



**COMPETITION COUNCIL OF THE REPUBLIC OF LITHUANIA**

**RESOLUTION ON ENFORCEMENT PRIORITY OF THE COMPETITION COUNCIL OF  
THE REPUBLIC OF LITHUANIA IN PERFORMANCE OF THE SUPERVISION OVER  
THE LAW OF THE REPUBLIC OF LITHUANIA ON COMPETITION**

2 July 2012 No. 1S-89

Vilnius

Following subparagraph 3 of paragraph 2 of Article 18 of the Law of the Republic of Lithuania on Competition (official gazette *Valstybės žinios*, 1999, No. 30-856; 2012, No. 42-2041) (hereinafter referred to as the Law on Competition) and taking into account that, in carrying out the state competition policy and supervising compliance with the Law on Competition (hereinafter referred to as the Activities), the Competition Council of the Republic of Lithuania (hereinafter referred to as the Competition Council) implements its mission to protect effective competition for the benefit to consumers, the Competition Council resolves:

1. To establish that the Enforcement priority of the Competition Council is to perform investigations or otherwise intervene with the functioning of the market where such intervention could contribute significantly to the effective protection of competition and thus maximize benefit to consumers (hereinafter referred to as the Enforcement Priority).
2. To approve the Description of the Principles of Implementation of the Enforcement Priority of the Competition Council (hereinafter referred to as the Description) (enclosed).
3. To establish that the Competition Council shall implement the Enforcement Priority in accordance with the principles set out in the Description.
4. To publish the Enforcement Priority and the Description on the website of the Competition Council.

Chairman

Šarūnas Keserauskas

## **Version of Resolution No. 1S-136 of the Competition Council, dated 24 September 2013**

APPROVED by Resolution No. 1S-89 of the  
Competition Council of the Republic of  
Lithuania, dated 2 July 2012

### **DESCRIPTION OF THE PRINCIPLES OF IMPLEMENTATION OF THE ENFORCEMENT PRIORITY OF THE COMPETITION COUNCIL OF THE REPUBLIC OF LITHUANIA IN PERFORMANCE OF THE SUPERVISION OVER THE LAW OF THE REPUBLIC OF LITHUANIA ON COMPETITION**

#### **I. GENERAL PROVISIONS**

1. The Description of the Principles of Implementation of the Enforcement Priority of the Competition Council of the Republic of Lithuania (hereinafter referred to as the Competition Council) (hereinafter referred to as the Description) sets out the main principles (hereinafter referred to as the Principles), in accordance with which the Competition Council implements the enforcement priority carrying out the state competition policy and supervising compliance with the Law on Competition (hereinafter referred to as the Activities).

2. In this Description, concepts shall be used as they are understood in application of the Law of the Republic of Lithuania on Competition (official gazette *Valstybės žinios*, 1999, No. 30-856; 2012, No. 42-2041) (hereinafter referred to as the Law on Competition).

#### **II. APPLICATION OF PRINCIPLES**

3. The Competition Council shall refer to these Principles when, in cases indicated in subparagraph 8 of paragraph 4 of Article 24 and subparagraph 3 of paragraph 3 of Article 28 of the Law on Competition, it deals with issues concerning expediency and scope of investigations (hereinafter referred to as the Investigation(s)) of infringements indicated in paragraph 1 of Article 22 of the Law on Competition (hereinafter referred to as the Infringement(s)).

4. When deciding whether an Investigation is in line with the Enforcement Priority, the Competition Council shall in each case perform an assessment of the relevant factual and legal circumstances in accordance with the Principles.

5. None of the Principles has a predetermined decisive influence on a decision of the Competition Council on the performance of a specific Investigation, but it may be sufficient for the Competition Council to assess an Investigation according to one of the Principles to be able to take a decision on expediency or scope of the Investigation.

6. A decision of the Competition Council to refuse to start an Investigation or terminate an ongoing Investigation because it is not in line with the Enforcement Priority does not mean that decisions or other actions of undertakings or public entities (hereinafter collectively referred to as the Actions) may not be in breach of the requirements of the Law on Competition.

7. The Competition Council has the right to follow these Principles also when it deals with issues in its Activities other than the performance of Investigations.

#### **III. PRINCIPLES**

8. The Competition Council, in deciding whether Investigations are in line with the Enforcement Priority, shall follow these Principles:

- 8.1. impact on effective competition and benefit to consumers;
- 8.2. strategic importance;
- 8.3. rational use of resources.

#### **IV. IMPACT ON EFFECTIVE COMPETITION AND BENEFIT TO CONSUMERS**

9. The Competition Council shall assess the probable impact of the Investigation on effective competition and benefit to consumers. Such an assessment usually involves, without limitation, an assessment of the nature, scope of the possible Infringement and goods related to the possible Infringement.

10. As a general rule, the biggest adverse impact on effective competition and benefit to consumers can be caused by possible Infringements in the form of Actions of undertakings or public entities:

- 10.1. that have a direct effect on prices, quality, and variety of goods;
- 10.2. that directly limit the ability of undertakings to operate in a relevant market by market closure, foreclosure, or sharing;
- 10.3. that have a direct effect on a significant part of undertakings or consumers in Lithuania;
- 10.4. that are directly related to consumer goods.

11. It is usually regarded that the biggest direct or indirect adverse impact on consumer interests is caused in cases when one can arrive at a reasonable conclusion that due to illegal Actions, prices of goods for consumers are higher, there is smaller supply of goods, brand variety or the goods are less innovative than if there had been no Infringement.

#### **V. STRATEGIC IMPORTANCE**

12. The Competition Council shall assess the preventive effect of the Investigation, the novelty of the possible Infringement with regard to its nature, the possibilities of other authorities to effectively solve problems related to the possible Infringement and other circumstances confirming the strategic importance of the Investigation.

13. The biggest strategic importance is usually present in Investigations regarding:

13.1. repeated Infringements by undertakings and public entities. Such Infringements show that previous Investigations by the Competition Council did not have a sufficiently deterrent effect;

13.2. Actions, the character of which the Competition Council has not assessed previously, where the investigation of such Actions will bring more legal certainty as to the compliance of such Actions with requirements of the Law on Competition in the future;

13.3. Actions, whose recognition as Infringements could encourage to stop Actions of the same nature in other areas of economic activities;

13.4. possible Infringements that the Competition Council can investigate and terminate more effectively than other authorities. For this purpose, the Competition Council shall cooperate with other authorities.

#### **VI. RATIONAL USE OF RESOURCES**

14. The Competition Council shall seek to carry out Investigations where resources of the Competition Council necessary for such Investigations would be proportionate to the probable results of the Investigations.

15. The Competition Council shall, *inter alia*, assess:

15.1. the objectives of a specific Investigation and the likelihood of achieving them;

15.2. time necessary for the Investigation, as well as necessary and available human and financial resources;

15.3. whether the scope of resources of the Competition Council necessary for carrying out the Investigation will not harm other Investigations and pursuance of the tasks set out in the strategic plans of the Competition Council.

## **VII. FINAL PROVISIONS**

16. Following the Principles indicated in this Description, the Competition Council has the right to take into account also other significant circumstances that are not indicated in the Description, which are important for the implementation of the Enforcement Priority of the Competition Council.

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