

“Lithuanian Competition Council’s advocacy efforts remain some of the strongest in Europe (...) staff at the authority are well-trained and bright.” Global Competition Review “Economics is governed by the laws of demand and supply; Competition Council is the authority I trust and I think it observes and analyses all those processes [in the fuel market]. I think the authority will properly evaluate every deviation from the laws of market economy.”

A. Butkevičius “Competition Council got to the very essence of the case.” D. Šumskis “The current decision by the Competition

Council unambiguously protects business against unfair competition by public administrative bodies. If the Court upholds the Council’s decision, it will lay a strong foundation for an effective competitive market in the future.” A. Iškauskas “Fair

competition shall determine fair prices. All the market participants have to comply with the rules of competition, operate fairly and honestly.” D. Grybauskaitė “Our collaboration with the

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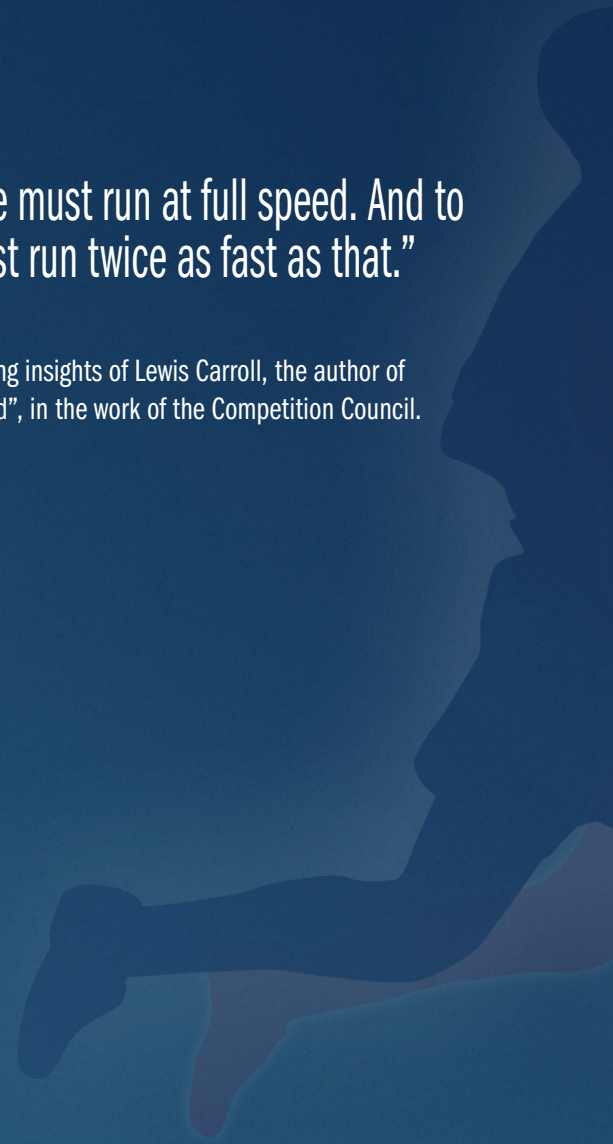
it will lay a strong foundation for an effective competitive

2014

Lithuanian Competition Council Annual Report

“To stay where we are, we must run at full speed. And to move forward, we must run twice as fast as that.”

Šarūnas Keserauskas on applying insights of Lewis Carroll, the author of “Alice’s Adventures in Wonderland”, in the work of the Competition Council.



2013

2014

advertisement
assessments initiated
by the Council

32



73

advertisement
assessments initiated
by the Council

cleared mergers

29



49

cleared mergers

op-eds in the media

2



12

op-eds in the media

conferences & seminars
organised by the Council

10



18

conferences & seminars
organised by the Council

draft legal acts
reviewed by
the Council

159



206

draft legal acts
reviewed by
the Council



got more social:
twitter, linkedin



supervision of euro
adoption in Lithuania



modernisation of the
State Aid Register

4 p.

ENFORCEMENT

12 p.

COURT
RULINGS

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STATE AID

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DIALOGUE

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COUNCIL
TEAM



On 22 January, the Council found that the provisions set forth in *MAXIMA LT* supply agreements failed to comply with the requirements of the Law on the Prohibition of Unfair Practices of Retailers of the Republic of Lithuania.

MAXIMA LT breached the provisions of the Law by disproportionately transferring to suppliers the risks related to the resale of goods. The Council fined the retail company ~11,585 euros. When imposing the fine the Council took into account the fact that in the course of the investigation *MAXIMA LT* had both publicly and individually informed the suppliers about the termination of the aforementioned provisions applicable to the return of goods.

On 24 January, the Council found that *Norfos mažmena* and *Rivona* (two companies operating as one entity) had abused their market power.

The two retail companies obliged suppliers to compensate the damages that *Norfos mažmena* and *Rivona* suffered if the purchased goods were unilaterally made cheaper or remained unsold. Hence, the risks related to the resale of already purchased goods were disproportionately transferred to the suppliers. For the infringements the Council fined *Norfos mažmena* and *Rivona* ~26,066 euros. On appeal, Vilnius Regional Administrative Court upheld the Council's decision.

On 4 March, the Council found that the Lithuanian Guild of Breweries and its members: *Gubernija*, *Kalnapilio – Tauro grupė*, *Restoranas Apynys*, *Rinkuškiai*, *Švyturys – Utenos alus* and *Volfas Engelman* concluded an anti-competitive agreement. The Lithuanian Guild of Breweries and the brewers failed to convince the Council that an agreement not to produce beer of a certain strength was based on public health concerns.

The Council decided not to impose sanctions as in the course of the investigation the parties to the agreement had terminated competition-restricting actions, whereas in its 2008 letter to the Guild the Council had declared having no comments on Guild's Code of Ethics.

On 4 December, the Council found that the food retail chain *MAXIMA LT* and frozen bakery producer *Mantinga* had been engaged in RPM for a decade.

The provisions of the supply contracts concluded between *MAXIMA LT* and *Mantinga*, their internal correspondence and other factual circumstances revealed a long-lasting agreement not to sell *Mantinga*'s bread and other bakery goods below a so-called base price, fixed on *Mantinga*'s price list. For a decade long breach *MAXIMA LT* was fined 16.8 million euros and *Mantinga* 4.4 million euros.



ADVERTISING



On 12 June, the Council found that *Cherry Media LT* on two group sale websites had been disseminating misleading advertisements as to the true value of goods and duration of the advertising campaign.

The company failed to substantiate its advertising claims. Additional data collected by the Council's experts led to a conclusion that the promoted value and duration of the advertising campaign were both false. For misleading advertising the Council fined *Cherry Media LT* ~4,952 euros. The company appealed the Council's decision to Vilnius Regional Administrative Court.

On 25 July, the Council found that *PB Group* advertisements were misleading.

The advertisements stated: "The lowest-price leader in Lithuania! VIANOR", "The cheapest tyres in Lithuania! VIANOR", "The lowest prices in Lithuania!", "The lowest price", "100 per cent best price", "Nokian Tyre. Sale! - 50 per cent discount!". The company failed to prove that VIANOR retail network offered the lowest tyre prices. The investigation also revealed that not all Nokian tyres were discounted by 50 per cent. For misleading advertising, the Council fined *PB Group* ~8,543 euros. The company appealed the Council's decision to Vilnius Regional Administrative Court.

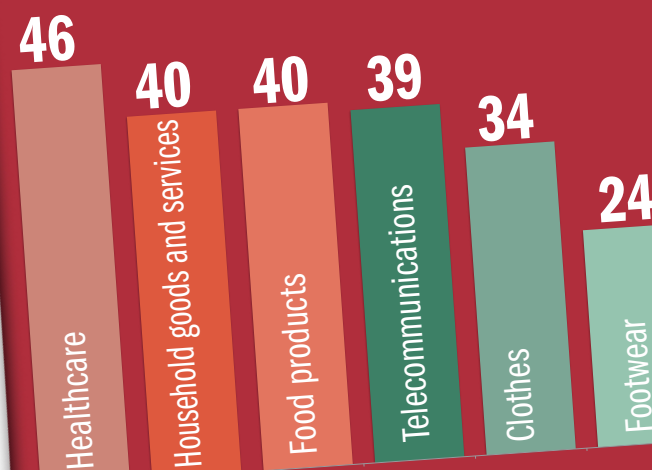
On 28 October, the Council found that *Natural Pharmaceuticals* used misleading statements in the advertisement of *OmegaMarine Forte+*.

The advertisement offered to purchase food supplements *OmegaMarine Forte+* free of charge, except for some additional expenses. Consumers had to pay 9.95 litas (2.88 euros) to cover not only the expenses held admissible under the Law on the Prohibition of Unfair Practices of Retailers, but also some non-admissible expenses such as a fee for the high quality of services. The Council fined *Natural Pharmaceuticals* ~5,792 euros. The company appealed the Council's decision to Vilnius Regional Administrative Court.

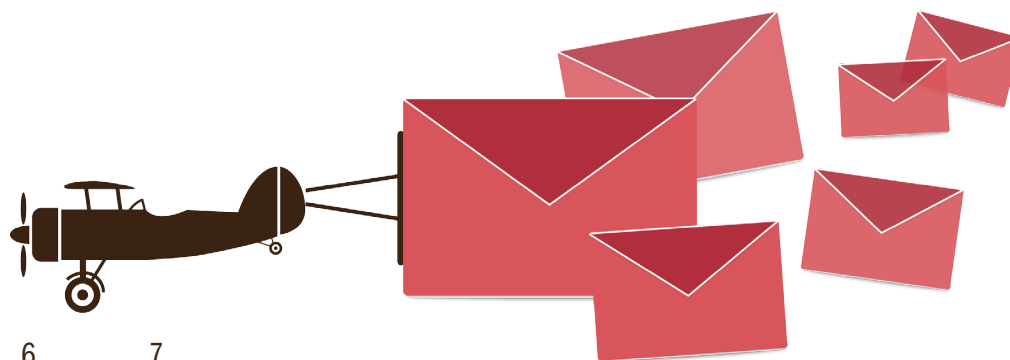
On 12 November, the Council found that advertisements by a telecommunications company *EUROCOM* mislead consumers.

In TV adds former clients of the telecommunications company *TELE2* claimed to have saved 14-20 euros just by switching to a mobile plan *Labas kontraktas* offered by *EUROCOM*. However, *EUROCOM* failed to justify the aforementioned claim. The Council's experts also found that so-called clients of *Labas kontraktas* had not actually used the advertised mobile services provided by *EUROCOM*. For misleading advertising the Council fined *EUROCOM* ~5,387 euros.

COMPLAINTS ABOUT ALLEGEDLY MISLEADING ADVERTISING



The Council sent **132 warnings** for potentially improper advertising





HOUSEHOLD WASTE



TRANSPORT



On 26 June, the Council found that Molėtai and Kaišiadorys district municipalities improperly organised waste management.

The Municipalities without using a competitive selection procedure granted the municipal companies, namely, *Kaišiadorių paslaugos* and *Molėtų švara*, exclusive rights to provide waste management services. Municipal decisions discriminated other companies willing to provide waste management in the districts of Molėtai and Kaišiadorys. The Council's decisions have been appealed to Vilnius Regional Administrative Court.

On 17 November, the Council issued a Statement of Objections to Joniškis District Municipality suspected of failure to cease the infringement established by the Council in 2012.

The Municipality favoured *Joniškio komunalinis ūkis* over other companies by signing an agreement with the aforementioned company without a competitive procedure. The Council obliged the Municipality to repeal the agreement and, thus, cease infringement of Article 4 of the Law on Competition.

On 18 December, the Council found that Šalčininkai District Municipality improperly organised waste management.

The Municipality concluded agreements with *Tvarkyba* and *Eišiškių komunalinis ūkis* without a competitive procedure and, thus, discriminated against other companies willing to provide the relevant public services. The Municipality appealed the Council's decision to Vilnius Regional Administrative Court.

Public administrative bodies must ensure freedom of fair competition.

Article 4 of the Law on Competition

On 18 April, the Council accepted commitments to close the investigation concerning the prices of TIR Carnets sold by the Lithuanian National Road Carriers Association LINAVA (the Association) to the members and non-members of the Association.

The Council suspected that the Association, being the only body authorised to issue TIR Carnets, could have abused its dominant position by applying different prices of TIR Carnets sold to the members and non-members of the Association. To address the Council's concerns, the Association submitted commitments to uniform prices of TIR carnets sold to the members and non-members of the Association. Having received the Council's approval, the Association fulfilled its commitments and, thus, eliminated the suspected infringement of Article 7 of the Law on Competition and Article 102 TFEU.

„This investigation is a perfect example of collaboration between the Competition Council and business. It brought notable benefits to consumers.“

- Elonas Šatas

On 22 October, the Council found that Vilnius City Municipality favoured the municipal company *Vilnius veža* and, thus, discriminated against private companies.

In 2012 - 2014 the Municipality granted to *Vilnius veža* subsidies amounting to at least ~463,392 euros and favoured the municipal company with various privileges such as obtaining documents necessary for entering the market of taxi services, promoting the services provided by *Vilnius veža* on the Municipality's official website and offering consumers to use the services provided by the municipal company. The Council determined that the Municipality's decision to establish *Vilnius veža* and the preferential treatment of the company, breached Article 4 of the Law on Competition. The Municipality appealed the Council's decision to Vilnius Regional Administrative Court.

“The current decision by the Competition Council unambiguously protects business against unfair competition by public administrative bodies. If the Court upholds the Council's decision, it will lay a strong foundation for an effective competitive market in the future.” - Andrius Iškauskas, member of the Executive Board of the Lithuanian Business Confederation



ENERGY

On 10 June, the Council imposed a fine of ~35,651,269 euros on *Gazprom* for the failure to comply with merger conditions.

In 2004, the Council allowed *Gazprom* to acquire *Lietuvos dujos* shares subject to condition that *Gazprom* would not hinder Lithuanian buyers from purchasing natural gas from other suppliers. However, *Gazprom*'s refusal to negotiate with *Lietuvos energijos gamyba* a swap agreement for 2013 – 2015 had created obstacles for *Lietuvos energijos gamyba* to purchase natural gas from another provider and, thus, breached the merger condition. *Gazprom* appealed the Council's decision to Vilnius Regional Administrative Court.

On November 26, the Council issued a Statement of Objections to firms suspected of anti-competitive agreement in the market of combined heat and power plant construction.

The Council concluded in its preliminary assessment that two companies, namely, *Lukrida* and *Manfula*, sought to restrict competition in the market of combined heat and power plant construction. The companies used a third-party company *Envija* to fix a part of the price for internal combustion engines. *Lukrida* and *Manfula* set the minimum price for internal combustion engines sold to the two companies by *Envija*.

On 31 December, the Council issued a Statement of Objections to Šiauliai City Municipality suspected of anti-competitive conduct.

In the Statement of Objections the Council concluded that municipal decisions created different conditions for companies operating in the heat supply market in Šiauliai. According to the Council, the competition in the market had essentially been eliminated.

FINANCIAL SERVICES

On 30 September, the Council found *G4S Lietuva* in breach of Article 101 TFEU for exclusivity arrangements in its agreements with three largest banks. The Council fined the company ~2,733,375 euros.

The Council reopened the investigation into anti-competitive agreements within the market of cash-handling services following the decision by the Supreme Administrative Court of Lithuania. The latter ordered the Council to evaluate whether the commitments proposed by *G4S Lietuva* could have helped the company avoid sanctions. Having re-evaluated all the observed circumstances, the Council found that *G4S Lietuva* actions had inflicted serious harm on competition. The authority also noted that the restrictions of competition had direct impact on the bank clients using cash-in-transit services. *G4S* appealed the Council's decision to Vilnius Regional Administrative Court.

MERGERS

On 3 September, *Kautra* abandoned its intentions to acquire the shares of *Tolimojo keleivinio transporto kompanija*.

The decision was based on the Council's preliminary assessment that the merger could create or strengthen the dominant position, or significantly restrict competition within certain markets of regular passenger carrying services on local, long-distance and international routes, wherein both companies operate.

On 9 October, the Council cleared an acquisition of 100 per cent of *Lietuvos draudimas* shares by *PZU* provided the latter meets the merger conditions imposed by the Council.

After preliminary assessment the Council found that the merger would restrict competition within the following two markets: the market of the insurance of land vehicles, except for railway vehicles, and the market of property insurance. Hence, the merger was cleared with remedies. The Council also agreed to appoint a trustee who will observe and evaluate whether *PZU S.A.* fully meets the conditions imposed by the Council.

On 5 December, the Council cleared an acquisition of up to 100 per cent of *Imonių grupė Alita* shares by *Mineraliniai vandenys* provided the latter meets merger conditions imposed by the Council.

In the preliminary assessment the Council concluded that the merger could create or strengthen the dominant position, or significantly restrict competition within the market of alcoholic drinks. The Council cleared the merger upon condition that *Mineraliniai vandenys* will transfer the business of *Imonių grupė Alita* related to the sales and production of vodka and brandy in Lithuania. The Council also appointed a trustee who will observe and evaluate whether *Mineraliniai vandenys* fulfills the obligations imposed by the Council.

During the investigation the Council examined

1,4633 GB

of digital data

49 cleared mergers



COURT RULINGS

On 10 February, Vilnius Regional Administrative Court upheld the Council's decision to fine *SPLIUS* ~2,896 euros for misleading advertising.

The Council found that *SPLIUS* used misleading statements to promote the services of digital and cable television. The statements included: "free digital television (till 1 November)", "free high-definition digital television", "free till 1 November". These statements failed to inform consumers about the contract obligations and missed crucial information that the fees indicated in the advertisements were valid only for a certain period of time, upon the end of which higher fees were applied.

On 13 February, the Supreme Administrative Court of Lithuania upheld the Council's decision to fine *Lukoil Baltija* ~5,792 euros and *Tūta* ~289 euros for misleading advertising.

The Council found that the advertising campaign *Sabonis 220* promoted by *Lukoil Baltija* and *Tūta* was misleading. Consumers purchasing petrol or other products in *LUKOIL* petrol stations for ~8.69 euros and more were promised stickers allowing to purchase certain goods for a special price. However, already in the partway of the campaign one of the advertised goods was no longer available for purchase. Such an advertisement could have mislead consumers and determined their choice to purchase petrol in *LUKOIL* petrol stations.

On 24 February, the Supreme Administrative Court of Lithuania upheld the Council's decision not to open an investigation based on a complaint filed by the Lithuanian auto-entrepreneurs association.

Lithuanian auto-entrepreneurs association filed a complaint, according to which, different requirements for the new vehicles produced for the EU market and other vehicles caused the increase of prices for the new vehicles. Hence, importers of the new vehicles might have been discriminated as compared to other importers. The Court evaluated all the circumstances and upheld the Council's refusal to open an investigation.

On 7 April, the Supreme Administrative Court of Lithuania upheld the Council's decision, according to which, the Lithuanian Shipbrokers and Agents Association and 32 members of the Association were held to have entered into an anti-competitive agreement setting minimum tariffs for shipping agency services.

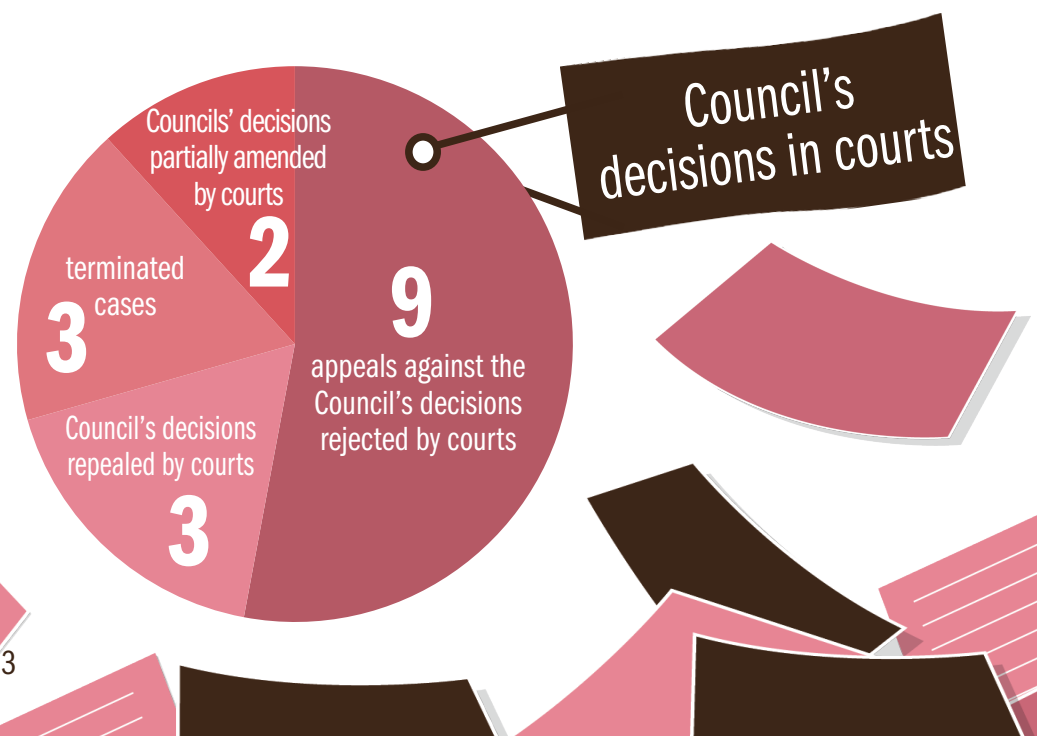
Even though some of the fines were reduced, the Court upheld the Council's position regarding the anti-competitive behaviour of the Association and its members.

On 25 April, the Supreme Administrative Court of Lithuania upheld the Council's decision to fine *Komeksimas* ~7,182 euros for misleading advertising.

The Council found that the advertisement promoted on the website of *Komeksimas* was misleading since the prices of goods offered online were compared with false market prices or former prices of the same goods. According to the Court, the advertisement implied substantial savings by offering goods at reduced prices seeking to provoke consumers' reaction. *Komeksimas* failed to prove that non-discount prices had been applied before.

On 21 August, the Supreme Administrative Court of Lithuania rejected an appeal by Lithuanian University of Educational Sciences and upheld the Council's refusal to open an investigation into the actions of the Ministry of Education and Science regarding the announcement of universities' rankings.

The Court ruled that all the universities were ranked under equal circumstances and Lithuanian University of Educational Sciences was not discriminated against other universities.



STATE AID

Financial aid granted to undertakings by the state or municipal institutions.

DE MINIMIS AID
Small amounts of state aid that do not require European Commission's approval.

De minimis aid (in total):

Granted **16,860** times;
Average sum per undertaking: **4,604.4 EUR**;
Total sum: **77,630,311.9 EUR**.

De minimis aid in the transport sector:

Granted **13** times;
Average sum per undertaking: **813.63 EUR**;
Total sum: **10,577.17 EUR**.

De minimis aid in the fishery sector:

Granted **12** times;
Average sum per undertaking: **3,329.13 EUR**;
Total sum: **39,949.54 EUR**.

De minimis aid in the agriculture sector:

Granted **9,962** times;
Average sum per undertaking: **106.45 EUR**;
Total sum: **1,060,444.05 EUR**.

QUESTIONNAIRES
CHECKLISTS

2

SEMINARS
ORGANISED

13

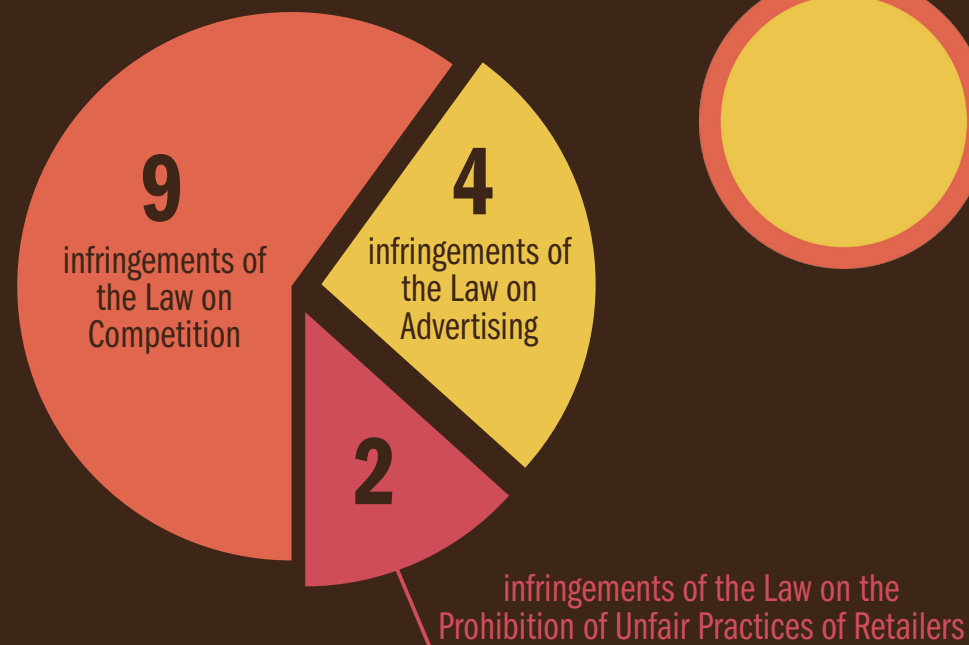
MEETINGS WITH
OTHER INSTITUTIONS

44

Eur 205.04 million

STATE AID GRANTED IN LITHUANIA IN 2013

INFRINGEMENTS



BENEFITS BROUGHT BY THE COUNCIL

**EUR
36.56
million**

Average indirect benefit brought to consumers annually in 2012-2014

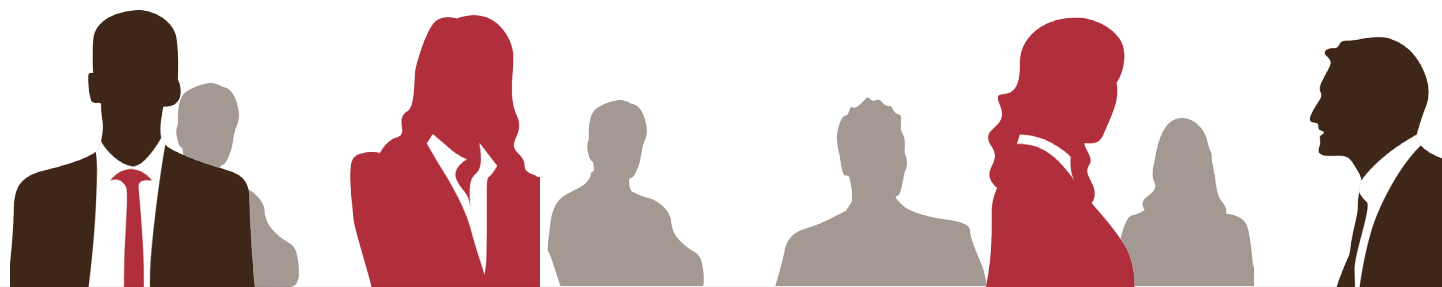
**EUR
9.31
million**

Average direct benefit brought to consumers annually in 2012-2014

Council's average annual budget in 2012-2014

**EUR
1.35
million**

DIALOGUE



The Council seeks for an open and trust-based dialogue with the business community, consumers and the public sector. To this end, the Council actively participates in the Lithuanian legislative process; the Council experts willingly share their expertise and experience in local and international events.

The Council regularly organises workshops and seminars on misleading advertising, bid rigging and state aid.

The Council's experts are often invited as guest speakers to conferences and discussions on competition issues.

On 4 June, the consortium of the German Federal Ministry of Economics and Technology and the Lithuanian Competition Council had been selected to implement EU Twinning project on building the capacity of the Egyptian Competition Authority.

The Council implements the project in partnership with the German Federal Ministry of Economics and Technology. The Egyptian competition authority will have an opportunity to learn about internationally recognised German system of competition enforcement and the Lithuanian transitional experience, i.e. establishing a legal basis for the regulation of competition environment and creating a competition authority.

On 3-5 December, representatives from the Georgian Competition Agency took part in a study visit to the Lithuanian Competition Council.

Members of the Council shared best Lithuanian practices in competition advocacy, mergers, bid rigging, supervision of anti-competitive behaviour by public administrative bodies.

Council's experts delivered presentations
in **33** workshops and seminars organised
in Lithuania and abroad.

On 10 September, the Council in partnership with Vilnius University held the 11th Baltic Competition Conference "Competition Enforcement: Trends and Case-Studies".

180 participants from 7 countries participated in the event. The speakers included John Davies (Head of Competition Division at OECD), Dr Ioannis Kokkoris (Professor at the University of Reading, Executive Director of the Centre for Commercial Law and Financial Regulation), Dr Philip Marsden (Deputy Chairman at Competition and Markets Authority, Professor of Competition Law and Economics at College of Europe), Thilo Reimers (Counsel for Antitrust at Deutsche Bahn) and others.

The keynote address was delivered by Prof Richard Whish (Emeritus Professor at King's College London, QC, author of numerous publications on competition law).

Why the 11th Baltic Competition Conference was a success?

77%

useful
information



inspiring
ideas



87%

90%

professional
speakers



well
organised



83%

COUNCIL'S TEAM



well educated



professional



curious



hardworking



ambitious



innovative

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“Our collaboration with the Lithuanian Competition Council was excellent. This Lithuanian institution was extremely professional and the process of clearance was an exemplary one.”

Andrzej Klesyk, CEO of PZU S.A.

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