

APPLICATION OF REGULATION 1/2003

EXPERIENCE IN LITHUANIA

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COMPETITION COUNCIL
OF THE REPUBLIC OF LITHUANIA

Overview

- Assistance in investigations (*Articles 20, 22 and 28*)
- Coherent application of the EU competition rules (*Articles 11 and 16*)
- Articles 101 and 102 TFEU infringement decisions (*Article 5*)
- Requests to the European Commission to express opinion by national courts (*Article 15*)



Assistance in investigations

- Inspections on behalf of:
 - the European Commission (*Gazprom* and *Lietuvos geležinkeliai* investigations)
 - the Latvian NCA (*Pharma* investigation)
- Interview on behalf of the Latvian NCA (*Pharma* investigation)
- Inspections on behalf of the Konkurencijos taryba in the *Air Baltic* investigation (inspections performed at the same time in Latvia and Lithuania)



Coherent application of the EU competition rules

- Teleconferences
- Requests for information (RFIs)
- Informing the EU Commission of the envisaged decisions under Articles 101 and 102 TFEU (Article 11(4))



Informing the EU Commission of the envisaged decisions: case-law

AB "Mažeikių Nafta" vs. Konkurencijos taryba

• ***Konkurencijos taryba***: notification of the summary of the case and sanctions to be imposed to the EU Commission

• **Applicant:**

- the *Konkurencijos taryba* failed to inform the EU Commission of the envisaged decision
- Hence the infringement of the due procedure was made

• **Court's decision:**

- applicant's arguments rejected
- Article 11(4) of Regulation 1/2003 regulates exclusively cooperation between the EU Commission and NCAs



Articles 101 and 102 TFEU infringement decisions since 1 May 2004

Total number of infringement decisions (antitrust)		37
Articles 101 and 102 TFEU infringement decisions		9
	Annulled	2
	Upheld	4
	Pending	3



Articles 101 and 102 TFEU infringement decisions

- The cross-border effect assessed on case-by-case basis
- The EU Commission's guidelines on the effect on trade
- Practice of the EU Commission and the EUCJ



Articles 101 and 102 TFEU infringement decisions: *Paper Wholesalers*

- Information exchange between paper wholesalers
- Duration of infringement: 1999 – May 2004
- Application of Art 101 TFEU annulled by the court:
 - only one episode of exchange after 1 May 2004 accession
 - small volume of export/import

National courts' requests to the EU Commission to express opinion: *Paper Wholesalers*

- The Supreme Administrative Court's request:
 - Question No 1: is it necessary to establish oligopolistic and highly concentrated market for the information exchange to constitute an infringement?
 - Question No 2: is there a cross-border effect in the case concerned?
- EU Commission's reply:
 - To question No 1: No
 - To question No 2: The national court is better placed to assess, for guidance see the Commission's guidelines on effect on trade
- The EU Commission's view adopted in the final judgment



National courts request for European Commission opinion

Travel agencies vs. *Konkurencijos taryba*

•The applicants:

- Alleged novelty of an infringement
- Asked the court to seek the EU Commission's opinion

•The court of first instance:

- Request rejected
- No doubts about the infringement of the Law on Competition and Article 101 TFEU



Thank you!

