closed and pointing a gun to his temple. Such advertising could have facilitated an incorrect conception among consumers suggesting that all plastic windows whose profiles contained any lead or cadmium are harmful to human health and environment. In the course of the investigation the CC established that the chemical elements contained in the plastic profiles of windows are harmless to human health and environment provided that there are no any emissions of such elements or such emission do not exceed the limits established in the relevant hygiene standards. Advertising published by *UAB Pergesas* was acknowledged as misleading and the company was fined LTL 12,000.

▪ Concerning travel and recreation conditions

Starting from 11 September 2006, *UAB Tez Tour* in its 2006-2007 Travel Catalogue was advertising the accommodation conditions in the hotel *Sonesta Club* in Sharm El Sheikh, Egypt. The advertising Catalogue, in addition to other information, contained

statements such as: "<...> from the hotel to the airport – 10 km; hotel in the centre of Naama Bay; 300 m to the beach. <...>". The investigation established that the company was providing to its potential customers misleading and incorrect information as to the distance of *Sonesta Club* from the airport, the centre of the town and the beach. The advertising indicated the distances much shorter than they were in reality. The CC concluded that an average consumer, having read the information provided in the Catalogue concerning the location of the hotel, i.e., its distance from the airport, centre of the town and the beach, had no reasons not to believe the information provided in the Catalogue, and opts exactly for the hotel that best meets his expectations. It is only after having procured the travel package and after the customer arrives to the destination, he finds out having been misled. The statements contained in the Catalogue were recognised as misleading advertising and the provider thereof was fined LTL 10,000.

9. Judicial practice

CONCERNING THE SECURE NETWORK OPERATOR

The Supreme Administrative Court of Lithuania, by its Ruling of 5 April 2007, examined the complaint lodged by *TEO LT, AB, UAB Omnitel* and *UAB Bitė Lietuva* concerning Resolution No.1S-19 of 14 May 2006 of the CC whereby the CC terminated its investigation on the compliance of the Order of the Minister of the Interior of the RL with Article 4 of the LC.

The complainants claimed that Order No. 1V-167 of 14 May 2004 of the Minister of the Interior „On the regulations of the Secure State Data Communication Network and the approval of the provision of the services by the Secure State Data Communication Network" infringed Article 4 of the LC, by delegating the network operator functions to the State Enterprise *Infostruktūra* thus ensuring certain competitive advantage to this undertaking and discriminating others.

The Court ruled that the secure data communication service covers exclusively the services related to the administration of the secure network and other related services, and by the functions performed by the network it is not a public network. Besides, the services provided through the secure network is not a commodity offered in free market since the network is designed to attain certain purposes, rather than economic - commercial operations where the services are provided on commercial basis. In the presence of a situation where, in view of the peculiarities of the relevant market, there are and possibly cannot be other competitive undertakings, possibly no competitive condition differences can result in such markets. The Supreme Administrative Court of Lithuania ruled that Clause 2 of Order No. 1V-167 of 14 May 2004 of the Minister of the Interior cannot be considered to constitute an infringement of Article 4 of the LC.

CONCERNING THE PROHIBITION TO EXCHANGE INFORMATION

By its Resolution No. 2S-13 of 26 October 2006, the CC resolved that the undertakings involved in the wholesale paper trade, – *UAB Antalis Lietuva, UAB Libra Vitalis, UAB Lukas, UAB MAP Lietuva, UAB Papyrus Distribution* and *UAB Schneidersöhne Baltija* had infringed Article 5(1) of the LC and

Article 81(1) of the EC Treaty and subjected the infringing undertakings to pecuniary fines. The actions of the undertakings were resolved to have infringed competition rules whereby they, in the period from 1999 until May 2004, had been on a regular quarterly basis exchanging information of confidential nature about the shares they were holding in the relevant markets for chalky and office paper that actually provided a good indication of the volumes of sale of the appropriate type of paper by each individual undertaking. The CC resolved that that such exchange of information had produced a restricting effect upon competition in the relevant markets – reduced the incentives of the undertakings involved to compete, and hampered the entry into the markets of any new competitors. The infringement affected the entire Lithuanian chalky and office paper market. From 1 May 2004 onwards the infringement produced a spill-over effect upon the trade between Member States.

UAB Schneidersöhne Baltija and *UAB Libra Vitalis*, in disagreement with the Resolution of the CC, appealed to the Vilnius Regional Administrative Court. In its Ruling of 7 June 2007, the Court resolved that the undertakings had been operating in the oligopolic relatively concentrated market, and the nature of the information exchanged increased the transparency of the relevant paper market which in its turn caused restrictions of competition. In the opinion of the Court, the CC had rightfully stated that the exchange of information resulted in the lessening of incentives to compete and the enhancement of barriers to enter the relevant market. The Court also reasserted the conclusion of the CC concerning the effect of such information exchange upon the trade between Member States.

UAB Schneidersöhne Baltija and *UAB Libra Vitalis*, in disagreement with the ruling of the Vilnius Regional Court filed an appeal against the ruling to the Supreme Administrative Court of Lithuania. The case is pending the resolution of the Court.

CONCERNING THE CARTEL AGREEMENT

By its Resolution No. 2S-6 of 15 March 2007, the CC imposed pecuniary sanctions upon *UAB Sobo sistemas, UAB Lamberta* and *UAB Termoforma* for the conclusion of a cartel agreement while participating in

public procurement tenders. The companies acknowledged the commitment of the infringement, however, objecting to the amounts of the sanctions that they have been subjected to, appealed the Resolution of the CC to the Vilnius Regional Administrative Court. By its ruling of 11 October 2007 the Court established that the amount of the fines calculated by the CC had been legitimately based on the 3 percent annual turnover of the companies. However, the Court also noted that considering the absence of any aggravating circumstances and the acknowledgement of the infringement by the companies, the principal amount of the fines could be reasonably reduced by 50 percent, rather than by 25 percent, and accordingly reduced the amounts of the fines imposed upon the companies by the CC. The CC appealed the decision of the Court to the Supreme Administrative Court of Lithuania.

CONCERNING ACTIONS OF VILNIUS INTERNATIONAL AIRPORT

The CC performed an investigation concerning the actions of *Vilnius International Airport* impeding the efficient operation of *UAB RSS Motors* while supplying the jet fuels to airplanes in the territory of the airport, and, by its Resolution No. 2S-14 of 7 June 2007 concluded an infringement of Article 9 of the LC.

With *Vilnius International Airport* having appealed the ruling of the Court to the Vilnius Regional Administrative Court, the Court reasserted that *Vilnius International Airport* had been groundlessly requiring from *UAB RSS Motors* to submit the agreements with third parties on supply of jet fuels thus infringing Article 9 of the LC. However, the Court recognised the refusal by the Airport to provide to *UAB RSS Motors* a lot for the second fuel filling vehicle legitimate and based on the civil aviation security considerations, and established no infringements of Article 9 of the LC committed by the relevant actions of *Vilnius International Airport*. Having considered this circumstance the Court reduced the amount of the fine imposed by the CC upon the Airport. The CC appealed the ruling of the Court to the Supreme Administrative Court of Lithuania. The case is still pending the examination by the Court.

CONCERNING THE FAILURE TO FULFIL THE OBLIGATIONS OF THE CC

On 27 October 2005, the CC passed Resolution No. 1S-121 "Concerning the authorisation to *Rautakirja Oy* to implement concentration by acquiring a 100 percent holding of the Vilnius agency of *UAB Lietuvos spauda*", whereby the CC authorised *Rautakirja Oy* to proceed with the concentration subject to certain conditions and obligations designed to prevent the creation of a dominant position and any significant lessening or restriction of competition. A year later the CC was lodged a complaint from *UAB Medipresa* concerning the failure to fulfil the obligations provided for in the Resolution and certain specific terms of the obligation. *UAB Medipresa* requested that interim measures are imposed seeking to avoid any material damage and the appearance of irreparable consequences in respect of the interests of both *UAB Medipresa* and the publishers serviced thereby.

Having considered that the actions of *Rautakirja Oy* and the undertakings controlled thereby may potentially violate the terms of the authorised concentration and the obligations imposed by the CC, as well as the requirements of Article 9 of the LC, the CC, by its Resolution No. 1S-128 of 30 November 2006 initiated an investigation concerning the compliance of *Rautakirja Oy* with the conditions of the concentration and the obligations established by Resolution No. 1S-121 of 27 October 2005, and the requirements of Article 9 of the LC. Also, having considered that the actions of *Rautakirja Oy* and the undertakings controlled thereby could potentially cause the appearance of material damage and the irreparable consequences for the interests of *UAB Medipresa*, the CC resolved to impose interim measures – obliged the Vilnius agency of *UAB Lietuvos spauda* controlled by *Rautakirja Oy* not to terminate the agreement of 1 July 2005 between the Vilnius agency of *UAB Lietuvos spauda* and *UAB Medipresa*. *Rautakirja Oy* appealed the decision concerning the obligation to the Vilnius Regional Administrative Court; however, the Court having examined the case dismissed the appeal.

10. Other activities

During 2007, the CC received a number of inquiries from Lithuanian and foreign undertakings requesting explanations whether the actions specified in the applications comply with the provisions of the LC. Selected responses of the CC to such inquiries are presented below.

For instance, in response to the letter from the Committee on Social Affairs and Labour of the Seimas of the RL the CC submitted its opinion concerning the assessment of actions of pension accumulation companies and the persons authorised thereby. The letter from the Committee requested the CC to examine whether *AB SEB Vilniaus bankas* and *UAB SEB VB investicijų valdymas*, as well as *AB Hansabankas* and *UAB Hansa investicijų valdymas* providing the pension accumulation services and offering to new customers advantageous terms loans were acting in accordance with the provisions of the LC.

The Law on the Accumulation of Pensions contains a provision whereby pension accumulation companies, other persons authorised by it or related to it to urge a potential pension accumulation participant to become a pension fund participant or not to terminate participation in the pension fund by offering a benefit not related to the activity of the accumulation of pensions. Also Article 3(16) of the Law defines the relevant supervisory authorities in charge of the supervision over the compliance of the provisions of the Law. Therefore, the decision concerning the alleged infringements had to be taken by the authorities stipulated in the Law on the accumulation of Pensions. The CC did not establish any actions potentially infringing the LC.

PARTICIPATION IN THE WORKING GROUPS

As in previous years, the officers of the CC had been actively participating in the work of a number of working groups, namely:

- The working group set up by the Ministry of Justice on issues related to the activities of notaries;
- The Commission of the Telecommunications Regulatory Authority on the Auction to allocate the radio frequencies (channels) or the telephone communications numbers and the public tender for the allocation of radio frequencies (channels);

- The working group on the legal regulation of the institute of group claim;

- The Arbitration Commission of the Advertising Self-Regulation Association *Reklamos biuras*;

- The assessment commission in the contest organised by the Consumer Rights Protection Centre for the best articles on consumer rights.

SUPERVISION OF THE LAW ON PRICES

Within the scope of its competence the CC had been performing its duties and obligations to ensure the supervision of the Law on Prices of the RL and the relevant Resolutions of the Government in the area of pricing, placing a special focus on the compliance of the procedure for the establishment of prices and rates of monopoly goods and services provided by State enterprises established by Ministries and the Government of the RL and public institutions assigned to them.

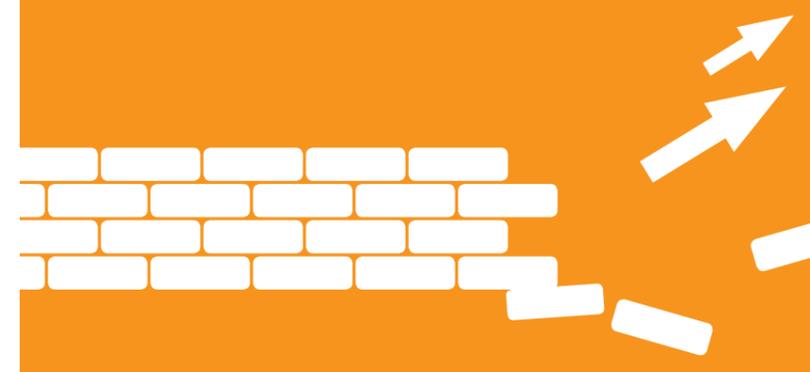
During 2007, the CC approved the rates for monopoly goods and services provided by public authorities, State enterprises and public institutions established thereby, and the fees for the provision of the data by State registers and cadastres by 170 positions (7 pricelists), the methods for the establishment (calculation) of the rates for the goods and services provided by public authorities, the guidelines for the procedure of the determination of the fees for the provision of the data by State registers and cadastres.

One of the major issues considered by the CC in this particular area of its activity was the rates for the services of registration of the immovable property and the related ownership rights submitted for approval of the *SE Registrų centras*. Having examined the proposed rates the CC came up with the opinion that the proposed rates must cover the economically grounded service costs and ensure the profit margin facilitating the development and the improvement of infrastructure, and the possibly beneficial impact upon the domestic market. In the opinion of the CC, the differentiation of the rates for the registration of the immovable property and the related ownership rights, where the amount of the charge is made dependant upon the market value of the

property rather than upon the economically grounded costs, does not reflect the actual situation in this market and is not compatible with public interests. Also, in the opinion of the CC, the value of the property cannot be considered the criteria underlying the differentiation of the rates and the application of different rates for the identical property registration procedure. Having regard to the above considerations the CC proposed to establish a fixed rate charge for a single registration action.

Having analysed the materials and documents provided by the Ministry of Agriculture concerning the methods of pricing of carcass by the State enterprise *Gyvulių produktyvumo kontrolė*, the CC approved the carcass pricing methods having considered the submitted comments. The procedure submitted by the Ministry provided for lower rates for the assessment of carcass for larger slaughter-houses, and higher rates for smaller slaughter-houses, where, as a result, smaller slaughter-houses would be charged higher rates for the identical services. Such procedure for pricing of carcass would be discriminatory in respect of smaller slaughter-houses which could eventually cause differences in the competition conditions. The Ministry of Agriculture was proposed to review the carcass classification strategy and consider a possibility to liberalise the carcass assessment services, i.e., authorise the provision of the carcass assessment services not only by the State enterprise *Gyvulių produktyvumo kontrolė* but also to other competent undertakings in order to facilitate the appearance of competition in this market. Such measures are rightfully expected to lead to a reduction in the carcass assessment rates, and, quite probably would eliminate the need for the regulation of prices in general.

INTERNATIONAL RELATIONS



WORK RELATED TO THE EU LEGAL ACTS

During 2007, the CC has been further actively participating in the EU legislative activities. Similarly to previous years, the competition authority has submitted to the Government a number of positions coordinated and approved by Ministries and other interested institutions on competition-related legal acts and other documents; within the limits of its competence the CC was providing its opinion on legislation drafted by other Ministries. During the year being reviewed the CC developed and submitted to the Government two positions: Proposal for a Council Regulation on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) (Codified version), and the position for the meeting of COREPER 1, i.e., Proposal for a Council Decision authorizing the Commission to negotiate a co-operation agreement in the area of competition between the European Community and the Republic of Korea. During 2007, the CC approved in total forty one position drafted by other Ministries.

In the course of 2007, the CC was further cooperating with the Chancellor's Office of the Government of the RL by submitting information concerning the national implementing measures of the Chapter "Competition policy" in respect of the new legislation published in the Official Journal of the EU, where the measures were necessary for the implementation of a specific EU legal act and the reports on the implementation of such measures. On a regular basis data were submitted to the

electronic notification database concerning the implementation of directives assigned to the competence of the CC (Directives 80/723/EEC and 2006/111/EC).

PARTICIPATION IN THE COMMITTEES AND WORKING GROUPS

Similarly to the previous years the CC placed a special focus on measures and procedures designed to enforce the provisions of Articles 81 and 82 of the EC Treaty and Council Regulation 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 representatives of the CC were invited as participants in six meetings of the Advisory Committee on restrictive practices and dominant positions, and one Oral Hearing.

In 2007, the CC cooperation with the Commission and the national competition authorities of other EU Member States has been further expanding within the European Competition Network (ECN). Specialists from the Lithuanian national competition authority were participating in a number of the ECN working groups (WG) established by the Commission, such as Chief Competition Economists WG, Cooperation Issues WG, Sanctions and *ne bis in idem* WG, Competition WG + Consumer Correspondents, the ECN sectoral working sub-groups "Energy", "Insurance", "Pharmacy", "Telecoms", "Banking", and in five Plenary meetings of the ECN.

In line with the Commission's enforcement of the EU competition law, the CC has been making considerable efforts to integrate

1. European competition activities

and promote the application of the economic analysis methods in competition case investigations, particularly in the ones concerning the most severe infringements of the competition law, i.e. prohibited agreements and abuse of a dominant position. At the beginning of the year the CC established a new position for an economist, would be primarily in charge of the economic analysis and drawing up of economic conclusions in the investigations conducted by the CC. In order to most efficiently learn from the relevant international experience, the CC was regularly represented in the meetings of the ECN Chief Competition Economists WG which provided most relevant and up-to-date information on the methods of the economic analysis and their application in the competition policy. The issues discussed during these meetings covered the assessment of vertical mergers, price discrimination, information exchange and other cartel agreements, situation in the banking sector, and the ex-post evaluation of competition policy intervention.

A special issue in the meetings of the ECN Cooperation WG was the practical enforcement of Article 14 (Advisory Committee) and Article 22 (Investigations by competition authorities of Member States) of Council Regulation (EC) No. 1/2003. The members of the working group were examining the possibilities, with reference to Article 14 of the Council Regulation, to promote the activities of the Advisory Committee, and simplify the committee's decision making procedure. Examples of best practice in the application of Article 22 were extensively discussed in the working group, and the European



2. International cooperation

Commission was filed a number of questions concerning the less clearly defined or alternative applications of Article 22. The meetings of the working groups became the fora for the exchange of the information on the investigations conducted by national competition authorities, and certain more challenging cases of collection of evidence.

In addition to working within the ECN, the CC officers participated in two Expert Meetings on Mergers, one meeting of the Advisory Committee on State Aid and seven Multilateral Meetings on State Aid.

According to the ECN cooperation rules, the EU national competition authorities were on a regular basis provided with the information on national competition law systems, in addition to the regular exchange of other important information. Furthermore, the CC contributed to the annual European Commission's competition policy report by submitting a summary overview of the Lithuanian competition law development together with a description of the practical application of the EC competition rules and the market investigations conducted by the CC.

Traditionally, the Chairman of the CC was participating in the annual meeting of Directors General for Competition held on November 8 in Brussels. The meeting was specifically dedicated to the issues related to the future of competition policy in Europe, antitrust damages actions, Article 82 policy review, in addition to a number of other important competition policy issues.

Specialists from the Lithuanian CC were also participating in a number of other events hosted by the European Commission, such as the Public Hearing of Interim Insurance report, and the technical expert meeting on damages actions issues.

Specifically useful were the traineeship placements for two officers of the CC in the Cartel unit of DG Competition arranged under the Commission's structural traineeship programme and the programme for the Exchange of staff between DG Competition and the other Competition authorities in the ECN. During the traineeship, the trainees were invited to theoretical lectures on competition law and policy, and participated in practical work on cartel cases.

OECD

During 2007, the CC continued to be an active participant in the activities of the OECD Competition Committee and its Working Parties. The CC, having the observer status, was present at the meetings of the working groups in February, June and October at which the representatives of the CC presented the position of Lithuania on the following issues:

- Improving Competition in Real Estate Transactions;
- Public Procurement – the Role of Competition Authorities in Promoting Competition;
- Competition Restrictions in Legal Professions.

In cooperation with the Ministry of Foreign Affairs the CC drafted and presented at the meeting of the Competition committee the paper on "Energy Security and Competition Policy".

In February 2007, representatives of the CC participated in the Global Competition Forum held in Paris.

Maintaining the close cooperation with OECD in the area of the enforcement and the development of competition policy, the CC submitted its 2006 Activity report containing the overview of the most important cases on the abuse of a dominant position and prohibited agreements, the case practice during the year, and a brief overview of the development of the national competition law. Furthermore, the CC had been regularly providing information, proposals and opinions on the organisation of the work of the working groups, drafting and the use of the relevant materials, as well as other important issues, with a special written contribution for the 100 years anniversary meeting of the OECD Competition Committee.

The agenda of the October meeting of the Competition Committee included an issue of granting the observer's status. The CC had submitted an application concerning the renewal of the observer status. Having positively assessed the active participation of Lithuania for the last six years in the activities of the OECD Competition Committee, the successful take-over of

the relevant experience, knowledge and skills in the area of competition policy the observer status was extended for Lithuania for another two years (until the end of 2009).

Within the Multilateral Assistance Program granted by the OECD to the Central and Eastern Europe countries, the CC's experts participated in the regional seminar on topics in competition Budapest. The participants of the regions involved were exchanging their experience, raising issues and highlighting the difficulties that they had encountered in the enforcement of competition policy in their respective countries, and seeking common solutions. The representatives of the CC had also presented several cases, relating to the prohibited agreement in the wholesale paper market, cases of an abuse of a dominant position by the biggest national fixed telecommunications services and data transmission services provider *AB TEO LT*, and the national mailing services provider *AB „Lietuvos paštas*.

ICN

2007 was another year devoted for developing the cooperation with the International Competition Network (ICN).

In May two representatives of the CC participated in the 6th Annual ICN Conference in Moscow.

The economist of the CC was invited to participate at ICN Merger Workshop in Dublin. The purpose of the Workshop was to discuss the methods of economic analysis appropriate both for the market definition, and the estimation of competitive harm in a hypothetical horizontal merger case.

The specialists of the CC prepared a comprehensive response to the questionnaire developed by the ICN Unilateral Conduct WG on the methods for the determination of predatory pricing and the exclusionary conduct applied in Lithuania and the penalties imposed for this kind of infringements, supplemented by the material on the relevant case practice.

SEMINARS, CONFERENCES

In June 2007, for the first time ever Neelie Kroes, European Commissioner for Competition and the accompanying officers

from the Commission visited Lithuania. During the visit, the honourable guest was invited to a meeting with the officers of the CC and to the discussion in the Ministry of Justice with the representatives of the national courts specifically examining competition cases.

While developing the cooperation with the counterpart institutions in other countries and international organisations, and seeking to acquire the most extensive experience and knowledge in the area of the enforcement of competition legislation and policy, the representatives of the CC were participating in a number of workshops and training sessions, including:

- the International Conference in Brussels on Cartel enforcement and Antitrust damage actions in Europe, presented jointly by the International Bar Association and the European Commission,
- the meeting of the representatives of the European Competition Authorities (ECA) in Sintra, Portugal,
- the 4th regional competition conference in Tallinn, Estonia, on September 5-6;
- the 5th European Forensic IT Meeting in Budapest, Hungary;
- the conference "Small Economies and Competition Policy – A fair deal?" in Luxembourg,
- the workshop on econometric methods for assessing the impact of antitrust decisions, in Rome, Italy.
- the conference "Communications and Competition law" in Riga, Latvia,
- the Research Symposium "Political Economy Constraints in Regulatory Regimes in Developing Countries" in Delhi, India,
- the seminar on Current topics in the economics of merger policy, in Budapest, Hungary,
- Energy Day in Brussels.

Two representatives of the CC made presentations in the international workshop held in the Lithuanian town Molėtai „Introduction to a new role of national courts under Regulation 1/2003 for Lithuanian judges".

TECHNICAL ASSISTANCE

Within the EU funded project of technical assistance to Bosnia and Herzegovina in competition and State Aid area, in May the CC hosted a one-day seminar for the civil servants from Bosnia and Herzegovina on the experience of Lithuania in State Aid area during the pre-accession period.



In June 2007, Neelie Kroes, the European Commissioner for competition visited Lithuania.



The CC officers-participants of the IVth Regional Competition Conference in Tallin.

PROVISION OF INFORMATION TO DIFFERENT SOURCES

The CC had been conventionally sharing its expertise and providing the necessary information to other institutions and organisations, namely economic consulting firm London Economics that was commissioned by the EC to conduct a research on the identification of industrial sectors with weak competition, analysis of causes and impacts. The purpose of the research was to identify the sectors in which infringements related to prohibited agreements and the abuse of a dominant position occur most often, and in which competition could be improved and promoted. Alongside, the relevant set

of information was provided to the annual report of the European Bank of Reconstruction and Development, and the publications of Laws and Enforcement records, Competition and Antitrust review 2008.

PUBLIC RELATIONS

The consistently developed public relations during 2007 were the most important and targeted means in the dissemination of information on the performance of the Lithuanian national competition authority. The traditional methods and means of public relations remained virtually unchanged from the previous years, including the announcements of the agenda of the meetings, press releases, regular contacts with information vendors and press services, publication of analytical articles. The regular publication of the most updated information through the press releases and the provision of verbal information to the media to the largest extent contributed to the formation of the positive public attitude towards the CC - a public authority consistently and efficiently addressing the issues assigned to its competence and actively protecting the interest of economic entities and consumer interests. In 2007, the activity of the CC was discussed in the Committee on Economics of the Seimas of the RL the findings of which noted the necessity to present, in an increasingly extensive manner, to the public the work performed by the CC and the results and findings of the completed investigations.

The development of public relations was largely facilitated by the experience and expertise gained due to the participation in targeted conferences and seminars, cooperation on the official levels with the press services of the Government and ministries, also following the guidelines of the ECN on the information and communication development issues.

NATURE AND SCOPE OF PROVIDED INFORMATION

The CC had been using all possible media channels to promote and present the role of CC in ensuring fair competition. During the year the CC published 72 press releases on the resolutions passed by the CC, the relevant rulings of courts, legislation drafts, various events, etc. Having completed the analysis of the leap in food product prices, that had caused a heated public response, the CC hosted a press conference to introduce the findings and conclusions of the analysis. The information agencies BNS and ELTA, the internet portal of the business news daily *Verslo žinios*, internet portals *Delfi*, *Alfa.lt*, *Aina.lt* in 2007 were

used to disseminate nearly 200 information notices on the resolutions passed by the CC, initiated investigations, complaints received, concentration notifications filed by undertakings, and the contents of the advertising statements. The coverage of the activities of the CC in regional publications has been steadily increasing. The activities of the CC have been referred to or covered, in various aspects, in more than 570 publications.

	Press releases	Publications
2007	72	570
2006	70	548
2005	77	483
2004	75	466
2003	64	420

In 2007, the specialists of the CC drafted several large-scope articles dedicated to the analysis of the specific areas of activities. The interview by the ELTA news agency with the Chairman of the CC Rimantas Stanikūnas was released in several publications. The interview with the Chairman was also published in the magazines *Vadovas ir pasaulis (The Manager and the World)*, *Global Competition Review*.

TV AND RADIO RELEASES

On numerous occasions programmes of different TV and radio channels were covering the material related to the most relevant activities of the CC. The Chairman, individual specialists, the press officer had been frequent guests invited to various TV channels and radio programmes. Several releases of the programmes *Žurnalisto tyrimas*, *Forumai*, *Savaitė* (the Lithuanian national television), *LNK* and the *Penktas kanalas* devoted a section for the topical issues of competition policy - reasons for price increases and the influence of the alleged cartel agreements, situation in gas market, substantiation of rates of notary services, impact of misleading advertising, etc. Total 37 interviews with the CC specialists were released in the news section of the 1st Lithuanian radio programme, programme *Ryto garsai* and the business section of the news radio *Žinių radijas*. Specialists of the CC were invited to several

live radio programmes, such as *Pozicija (Žinių radijas)*, *Dienos tema*, *Litas prie lito* (Lithuanian national radio) where they commented and replied live to the inquiries from the radio listeners.

STRENGTHENING OF THE PUBLIC IMAGE

When meeting politicians, civil servants, representatives of undertakings, lawyers, students and other citizens showing interest in competition regulations and various aspects of application of such regulations, specialists of the CC had on all occasions sought to emphasize the image of the CC as the authority that fairly, honestly and professionally fulfils its functions and duties. Senior officers of the CC participated in the meetings with the representatives of trade unions and presented, at such meetings, the roles and competence of the CC in addressing issues that are most relevant to the wide public, such as the rising inflation or price jumps.

The CC internet website had been regularly and expediently updated and improved servicing as a means to provide to the public the most relevant information about the activities of the CC. In response to the recommendations to the websites of public institutions, the CC has developed a new concept and the layout of its website which will open more space for posting an increasingly diversified information, also has been designed to be conveniently accessed by website visitors. For the purpose of the development of the internal communication, the popularity of the intranet website has been steadily growing as being regularly supplemented by the most relevant information, facilitating the search for the employees of working documents and the data, and the internal communication.

ADMINISTRATIVE CAPACITIES

Acting as an independent public authority the CC, within the limits of competence assigned to it, is responsible for the enforcement of the national and the EU competition policy. All Resolutions are passed on the collegial basis having heard the explanations and arguments of all interested parties, thus ensuring the objectivity and the unbiased character of the decisions. The staff of the CC welcomed a new member of the CC - as of September 3, under the Decree of the President of the Republic of Lithuania Jūratė Šovienė was appointed a member of the CC for a term of office of six years. Previously, Jūratė Šovienė was the Head of the Legal Division of the CC. The CC continued to make its active contribution in addressing a range of issues related to the promotion and enforcement of competition regulations, in all areas in cooperation with the Government, ministries and other public authorities. The CC is a public institution funded from the State budget of the Republic of Lithuania, in its own turn the CC contributes to the State budget revenues through the collection of the imposed fines and the fees for the submitted concentration notifications. In 2007, LTL 4 m was the amount of the appropriation from the State budget for the activity of the CC.

According to the strategic activity plan of the CC, which had been previously approved by the Government, the CC continued to take measures to ensure the high qualification of the specialists working in the institution; in this respect the CC concentrated its administrative capacities to be able to conduct, to the highest quality standards, and within the establish time limits, the large scale investigations, legal analysis of documents, provide professional consultations to undertakings, etc. The available recourses and appropriations are used according to the measures provided for in the plan to ensure the continuity and efficiency of the activities of the CC, and the further improvement of customer servicing.

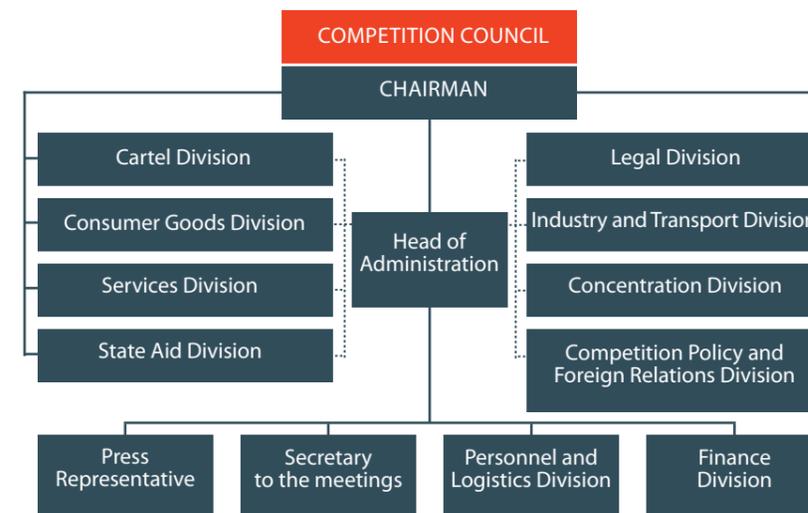
In 2007, the specialists of the State New archive of Lithuania performed an inspection of the data management procedures in place in the CC seeking to ensure an efficient operation and possibilities to monitor such procedures. Having regard to the findings of the inspection, the CC considered and is currently putting in place some material improvements in the document drafting, recording, and registration procedures, as well as management of files.

No major changes were introduced in the structure of the CC administration during 2007 (see the scheme).

QUALIFICATION OF THE STAFF MEMBERS OF THE CC

During 2007, the staff turnover in the CC was relatively insignificant, yet several competitions were held to select the employees to the civil servants positions vacated in the Service and Concentration Divisions. At the end of the year the staff of the CC listed 62 employees of which 45 were civil servants, and 17 employed on contract basis. Most of the employees were University graduates in law or economics, many of them attended professional development courses and acquired additional certified qualifications. The Administration of the CC provided all conditions for the specialists to further improve their foreign language skills (language courses attended by 24 employees), also organised all kinds of workshops and seminars in which the CC specialists involved in the work of the working groups of DG Competition briefed their colleagues on the issues considered within the workshops or conferences abroad.

In 2007, the Administration of the CC was further making all efforts to improve the working conditions for its employees. Based on the results of the professional certification, a number of specialists were promoted by assigning to them higher categories or classes as an incentive motivating them for further career attainments and partly addressing the issue of remuneration in the civil service which still remains a burning issue for the high qualification specialists employed in the public sector.



ENFORCEMENT OF THE LAW ON COMPETITION IN 2007

	Decisions reached	New cases opened
Total number of cases	104	97
Prohibited agreements	7	9
Abuse of a dominant position	11	3
Concentration	75	78
Restrictive actions of public and local authorities	6	7
Unfair competition	5	-
PROHIBITED AGREEMENTS		
	Horizontal agreements	Vertical agreements
New cases opened	8	1
New investigations ex officio	4	
New complaints	4	1
Decisions reached	3	4
Complaints rejected	1	4
Prohibitions with fines	2	
ABUSE OF A DOMINANT POSITION		
New cases opened		3
New complaints		3
Decisions reached		11
Complaints rejected		8
Prohibitions with fines		3
CONCENTRATION		
Decisions reached		75
Approvals		72
Conditional approvals		2
Disapproval		1

DECISIONS REACHED AND FINES IMPOSED BY THE COMPETITION COUNCIL IN 2007

ENFORCEMENT OF THE LAW ON COMPETITION		
Concerning regulations passed by public and local authorities (6)		
Established infringements (4):		
29-03-2007 No. 2S-7	Concerning the compliance with Article 4 of the LC of the refusal of the Telšiai county doctor to recommend <i>UAB Plungės sveikatos centras</i> to conclude the agreement with Šiauliai territorial patient's fund	
26-04-2007 No. 2S-8	Concerning the compliance with Article 4 of the LC of Resolution No. 1-537 of 13 October 2004 "On the development of the master plan of Vilnius until 2013" and other decisions of the Vilnius City Municipality related to the obligation to develop the master plan of Vilnius to the municipality enterprise <i>Vilniaus planas</i>	
20-09-2007 No. 2S-19	Concerning the compliance with Article 4 of the LC of actions of the Vilnius City Municipality purchasing the services from <i>UAB Rubicon Eventus</i>	

13-12-2007 No. 2S-27	Concerning the compliance with Article 4 of the LC of the relieves of the local charge for entering with mechanical vehicles into the State-protected Kuršių Nerija national park territory under the administration of the Neringa Municipality approved by Resolution No. T1-271 of 27 December 2004	
Refusals to open investigations (2)		
Concerning prohibited agreements (7)		
Established infringements (2):		
15-03-2007 No. 2S-6	Concerning the compliance with Article 5 of the LC of actions of undertakings participating in the public tenders called by the Maintenance services of Klaipėda city educational institutions in 2005-2006: <i>UAB Sobo sistemas</i> <i>UAB Lamberta</i> <i>UAB Termofoora</i>	LTL 62,774 LTL 71,755 LTL 7,252
21-06-2007 No. 2S-15	Concerning the compliance of actions of the Lithuanian Chamber of Auditors (LCA) with the requirements of Article 5 of the LC	LTL 30,000
Refusals to open investigations (3)		
Cases closed (2)		
Concerning abuse of a dominant position (11)		
Established infringements (3):		
07-06-2007 No. 2S-14	Concerning the compliance of actions of the <i>State Enterprise Vilnius International Airport</i> with the requirements of Article 9 of the LC	LTL 50,000
13-09-2007 No. 2S-18	Concerning the compliance of actions of <i>UAB Vilniaus energija</i> with the requirements of Article 9 (1) of the LC	LTL 178,000
27-09-2006 No. 2S-20	Concerning the compliance of actions of <i>AB Lietuvos paštas</i> with the requirements of Article 9 of the LC	LTL 80,000
Refusals to initiate investigations (5)		
Cases closed (3)		
Concerning concentration control (80)		
Authorisations to implement concentration (74):		
11-01-2007 1S-1	<i>UAB PGP Investicija</i> to implement concentration by acquiring 100 % shares of <i>UAB Provėža</i>	
11-01-2007 1S-2	<i>UAB Nemuno vaistinė</i> to implement concentration by reorganisation joining <i>UAB Sekada</i> , <i>UAB Mauda</i> , <i>UAB Berželio vaistinė</i> , <i>UAB Puplaiškis</i>	
18-01-2007 1S-3	<i>UAB Verdispar Retail Property I</i> to implement concentration by acquiring a share of the assets in <i>UAB Rivona</i> and <i>UAB Aveva</i>	
15-02-2007 1S-11	<i>UAB Saugos investicijų biuras</i> to implement concentration by acquiring up to 57.1 % shares of <i>UAB VP Sauga</i>	
15-02-2007 1S-12	<i>UAB Hermis Capital</i> to implement concentration by acquiring 100 % shares of <i>UAB Kauno diena</i>	
29-03-2007 1S-21	<i>UAB Axis Industries</i> to implement concentration by acquiring 100 % shares of production-commercial <i>UAB Fonas</i>	
05-04-2007 1S-24	<i>AB Alita</i> to implement concentration by acquiring 100 % shares of <i>UAB Daivalda</i>	
19-04-2007 1S-27	To implement concentration by reorganising <i>UAB Natanga</i> and <i>UAB Rovisa</i> by way of merging or joining and to J. Lebrikas and R. Irtmonas by acquiring joint control	
19-04-2007 1S-28	<i>UAB Avestis</i> and <i>UAB Avestis Capital</i> to implement concentration through jointly controlled <i>UAB Avesko keliai</i> and <i>UAB Šiaulių plento grupė</i> by acquiring 54 % shares of <i>UAB Šiaulių plentas</i>	
19-04-2007 1S-29	<i>UAB Finansų spektro investicija</i> to implement concentration by acquiring up to 50 % shares of <i>AB Vilniaus vingis</i>	
26-04-2007 1S-32	<i>UAB Nenuorama</i> , V.Bučas and D.Šulnys to implement concentration by acquiring up to 100 % shares of <i>AB Invalda</i>	
26-04-2007 1S-33	<i>UAB MG Baltic Media</i> to implement concentration by acquiring up to 51 % shares of <i>UAB UPG Baltic</i>	
26-04-2007 1S-34	<i>UAB KDS grupė</i> to implement concentration directly and by acquiring sole control of <i>UAB Būsto industrijos grupė</i> via related persons	
03-05-2007 1S-36	<i>UAB Transimeksa</i> to implement concentration by acquiring up to 100 % shares of <i>AB Specializuotas transportas</i>	

03-05-2007 1S-37	<i>Kauno tiltai</i> to implement concentration by acquiring up to 100 % shares of <i>UAB PGP investicija</i>	
10-05-2007 1S-42	<i>UAB Pajūrio investicijų valdymo centras</i> to implement concentration by acquiring up to 100 % shares of <i>AB Klaipėdos keliai</i> and up to 100 % shares of <i>AB Kruonio hidroakumuliacinės elektrinės statyba</i>	
10-05-2007 1S-43	<i>UAB Rubicon Group</i> to implement concentration by strengthening the control of <i>UAB Relinė apsauga</i>	
10-05-2007 1S-44	<i>Arosa Vermögensverwaltungsgesellschaft M.B.H.</i> to implement concentration by acquiring 50 % shares of <i>UAB Ozantis</i> and acquiring a joint control of <i>UAB Ozantis</i> together with <i>UAB Rubicon Group</i>	
17-05-2007 1S-50	<i>UAB Palink</i> to implement concentration by leasing premises of commercial purpose	
17-05-2007 1S-51	<i>UAB Survesta</i> to implement concentration by acquiring up to 100 % shares of <i>UAB Klaipėdos laikraščio redakcija</i>	
17-05-2007 1S-52	<i>UAB Saerimner</i> to implement concentration by acquiring sole control of <i>UAB Skabeikių agrofirma</i>	
24-05-2007 1S-57	<i>UAB MAXIT</i> to implement concentration by acquiring 100 % shares of <i>UAB Viscum</i>	
31-05-2007 1S-60	<i>UAB Lucrum investicija</i> to implement concentration by acquiring up to 50 % shares of <i>UAB Nenuorama</i>	
07-06-2007 1S-63	<i>UAB Saerimner</i> to implement concentration by acquiring sole control of <i>UAB Lekėčiai</i>	
07-06-2007 1S-64	<i>UAB Aurika</i> to implement concentration by acquiring 100 % shares of <i>UAB Vilrikė</i>	
14-06-2007 1S-67	<i>Kaučuk A.S.</i> and <i>Unipetrol A.S.</i> to implement concentration by establishing a new undertaking	
14-06-2007 1S-68	<i>INCHCAPE CORPORATE SERVICES LIMITED</i> to implement concentration by acquiring 100 % shares of each of <i>UAB Autovista</i> , <i>UAB Vilniaus Vista</i> , <i>UAB Vytautas</i> and <i>UAB Autovytautas</i>	
14-06-2007 1S-69	<i>UAB Turto valdymo strategija</i> to implement concentration by acquiring 80,02 % shares of Life insurance <i>UAB Bonum Publicum</i>	
21-06-2007 1S-70	<i>UAB Litagos grūdų centras</i> to implement concentration by acquiring 100 % shares of <i>AB Joniškių grūdai</i> , 100 % shares of <i>AB Marijampolės grūdai</i> , 100 % shares of <i>AB Tauragės grūdai</i> and the authorisation to <i>UAB Litagos žemės ūkio centras</i> to implement concentration by acquiring a 100 % holding of <i>ŽŪB Aristava</i> , 100 % holding in <i>ŽŪB Kalpokai</i> , 100 % in <i>ŽŪB Šlapaberžė</i> , 100 % holding in <i>ŽŪB Šešupė</i> , 100 % holding in <i>ŽŪB Ranktinėliai</i> .	
28-06-2007 1S-75	<i>UAB Hermis Capital</i> and <i>UAB Arvi ir Ko</i> to implement concentration by acquiring up to 45 % shares of <i>Heimdal Enterprises Limited</i> for each of them	
28-06-2007 1S-76	<i>UAB Vipas</i> to implement concentration by acquiring 50 % shares of <i>UAB VSGA</i> and 50 % shares of <i>UAB Taxillus</i>	
05-07-2007 1S-77	<i>UAB Bionovus</i> to implement concentration by acquiring 100 % shares of <i>UAB Specialus autotransportas</i>	
12-07-2007 1S-82	<i>UAB Sport Line</i> to implement concentration by acquiring 100 % shares of <i>UAB ST Megasport</i>	
12-07-2007 1S-83	<i>UAB Šiaulių plentas</i> to implement concentration by acquiring up to 100 % shares of <i>UAB Šiaulių ranga</i>	
19-07-2007 1S-91	<i>UAB LSA-2</i> to implement concentration by acquiring 100 % shares of <i>UAB IIsanta</i>	
26-07-2007 1S-92	<i>AB Achema</i> to implement concentration by acquiring 100 % shares of sanatorium <i>UAB Lietuva</i>	
30-08-2007 1S-95	<i>UAB MG BALTIC MEDIA</i> to implement concentration by acquiring up to 51 % shares of <i>UAB MEDIAFON</i>	
30-08-2007 1S-96	<i>UAB Axis Industries</i> to implement concentration by acquiring 100 % shares of <i>UAB Ekotermijos servisas</i>	
30-08-2007 1S-97	Concerning approval for <i>Heidelberg Cement Northern Europe AB</i> to implement concentration by acquiring 70 % shares of <i>UAB Gerdukas</i>	
30-08-2007 1S-98	<i>UAB Megrame</i> and <i>UAB Deminta</i> to implement concentration by acquiring by each 50 % shares of <i>UAB ASF</i> and acquiring joint control of <i>UAB ASF</i>	
30-08-2007 1S-99	<i>UAB Omnitel</i> to implement concentration by acquiring sole control of <i>UAB Mikrovisatos prekyba</i>	

13-09-2007 1S-103	<i>UAB BCO</i> to implement concentration by acquiring 100 % shares of <i>UAB Mobilėja</i>	
20-09-2007 1S-108	<i>AB Virgula</i> to implement concentration by acquiring up to 100 % shares of <i>UAB Petrašiūnų statyba</i>	
20-09-2007 1S-109	<i>Alfred C.Toepfer International GmbH</i> and <i>Elders Ltd.</i> to implement concentration by establishing a joint company <i>Elders Toepfer Grain</i>	
20-09-2007 1S-110	<i>AB Invalda</i> to implement concentration by joining <i>AB Nenuorama</i>	
27-09-2007 1S-113	<i>UAB Palink</i> to implement concentration by leasing premises of commercial purpose in Uosupis St. 9, Marijampolė	
27-09-2007 1S-114	<i>STATOIL ASA</i> to implement concentration by acquiring 42,5 % shares of <i>UAB Mestilla</i>	
04-10-2007 1S-117	<i>SIA Coffee Holding</i> to implement concentration by acquiring 100 % shares of <i>UAB PRESTO PREKYBA</i>	
11-10-2007 1S-124	<i>Summit Partners, L.P.</i> to implement concentration by acquiring up to 49 % shares of <i>Fermentas International, Inc</i>	
11-10-2007 1S-125	<i>UAB ŽIA valda</i> and <i>UAB Indeco: Investment and Development</i> to implement concentration by acquiring respectively 45 % and 30 % shares of <i>UAB VA REALS</i> and acquiring a joint control of <i>UAB VA REALS</i>	
11-10-2007 1S-126	<i>UAB ŽIA</i> to implement concentration by acquiring 45 % shares of <i>UAB Smulkus urmas</i>	
11-10-2007 1S-127	<i>Eglė Audronė Zulaniėnė</i> to implement concentration by acquiring 49,99 % shares of <i>UAB Nacionalinė farmacijos grupė</i> and acquiring a joint control of <i>UAB Nacionalinė farmacijos grupė</i> together with <i>Polska Grupa Farmaceutyczna Spółka Akcyjna</i> and jointly controlled <i>UAB Nacionalinė farmacijos grupė</i> by acquiring 100 % shares of <i>UAB Medicinos konsultacijų tinklas</i>	
18-10-2007 1S-132	<i>UAB Penki kontinentai</i> , <i>UAB Hanner</i> ir <i>UAB Trinapolis</i> to implement concentration by establishing a joint company <i>UAB H5 Development</i> ; <i>UAB Penki kontinentai</i> and <i>UAB Trinapolis</i> by acquiring 25 % of shares each and <i>UAB Hanner</i> by acquiring 50 % of shares and all acquiring a joint control	
25-10-2007 1S-134	<i>UAB SEB VB rizikos kapitalo valdymas</i> to implement concentration by acquiring up to 50 % shares of <i>UAB Viginta</i> and acquiring a joint control of <i>UAB Viginta</i>	
31-10-2007 1S-140	<i>Askembla Growth Fund KB</i> to implement concentration by acquiring 95,5 % shares of <i>Lithuanian-German UAB Kausta Guder</i>	
08-11-2007 1S-144	<i>AB Hanner</i> to implement concentration by acquiring 100 % shares of <i>UAB Avesko</i>	
15-11-2007 1S-148	<i>UAB Avestis</i> to implement concentration by acquiring 100 % shares of <i>UAB Eko Group</i>	
15-11-2007 1S-149	<i>AB City Service</i> to implement concentration by acquiring 100 % shares of <i>UAB Lazdynų būstas</i>	
22-11-2007 1S-153	<i>Amber Trust II S.C.A.</i> to implement concentration by acquiring 50 % shares of <i>AS Toode</i> and acquiring a joint control of <i>AS Toode</i> together with <i>OŪ Airo Konsulatsioonid</i> and <i>OŪ Maki Konsulatsioonid</i>	
22-11-2007 1S-154	<i>AB Verdispar Logistic Property III</i> to implement concentration by acquiring a share ao assets of <i>UAB Vingės Transsphere Logistika</i> and acquiring control of <i>UAB Vingės Transsphere Logistika</i>	
22-11-2007 1S-155	<i>UAB Litagos grūdų centras</i> to implement concentration by acquiring 100 % shares of <i>AB Kėdainių grūdai</i>	
29-11-2007 1S-161	<i>Joint Lithuania–USA company UAB Sanitex</i> to implement concentration by acquiring 50 % shares of <i>UAB Domus Mea</i>	
29-11-2007 1S-162	<i>Joint Lithuania–USA company UAB Sanitex</i> to implement concentration by acquiring 50 % shares and <i>UAB Indeco: Investment and Development</i> 30 % shares of <i>AB AVIA Investment</i> and acquiring a joint control of <i>AB AVIA Investment</i>	
29-11-2007 1S-163	<i>Joint Lithuania–USA company UAB Sanitex</i> to implement concentration by acquiring up to 28 % shares of <i>UAB Avesko keliai</i>	
06-12-2007 1S-165	<i>UAB Lietuvos rytas</i> to implement concentration by acquiring 100 % shares of <i>UAB Penktasis kanalas</i>	
06-12-2007 1S-166	<i>N.Dagilis</i> , <i>T.Sereika</i> and <i>UAB Leidybos praktika</i> to implement concentration by acquiring 100 % shares of <i>AB Kauno duona</i> and acquiring joint control of <i>AB Kauno duona</i>	
06-12-2007 1S-167	<i>Premier Capital Ltd.</i> to implement concentration by acquiring 100 % shares of <i>UAB McDonald's Restaurants</i> via <i>SIA McDonald's Latvia</i>	

13-12-2007 1S-178	UAB ŽIA valda to implement concentration by acquiring 49 % shares of AB BSA Construction	
13-12-2007 1S-179	TEO LT, AB to implement concentration by acquiring 100 % shares of UAB Nacionalinės skaitmeninės televizijos	
20-12-2007 1S-181	UAB Viešųjų ryšių partneriai to implement concentration by acquiring 75 % shares of UAB Baltic media partners	
20-12-2007 1S-182	AB Hanner to implement concentration by acquiring 50 % shares of TOB Pridpriemstvo Vaizbunas	
28-12-2007 1S-188	UAB Rivona to implement concentration by acquiring 50 % shares of UAB Brauer	
28-12-2007 1S-189	European Bank for Reconstruction and Development to implement concentration by acquiring up to 20 % shares of UAB Energija and acquiring a joint control of UAB Energija together with UAB Energijos taupymo centras and V.Strioga	
29-12-2007 1S-190	Rautakirja Oy to implement concentration by acquiring 100 % shares of UAB Impress Teva	

Authorizations to perform individual actions of concentration (5):

05-04-2007 1S-23	UAB Nenuorama to perform individual actions of concentration; UAB Nenuorama, V.Bučas and D.Šulnys acquiring up to 100 % shares of AB Invalda	
12-07-2007 1S-87	AB Achema to perform individual actions of concentration, acquiring 100 % shares of sanatorium UAB Lietuva	
20-09-2007 1S-107	Summit Partners, L.P. to perform individual actions of concentration, acquiring up to 49 % shares of Fermentas International, Inc.	
31-10-2007 1S-139	AB City Service to perform individual actions of concentration, acquiring 100 % shares of UAB Lazdynų būstas	
22-11-2007 1S-160	Opozno A.S. to perform individual actions of concentration, acquiring up to 79 % shares of AB Dvarčionių keramika	

Refusals to give permission to implement concentration (1)

2007-07-19 1S-89	On the refusal to give a permission to implement the concentration by UAB Šiaulių plentas, UAB Alkesta and AB Kauno tiltai by incorporating the AB Kauno tiltai TŪB consortium Tiltra	
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Concerning actions of unfair competition (5)

Refusals to open investigations (5)

ENFORCEMENT OF THE LAW ON ADVERTISING

Concerning misleading and comparative advertising (27)

Established infringements (16):

11-01-2007 2S-1	Concerning the compliance of actions of AB Kalnapilio-Tauro grupė with the requirements of the LA	LTL 3,000
25-01-2007 2S-2	Concerning the compliance of advertising of UADB ERGO Lietuva with the requirements of the LA	
22-02-2007 2S-5	Concerning the compliance of advertising of plastic windows Royal Europa with the requirements of Article 5 of the LA (UAB Pergesas)	LTL 12,000
10-05-2007 2S-9	Concerning the compliance of actions of UAB Senukų prekybos centras with the requirements of the LA	LTL 3,000
24-05-2007 2S-10	Concerning the compliance of advertising of entertainment and trade centre Babilonas with the requirements of Article 5 of the LA	LTL 10,000
24-05-2007 2S-11	Concerning the compliance of advertising of UAB Tez Tour with the requirements of Article 5 of the LA	LTL 10,000
31-05-2007 2S-12	Concerning the compliance of actions of UAB Bitė Lietuva with the requirements of Article 5 of the LA	LTL 18,000
31-05-2007 2S-13	Concerning the compliance of the advertising statements on discount coupons in the publication Studento dieneraštis 2006/2007 published by UAB Tele 2 with the requirements of Article 5 of the LA	LTL 15,000
28-06-2007 2S-16	Concerning the compliance of advertising of UAB Direct Best Sellers with the requirements of Article 5 of the LA	LTL 21,000
05-07-2007 2S-17	Concerning the compliance of actions of UAB Žemės vystymo fondas and UAB Žemės vystymo fondas 18 with the requirements of Article 5 of the LA	LTL 19,000

04-10-2007 2S-21	Concerning the compliance of actions of UAB Gintarinė sala with the requirements of Article 5 of the LA	LTL 7,500
11-10-2007 2S-22	Concerning the compliance of actions of VšĮ Gyvybės taurė while advertising the services of Mišakov massage school with the requirements of Article 5 of the LA	LTL 12,000
18-10-2007 2S-23	Concerning the compliance of advertising statement Cheapest drugs in Vievis with the requirements of Article 5 of the LA (UAB Gintarinė grupė pharmacy)	LTL 1,000
29-11-2007 2S-24	Concerning the compliance of advertising of UAB Media Incognito with the requirements of Article 5 of the LA	LTL 3,000
29-11-2007 2S-25	Concerning the compliance of actions of UAB Pramogų planeta with the requirements of Article 5 of the LA	LTL 1,000
29-11-2007 2S-26	Concerning the compliance of the advertising statement published in the magazine Moters savaitė with the requirements of Article 5 of the LA (AB Vilniaus kailiai)	LTL 3,000

Refusals to open investigations (6)

Cases closed (5)

Total fines imposed in 2007 LTL 618,281

TOTAL NATIONAL STATE AID IN LITHUANIA IN 2006*

Sector	Aid forms	A1	A2	B1	C1	C2	D1	Total (LTL m)	Total (MEUR)
1.1. Agriculture		117.05	138.54	0.12				255.71	74.06
1.2. Fisheries		2.30						2.30	0.67
2. Industry/services		124.53	60.32					184.85	53.54
2.1. Horizontal aid		100.71	29.29					130.00	37.65
2.1.1. Research, development and innovations		20.00						20.00	5.79
2.1.2. Environmental protection		4.72	29.29					34.01	9.85
2.1.3. SMEs		55.38						55.38	16.04
2.1.4. Trade									
2.1.5. Energy efficiency									
2.1.6. Investment									
2.1.7. Employment programs		10.14						10.14	2.94
2.1.8. Professional development		10.47						10.47	3.03
2.1.9. Privatisation									
2.1.10. Rescue/restructuring									
2.2. Sectoral aid									
2.2.1. Steel industry									
2.2.2. Ship-building									
2.2.3. Transport									
2.2.4. Coal industry									
2.2.5. Synthetic fibre									
2.2.6. Other sectors									
2.3. Regional aid		23.82	31.03					54.85	15.89
Total:		243.88	198.86	0.12				442.86	128.27
Manufacturing and services:		124.53	60.32					184.85	53.54

* compensations for the provision of the services of general economic interest not included

EXPLANATIONS OF SYMBOLIC MARKINGS:

A1 – not recovered aid: grants, subsidies

A2 – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions

B1 – different types of increase of the state-owned equity of enterprise or increase of its value

C1 – soft loans

C2 – tax deferrals

D1 – state guarantees

TOTAL NATIONAL STATE AID IN LITHUANIA IN 2000–2006 (MEUR)

Indicators	Year	2000	2001	2002	2003	2004	2005	2006
Total national State aid		68.70	39.73	74.96	40.67	120.38	119.16	128.27
Of which:								
- manufacturing and services		42.07	17.26	44.03	25.56	25.34	25.66	53.54
- agriculture and fishery		0.43	0.82	1.43	0.74	89.63	93.50	74.73
- transport		26.20	21.65	29.50	14.37	5.41	-	-

TOTAL NATIONAL STATE AID IN LITHUANIA IN 2000–2006

Indicators	Year	2000	2001	2002	2003	2004	2005	2006
MEUR		68.70	39.73	74.96	40.67	120.38	119.16	128.27
EUR per one employee		43.32	26.11	53.31	28.28	83.81	80.85	85.57
% of GDP (at current prices)		0.57	0.29	0.51	0.25	0.66	0.58	0.54
% of national budget expenditures		2.81	1.36	2.22	1.12	2.85	2.41	2.12
% of national budget deficit		66.50	13.21	23.50	12.42	55.73	71.77	34.02
Population (m)		3.50	3.48	3.47	3.45	3.43	3.41	3.39

METHODS OF NATIONAL STATE AID IN 2000–2006

	A1	A2	B1	C1	C2	D1	Total (LTL m)	Total (MEUR)
State aid 2000	225.55	7.45	0.06	0.01	0.07	22.48	255.62	68.70
State aid 2001	87.99	24.50	0.00	0.07	27.54	0.00	140.10	39.73
State aid 2002	93.09	127.19			38.45	0.07	258.8	74.96
State aid 2003	50.03	46.22	11.62	0.34	32.13	0.00	140.34	40.67
State aid 2004	202.79	183.33	13.40	0.03	15.69	0.40	415.64	120.38
State aid 2005	205.30	205.80	0.35				411.45	119.16
State aid 2006	243.88	198.86	0.12				442.86	128.27

EXPLANATIONS OF SYMBOLIC MARKINGS:

A1 – not recovered aid: grants, subsidies

A2 – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions

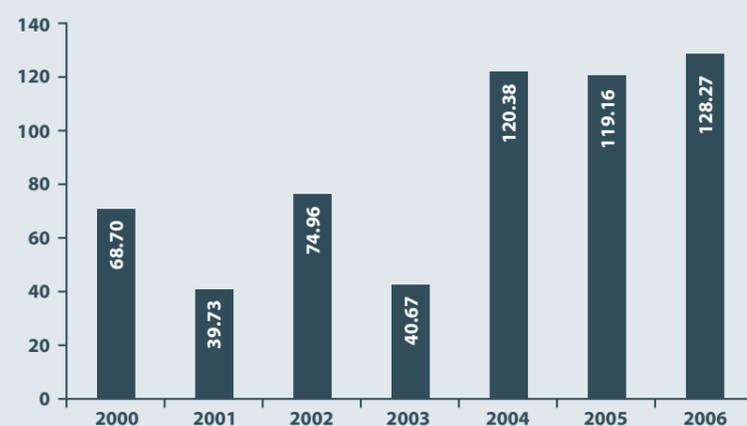
B1 – different types of increase of the state-owned equity of enterprise or increase of its value

C1 – soft loans

C2 – tax deferrals

D1 – state guarantees

TOTAL NATIONAL STATE AID IN LITHUANIA IN 2000–2006 (MEUR)



STATE AID ASSESSED BY RESOLUTIONS OF THE EUROPEAN COMMISSION IN 2007

State aid notification registration in the EC	Name of the aid	Beneficiary sector	Purpose of the aid	Duration of the aid scheme	Decision of the Commission	Decision date
19-07-2005	NN 67/ 2005 – Tax rate reduction <i>UAB Bitè GSM</i>	Telecommunications	Regional development	Until 12-03-2008	Favourable	24-01-2007
19-07-2005	NN 68/ 2005 – Tax rate reduction <i>UAB Omnitel</i>	Telecommunications	Regional development	Until 30-06-2007	Favourable	24-01-2007
06-07-2006	N 436/2006 – Support to development of bio-diesel production	Agricultural	Environmental protection, development of bio-diesel production	Until 14-03-2013	Favourable	14-03-2007
16-10-2006	N 691/2006 – Aid for reimbursement of insurance premiums	Agricultural	To promote voluntary insurance from the damage caused by natural disasters and unfavourable weather conditions	Until 08-02-2013	Favourable	08-02-2007
15-12-2006	N 842/2006 – Aid for entities engaged in agricultural activities who have sustained damage due to the fact that their agricultural plants had died or suffered because of severe meteorological phenomena in 2006.	Agricultural	Aid for farmers to reimburse the damage caused by unfavourable weather conditions	Until 13-02-2008	Favourable	13-02-2007
17-02-2007	N 90/2007 – Rural Credit Guarantee Fund guarantees to credit institutions with regard to the extended credits	Agricultural	Sector development	Until 31-12-2013	The measure outside the scope of Article 87(1) of the EC Treaty (does not constitute State aid)	24-04-2007
30-05-2007	N 306/2007 – Amendments to N294/2005; Aid for the Development of the Production of Bio-Diesel	Agricultural	Environmental protection, development of bio-diesel production	Until 31-12-2011	Favourable	09-08-2007
27-06-2007	N 363/2007 – Aid for purchasing of used equipment of flax sector	Agricultural	Investment in agricultural holdings	Until 06-12-2013	Favourable	05-12-2007
29-06-2007	N 370/2007 – Aid for reimbursement of credit interest (except for the purchase of land)	Agricultural	Investment in agricultural holdings	Until 31-12-2013	Favourable	14-11-2007
29-06-2007	N 368/2007 – Aid for reimbursement of guarantee payment	Agricultural	Investment in agricultural holdings	Until 31-12-2013	Favourable	14-11-2007
24-07-2007	N 428 / 2007 – State aid for development for producer cooperation	Agricultural	State contribution in the funding of the producer group start up activity	Until 30-06-2013	Favourable	19-12-2007

LITIGATION PROCEEDINGS IN 2007

	Cases in Vilnius Regional Administrative Court	Cases in the Supreme Administrative Court of Lithuania	Completed cases	Total number of representations
Infringements of Art. 4 of the LC	1. <i>Vilnius Municipality v. CC</i> 2. <i>UAB Universali arena v. CC</i> 3. <i>Elektrėnai Municipality v. CC</i> (refusal to open an investigation)	1. <i>Police department v. CC</i> 2. <i>Neringa Municipality v. CC</i> 3. <i>Palanga Municipality v. CC</i> (proceedings renewal application filed).	1. <i>VšĮ Palangos pliažas v. CC</i> 2. <i>Kaunas Municipality v. CC</i> 3. <i>UAB Žalmargės pienas v. CC</i> 4. <i>TEO LT, AB, UAB Omnitel, UAB Bitė Lietuva v. CC</i> 5. <i>UAB Ukmergės energija v. CC</i> (refusal to open an investigation).	11
Infringements of Art. 5 of the LC	1. <i>Lithuanian Chamber of Auditors v. CC</i>	1. <i>UAB Eurointegracijos projektai v. CC</i> 2. <i>UAB STIVVF v. CC</i> (concerning refusal to open an investigation) 3. <i>Schneidersöhne Baltija and UAB Libra Vitalis v. CC</i> (Article 81 of the EC Treaty) 4. <i>UAB Lamberta, UAB Sobo Sistemas, UAB Termofora v. CC</i>		5
Infringements of Art. 9 of the LC	1. <i>UAB Vilniaus energija v. CC</i> 2. <i>AB Lietuvos paštas v. CC</i>	1. <i>AB Mažeikių nafta v. CC</i> 2. <i>VĮ Tarptautinis Vilniaus oro uostas v. CC</i> 3. <i>UAB Baltic ground services v. CC</i> (concerning refusal to initiate investigation) 4. <i>UAB Akmenės energija v. CC</i>	1. <i>AB flyLAL – Lithuanian Airlines v. CC</i> (concerning refusal to open an investigation)	7
Infringements of Art. 5 and 6 of the LA	1. <i>UAB Plieninis skydas v. CC</i> (concerning refusal to open an investigation) 2. <i>UAB Gintarinė sala v. CC</i> 3. <i>UAB Delfi, AS Delfi v. CC</i> 4. <i>UAB Žemės vystymo fondas, UAB Žemės vystymo fondas 18 v. CC</i> 5. <i>AB flyLAL – Lithuanian Airlines v. CC</i> (concerning refusal to open investigation)	1. <i>UAB Tele2 v. CC</i> 2. <i>UAB Tez Tour v. CC</i>	1. <i>UAB Acme v. CC</i> 2. <i>UAB Pergesas v. CC</i>	9
Concentration	-	-	-	-
Interim measures			1. <i>Rautakirja Oy v. CC</i>	1
Total:	11	13	9	33

Cases in which resolutions of the CC were upheld - 6

Cases in which resolutions of the CC were partly amended - 1*

Cases in which resolutions of the CC were overruled - 2**

* Reduced amount of fine

** On one occasion the CC obligated to open the investigation, and in the other – to supplement the completed investigation.

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