

COMPETITION COUNCIL  
OF THE REPUBLIC OF LITHUANIA  
ANNUAL REPORT  
2013



*Competition authorities need to be independent. They must be free from any external influence either from the companies they supervise or from the state.*

Joaquín Almunia, Vice President of the European Commission responsible for Competition Policy



**THE MISSION OF THE COMPETITION COUNCIL** is to safeguard effective competition for the benefit of consumers. Consumers benefit from open markets wherein competition is unrestricted by companies or public administration bodies. In cooperation with business and public undertakings the Competition Council (the Council) works to facilitate compliance with the rules of competition and, thus, strengthens competition culture. Fines are not the Council's ultimate goal, however, the authority will not hesitate to sanction infringers who deprive consumers of their right to enjoy competition benefits.

When handling cases related to the infringements of competition law, courts acknowledged that fines do deter from anti-competitive behaviour. To put it simply, resolutions adopted by the Council prevent undertakings from engaging in unfair business practices and, thus, delivers real measurable consumer benefits. In 2013, Lithuanian courts upheld 10 resolutions adopted by the Council and obligated undertakings to pay the fines. Other 26 cases related to the Council's resolutions are under consideration by Lithuanian courts of various instances.

**IN 2013 THE COUNCIL TEAM WAS:**

**ACTIVE:** the Council opened 20, extended 8 and closed 21 investigation, examined 31 merger. One investigation often means questioning dozens of companies and associated persons (in some cases even hundreds of them) and responding to, sometimes, 100 page-long complaints. Each investigation requires constant interest in the experience of the EU countries and court practices as well as in-depth examination of both legal and specific investigation related details.

**CURIOUS:** the team investigated the effect of magnets on human health, learnt how cement, pasta, beer and helicopters are produced. The team was interested in the activities undertaken by bookstores, the way the internet speed is set, the import of pharmaceuticals, fishing in the inland waters and the Baltic sea, etc.

**USEFUL:** according to calculations, the average annual direct financial benefit brought to consumers by the Council's activity in 2011-2013 amounted to LTL 41,3 million and the average annual benefit brought to consumers due to deterrence in 2011-2013 amounted to LTL 186 million. The Council's annual budget for 2013 was LTL 4,4 million.

**INSPIRING:** the Vice President of the European Commission responsible for Competition Policy Joaquín Almunia has referred to the Council's investigation into travel-agency case as innovative: "how important it is that competition authorities are independent, well-funded, and well-staffed; because this is what they need to remain at least as innovative as some companies are in their shenanigans."

**COOPERATIVE:** we organised 10 seminars for municipalities and associations, prepared various brief notes, guidelines and governing documents wherein the principles of the Council's activity and the aspects of competition law were laid down clearly and concisely.

**HUNGRY FOR KNOWLEDGE:** we delivered presentations and upgraded our qualification in 24 conferences and seminars.

**VISIBLE:** we responded to more than 150 media queries, wrote and distributed 138 press releases. We were praised and criticised or simply mentioned in 45 articles and blogs, participated in 3 TV and 3 radio programmes.

**FOR YOUR ATTENTION** – the Competition Council' Annual Report wherein we present the results and the experience gained in 2013. This report also includes a brief summary of court rulings and judicial interpretations as well as facts and figures related to the Council's activity.

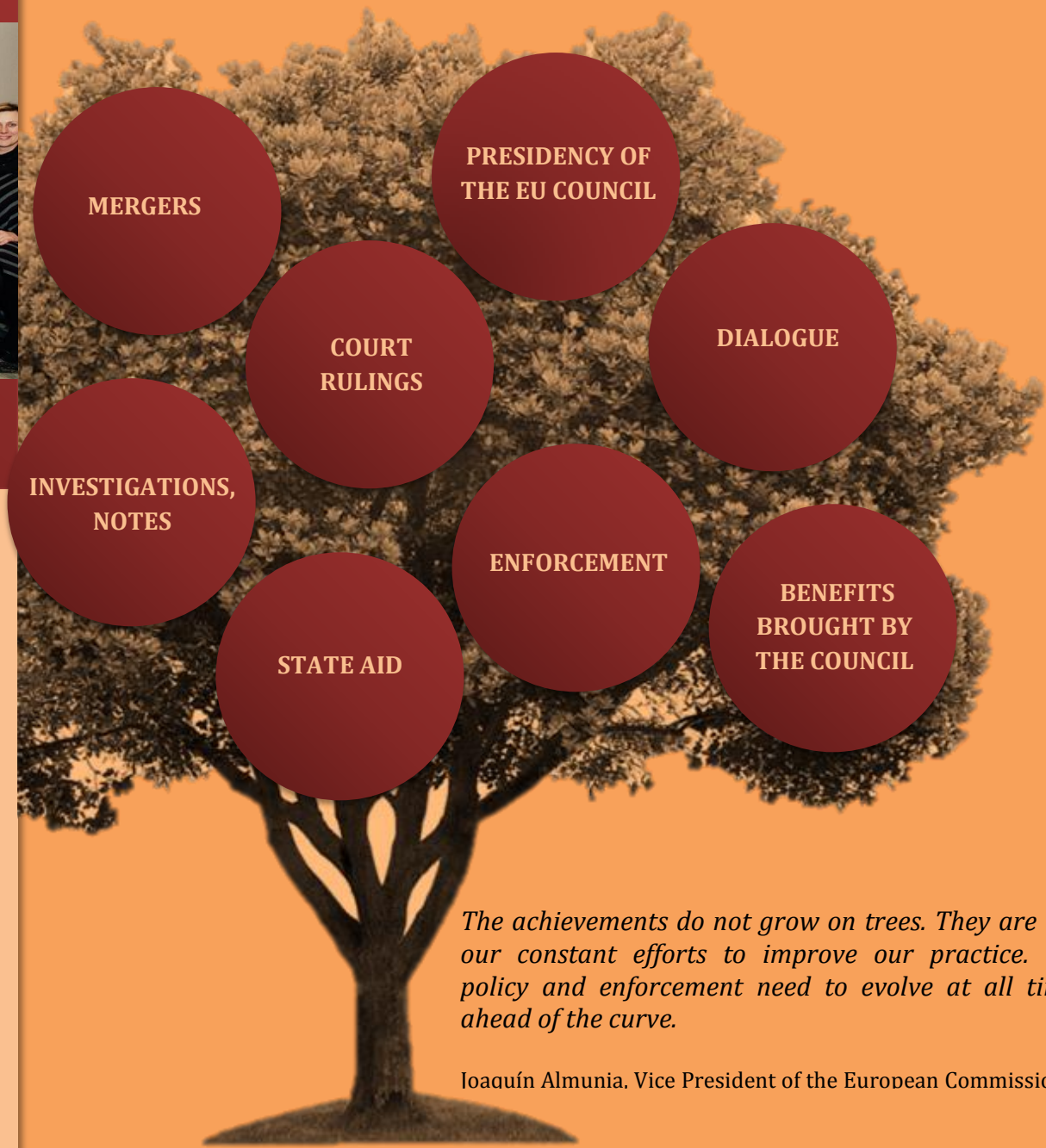
## THE COUNCIL TEAM



**PROFESSIONAL, DETERMINED, SWIFT, CREATIVE  
AND AMBITIOUS**

The average age of the Council team is 38. The team consists of 50 women and 14 men who have graduated from the best universities in Lithuania: 55 out of 64 hold Master's Degree, 2 of us have PhD, 8 of us have specialised in competition law at American and European universities. In addition to Russian and English, we also speak German, Spanish, French, Polish, Swedish and Italian.

During our work hours we persistently fight for consumer rights and principles of effective competition, whilst in our spare time we climb the highest peaks; we run and cycle to train our stamina and strengthen our will; we build our team spirit in football matches; we train reaction in tennis fields, or on the squash and badminton grounds; we compete with the wind in the mountains and seas and so improve our ability to take prompt but right decisions; we develop our ability to record details by looking through a photo objective; we seek inspiration in painting, gardening, dancing, cooking or playing the piano.



*The achievements do not grow on trees. They are the result of our constant efforts to improve our practice. Competition policy and enforcement need to evolve at all times to stay ahead of the curve.*

Ioacuin Almunia, Vice President of the European Commission responsible



## ENERGY



On April 18, the Council established that *UAB Lukoil Baltija* had implemented non-notified mergers. The company gained control of two petrol stations in Kaunas and one petrol station in Klaipėda without notifying them to the Council. The Council imposed a fine of 1 177 600 LTL and obligated the company to remedy the breaches. *UAB Lukoil Baltija* appealed the Council's resolution to Vilnius Regional Administrative Court (the Court).

UPDATE

## HEALTH PRODUCTS



On July 17, the Council established that the advertisement by *UAB Studio moderna* was misleading. The advertised *Dr. Levine's* magnetic knee and wrist straps and magnetic belt were claimed to have a positive effect on human health even though there were no clinical research or other data to support the fact. The Council imposed a fine of 83 700 LTL. *UAB Studio moderna* appealed the Council's resolution to the Court.

## FINANCIAL SERVICES



On February 15, the Council terminated almost a two-year long investigation into suspected anti-competitive agreements in the banking sector. The investigation did not disclose any circumstances proving that banks in Lithuania harmonised tariff rates for inter-bank fees. Also, there were no factual circumstances proving that these banks harmonised tariff rates for the services provided by other banks (e.g. by increasing tariff rates for the services of online banking, account management, etc.).

The Council supports European Commission's (EC) initiative to regulate tariff rates for inter-bank fees in the EU and to establish other means of ensuring effective competition within the payment market.

EC suggestions are rather complex and encompass both inter-bank fees and other means of ensuring more effective competition within payment, including payment by cards, market. These suggestions address such issues as a possibility for merchants to refuse certain cards with higher inter-bank fees or the possibility to surcharge customers who use more expensive cards, etc.

## OUTDOOR ADVERTISING



On February 28, the Council terminated the investigation concerning Vilnius municipality failure to comply with the obligations imposed by the Council after the Municipality cancelled its agreements with *UAB JCDeaux*. *UAB JCDeaux* had been granted the right to control, supervise and exploit a certain number of bus shelters, city lights, columns and city WCs and to use these objects for outdoor advertising without any competitive procedure.

### INFRINGEMENTS OF THE LAW ON COMPETITION

4

7

### INFRINGEMENTS OF THE LAW ON ADVERTISING

## RETAIL AND E-COMMERCE



On May 21, the Council determined that advertising by *UAB Komeksimas* referred to false prices for comparison and thus misled consumers. The Council imposed the fine of 24 800 LTL. *UAB Komeksimas* appealed the Council's resolution to the Court. The Court rejected this appeal and upheld the Council's decision. *UAB Komeksimas* appealed the Court's ruling to the Supreme Administrative Court of Lithuania.

On April 29, the Council determined that certain advertising by *UAB Ozantis* was misleading. Consumers were encouraged to purchase goods in the shopping and entertainment centre *Ozas* for 120 LTL and, thus, receive a free ticket to see the movie *Madagaskaras trys* in the *Multikino* cinema. However, all the tickets allocated to this advertising campaign were gone before the partway of the campaign. In such cases the statement: *the number of free goods is limited*, cannot justify the actions of traders. The advertisement raised false expectations of consumers and, therefore, was found to be misleading. The Council imposed the fine of 15 500 LTL.

On April 18, the Council terminated the investigation on *APB Apranga*, *UAB Apranga BPB LT*, *UAB Apranga PLT*, *UAB Apranga LT*, *UAB Apranga SLT* and *UAB Apranga MLT* failure to comply with the requirements of the provisions of the Law on Competition and the Treaty on the Functioning of the European Union whereby companies are prohibited from concluding

agreements that are restrictive of competition. Having evaluated the agreements signed between the aforementioned companies and the suppliers of outfit and other articles of clothing, the Council determined that these agreements established agency contractual ties between the signing parties. With regard to this, there were no grounds to believe that these agreements infringe the rules of competition.

On March 25, the Council established that certain advertising by *UAB Lukoil Baltija* and *UAB Tūta* was misleading. The advertising campaign *Sabonis 220* promoted by the aforementioned companies, claimed that consumers purchasing petrol or other products in LUKOIL petrol stations for 30 LTL and more would be awarded stickers. Afterwards, the stickers could be used to purchase certain goods for a special price. However, already in the partway of the campaign one of the advertised goods was not available. Such an advertisement could have misled consumers and determined their choice to purchase petrol precisely in LUKOIL petrol stations. The Council imposed the fine of 20 000 LTL on *UAB Lukoil Baltija* and the fine of 1 000 LTL on *UAB Tūta*. The companies appealed the Council's resolution to the Court but the appeal was rejected. *UAB Lukoil Baltija* and *UAB Tūta* appealed the Court's ruling to the Supreme Administrative Court.

### UPDATE

On January 15, the Council terminated the investigation concerning *UAB Rimi Lietuva* suspected demands to deliver goods in packages provided by a certain company. The Council did not acquire proves that *UAB Rimi Lietuva* demanded to use packages provided by a certain supplier and imposed other impact measures on suppliers.

## BEER PRODUCTION

On December 23, the Council closed the investigation into a suspected anti-competitive agreement between the members of the

## WASTE



On March 7, the Council established that Vilnius District Municipality had infringed the requirements of the Law on Competition by authorising *UAB Nemenčinės komunalininkas* and *UAB Nemėžio komunalininkas* to provide services of waste management without a competitive procedure. The Council obligated the Municipality to abolish or amend its decisions so that they comply with the provisions of the Law on Competition. However, Vilnius District Municipality appealed the Council's resolution to the Court, consequently, the implementation of the resolution was suspended.

The Council opened investigations concerning the actions of Molėtai and Kaišiadorys municipalities when organising waste management. The Council will evaluate whether these actions comply with the requirements of competition law.

119  
WARNINGS FOR  
UNPROPER  
ADVERTISING

CLOSED 1 INVESTIGATION  
HAVING ESTABLISHED NO  
INFRINGEMENT OF THE  
LAW ON THE PROHIBITION  
OF UNFAIR PRACTICES OF  
RETAILERS

CLOSED 10  
INVESTIGATIONS  
HAVING ESTABLISHED  
NO INFRINGEMENT OF  
THE LAW ON  
COMPETITION

Lithuanian Guild of Breweries (the Guild). According to the preliminary evaluation, the Guild and its members had infringed the requirements of competition law by concluding an agreement restricting the production of certain strength beer.

Having examined all the circumstances related to the suspected infringement, the Council experts established that not only concern about public health lead the brewers.

### UPDATE



## CONSTRUCTIONS AND BUILDING MATERIALS



© DELFI (photo by V. Kopūstas)

**On December 23**, the Council terminated the investigation on suspected bid rigging by *UAB Milsa* and *UAB Torita* in public procurement for the supply of crushed granite stones organised by *AB Lietuvos geležinkeliai*.

The Council established that the same shareholders control the majority of *UAB Milsa* and *UAB Torita* shares, the companies are closely related, and therefore, when submitting bids they did not operate as two independent companies. With regard to this, there were no grounds to claim that *UAB Milsa* and *UAB Torita* had concluded an anti-competitive agreement. Agreements that are restrictive of competition and, therefore, prohibited can be concluded only between two companies competing independently.

After this investigation, the Council proposed the Ministry of Economy and the Public Procurement Office to review the terms of related companies' participation in public procurement.

**On September 10**, the Council terminated the investigation on suspected bid rigging by *AB Kauno tiltai*, *AB Panevėžio keliai*, *UAB Alkesta* and *AB Eurovia Lietuva* in public procurement for carrying out Rail Baltica rail line construction works. Having found no proof that the companies had rigged their bids the Council terminated the investigation.

**On June 3**, the Council terminated the investigation on suspected bid rigging by

*UAB LitCon*, *UAB Rekreacinė statyba*, *UAB Meliovesta* and *TŪB Virmalda* in public procurement for carrying out building installation works. Having found no proof that the companies had rigged their bids the Council terminated the investigation. However, the Council imposed the fine of LTL 615 000 on *UAB LitCon* for obstructing the inspection and, thus, impeding the investigation.

UPDATE

## EDUCATION



© DELFI (photo by T. Markevičius)

**On October 22**, the Council terminated the investigation on the decisions of public administration bodies concerning drivers' training in public secondary and vocational schools. The Council determined that the primal drivers' training in public secondary and vocational schools is provided in conformity with approved general education or professional training programmes and, thus, is considered to be a public service (education). The Council determined that drivers' training at schools is organised not for commercial benefits but as part of school curriculum. Hence, activity performed under education or professional training programmes cannot be considered to be a commercial practice and, thus, cannot be equalled to the activity undertaken by specialised driving schools that operate on commercial grounds.

## FISHING

**On August 28**, the Council terminated the investigation on the rules of setting and distributing quotas for fishing in inland waters confirmed by the order of the Minister of Agriculture because the function of setting and distributing quotas for fishing was taken over by the Ministry of Environment and the mentioned order was abolished. The Ministry of Environment prepared a new Description of setting and distributing quotas wherein the conclusions of the Council's investigation were taken into account.

## LEGAL SERVICES

**On December 19**, the Council established that certain advertising by *UAB Nacionalinis žalos ir skolų išieškojimo centras* and *UAB Tikroji turto kaina* was misleading. The advertisements unjustly claimed that the services were provided by lawyers and the companies were leaders in debt collection. The mentioned statements could have determined consumers' decision to choose the services of these particular companies. The Council imposed the joint fine of 5000 LTL on the two companies.

## TRANSPORT

**On June 19**, the Council established that Vilnius Municipality had failed to comply with the requirements of the Law on Competition by authorising *UAB Vilniaus viešasis transportas* to provide public passenger transport services without competitive procedure. The Council obligated Vilnius Municipality to repeal the decision. However, Vilnius Municipality appealed the Council's resolution to the Court. Consequently, the implementation of resolution was suspended.



**On August 27**, the Council established that certain advertising by *AB Lietuvos radijas ir televizijos centras* was misleading. The company claimed that the mobile internet MEZON was the fastest mobile internet in Lithuania, even though such fact was not proven. The Council imposed the fine of 20 000 LTL.

**On August 21**, the Council terminated the investigation on the terms of use of a short number 118. The Council experts determined that the decisions of the Communications Regulatory Authority of the Republic of Lithuania do not impede competition and allow for the companies to use short numbers for information purposes. The Council's resolution was appealed to the Court.

**On August 28**, the Council established that certain advertising by *SPLIUS*, *UAB* was misleading. The advertisement offered to purchase services of the internet, digital and cable television provided by the aforementioned company, however, those advertisements failed to include all the essential information about the advertised services. The Council imposed the fine of 10 000 LTL. The company appealed the Council's resolution to the Court.

UPDATE



## MERGERS

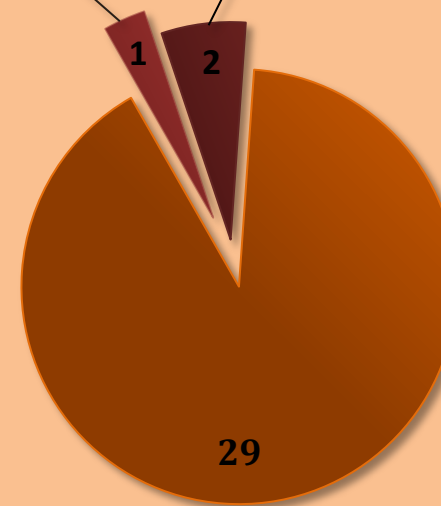
**On September 19**, the Council terminated the investigation on the bank *Swedbank* actions related to a suspected implementation of a non-notified merger. The Council found that by concluding a credit agreement with *AB Alita* and the *Company Group Alita*, *AB* and by implementing the agreement's provisions, the bank managed the credit risk but did not gain the control of the aforementioned companies. The Council's resolution was appealed to the Court.

**On October 11** – investigation on *UAB AL holdingas* intentions to acquire up to 100 per cent of *UAB Humanitas* shares.

**On April 22** – investigation on *Concretus Materials*, *UAB* intentions to acquire up to 51 per cent of *AB Akmenės centras* shares.

TERMINATED INVESTIGATION

TERMINATED INVESTIGATIONS AFTER THE INTENTIONS TO IMPLEMENT MERGERS HAD BEEN ABANDONED



**600 SCHOOLS**  
QUESTIONED DURING  
THE INVESTIGATION  
INTO BOOKSTORES  
MERGER.

## PRESIDENCY OF THE EU COUNCIL



© Photo by Dž. G. Barysaitė



“European Competition Day”

**Directive on certain rules governing actions for damages under national law for infringements of the competition law provisions of the member states and of the EU.**

**In the second half of 2013**, Dina Lurje, the Head of Prohibited Agreements Division, chaired Lithuanian Presidency Working Party on Competition that negotiated and compromised the text of the draft directive on actions for damages. The Working Party also included representatives from the Lithuanian Ministry of Economy as well as their counterparts from all the Member states.

The Working Party on Competition reached an agreement on the draft directive that was approved by the EU Competitiveness Council on December 2.

This directive will come into force once approved by the European Parliament, hopefully, in the first half of 2014.

According to Šarūnas Keserauskas, the Chairman of the Council, an agreement on a compromise text of the draft directive on actions for damages was the major goal sought by the Presidency in the area of competition.

**On October 3**, the European Competition Day was held in Vilnius. The list of prominent speakers included Dalia Grybauskaitė, the President of the Republic of Lithuania, Joaquin Almunia, Vice President and Commissioner for Competition, heads of Belgian, French, Netherlands and Swedish competition authorities, a representative from Microsoft Corporation as well as competition law practitioners and academics. During the event the participants discussed the issues related to the independence of national competition authorities, high pricing in the relevant markets and private actions for antitrust damages.

**PREPARED 8  
COMPROMISED  
TEXTS OF THE  
DRAFT DIRECTIVE**

**READ AND  
REVIEWED  
2600  
LETTERS WITH  
REMARKS AND  
COMMENTS BY THE  
MEMBER STATES**

**ORGANISED 9  
MEETINGS OF  
THE WORKING  
PARTY ON  
COMPETITION**

## INVESTIGATIONS, NOTES

**The Council prepared** proposals on how to encourage competition within the pharmaceutical market and submitted them to the Government. Having completed a market study on the parallel import of drugs, the Council determined that the requirements approved by the Government resolution unreasonably impede competition between pharmaceutical companies. The resolution provides that the declared selling prices of parallelly-imported reimbursed drugs have to be at least 4-10 per cent lower than the declared selling prices offered by marketing authorisation holders for the same drugs. Having evaluated the findings of the study, the Council submitted a proposal to the Government suggesting to abolish these requirements. The Council experts believe that if the restrictions applied to the parallel import were removed, the price of the majority of reimbursed drugs could be lower.

**The Council announced** the 2012 retail market monitoring report. During the monitoring process the Council distributed an anonymous survey to the members of Lithuanian Confederation of Industrialists uniting 2 700 business representatives, addressed 84 suppliers of food products and drinks as well as four major retail chains with a request to answer questions related to unfair business practices, application of discounts, sales of goods in major retail chains and other. Having summarised all the collected information, the Council determined that market participants and especially the suppliers shall be more active when seeking for effective competition within the market of food products.



## EXPERIENCE GAINED

THE COUNCIL EXPERTS EVALUATE NOT ONLY LEGAL AND ECONOMIC ASPECTS OF A CERTAIN MARKET. IN 2013, WE WERE INTERESTED IN:

- the internet speed and the way it is measured;
- the impact that magnetic therapy devices have on human organism;
- the production of cement and the import of crushed granite stone;
- the production of ships and helicopters;
- the production of pasta and beer;
- the functioning of bookstores;
- the activities of televisions and cinema theatres and specifics of film distribution;
- the specifics of fishing in the inland waters and the Baltic sea;
- the waste management and production of biofuel;
- the subtleties of the import of drugs;
- the specifics of petrol stations;
- the organisation of public transportation, technical supervision of cars and training of drivers.

## DIALOGUE

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

## EVENTS

**On March 26**, Jūratė Šovienė, the Council member, gave a seminar to the Association of Lithuanian Banks wherein the participants were introduced with the Council's practice within the field of agreements that are restrictive of competition. Šovienė analysed associations' decisions from the perspective of competition law and discussed the prevention of possible infringements. The Council experts have prepared a notice for associations *Notice on Activities of Associations: how not to infringe the norms of competition law*.

**In January**, the Council experts organised a seminar „How to Ensure Effective Competition in Public Procurement“. The objective of the seminar was to help purchasing organisations to ensure effective competition at the stage of organising public procurement and identify features of bid rigging between the participants of public procurement as well as prevent infringements. The Council prepared a control list that should help to identify bid rigging in public procurement and announced it on a website.



**In June – October**, the Council presented the Guidelines for Assessing Impact of Draft Decisions to Competition at Kaunas City Municipality, Vilnius City Municipality and Vilnius District Municipality, also to the members of Association of Local Authorities in Lithuania and the experts of the Ministry of Agriculture. These guidelines shall help legislators to avoid ungrounded restrictions of competition when drafting legal acts and to assess the impact that a draft decision is likely to have on competition.

**In October**, the Council organised seminars on advertising for the members of Lithuanian Marketing Association and the members of Lithuanian Association of Communication Agencies. The objective of the seminars was to provide advertising practitioners with information on the principles of evaluating advertisements and to present the Guidelines on Assessment of Misleading and Unlawful Comparative Advertising, accompanied with a brief note on advertising drafted by the Council.

## CONSULTATIONS AND PROPOSALS

**On March 28** ended a two year long Twinning Project “Strengthening the Enforcement of Competition and State Aid Legislation in Armenia”. When implementing the goals of the Project, the Council experts in cooperation with the German Federal Ministry of Economics and Technology, the Project's senior partner, consulted the employees of the Armenian Competition Authority on the issues of competition and state aid control, helped to prepare draft

amendments to the Law on Competition, the new State Aid Law and bylaws (implementation rules), organised seminars to the employees of Armenian Competition Authority and other state institutions, judges and the media.

**The Council submitted** comments on the Government's resolution drafted by the Ministry of Transport and Communications of the Republic of Lithuania. Having analysed the legislation on the provision of national technical inspection services for vehicles, the Council upheld the Government's suggestion to liberalise the provision of technical inspection services, organise competitions to select companies and, thus, ensure effective competition and a better choice for consumers.

**THE NUMBER OF LEGAL ACTS THAT THE COUNCIL REVIEWED AND COMMENTED ON**

159

**THE NUMBER OF REPLIES TO COMPLAINTS AND QUERIES**

368

## THE COUNCIL EXPERTS DELIVERED PRESENTATIONS IN 24 WORKSHOPS AND SEMINARS ORGANISED IN LITHUANIA AND ABROAD.

- **On December 6**, Šarūnas Keserauskas, the Chairman of the Council, made a presentation in the seminar “Pros and Cons of Counterfactuals” organised by the Swedish Competition Authority.
- **On November 18**, Jūratė Šovienė, the Deputy Chairperson, and Justina Paulauskaitė, the Head of Activities of Public Administration Entities Division, participated in the discussion “Ensuring continuity of the reform of state-owned companies. Major problems and solutions.” organised by the Representation of the European Commission in Lithuania. The Council representatives shared their insights about the competition between private and public sector companies, discussed the most significant cases and put forward the problems that arise when state-owned and municipal companies engage in commercial activities.
- **On April 15**, in the meeting of the Commission of Experts that took place in the Ministry of Agriculture Šarūnas Keserauskas delivered a presentation on the criteria for and the efficiency of the Council’s activities.
- **On April 5**, Šarūnas Keserauskas and two Council experts, namely, Simona Tolušytė and Jurgita Brėskytė made presentations on the topic “Boundaries and Supervision of Competition Freedom in 2013: business risks and its prevention” in the conference organised by *Verslo žinios*, the Lithuanian Business Confederation and a law firm *SORAINEN*.
- **On April 5**, Šarūnas Keserauskas and Dainora Anulytė, a representative of Law and Competition Policy Division, delivered presentations in the conference on state regulation and competition within the system of healthcare. The conference was organised by the National Health Insurance Fund and took place in the Seimas (Parliament) Palace.
- **On March 20-22**, Šarūnas Keserauskas participated in the 16th international competition conference organised by the German Federal Ministry of Economics and Technology (Germany, Berlin). Keserauskas shared his experience and discussed issues related to institutional structure, efficient organisation and independence of competition authorities.

GUIDELINES ON ASSESSMENT OF MISLEADING AND UNLAWFUL COMPARATIVE ADVERTISING

THE COUNCIL PREPARED

EXPLANATIONS ON MINOR IMPORTANCE IN CASES RELATED TO THE LAW ON ADVERTISING OF THE REPUBLIC OF LITHUANIA

NOTICE ON ACTIVITIES OF ASSOCIATIONS: HOW NOT TO INFRINGE THE NORMS OF COMPETITION LAW

RESOLUTION ON THE COUNCIL'S ACTIVITY PRIORITISATION IN TERMS OF ADVERTISING SUPERVISION

THE COUNCIL ADOPTED

10

COUNCIL DECISIONS UPHELD BY COURTS

## COURT RULINGS

**On October 18**, the Supreme Administrative Court of Lithuania acknowledged that the Council has rightly imposed a fine on *UAB PALINK* for the infringement of the Law on the Prohibition of Unfair Practices of Retailers of the Republic of Lithuania. The agreements on the provision of advertising services concluded between *UAB PALINK* and food and drink suppliers included the company's request not to provide other retail companies with analogous goods for the same or lower price during the period of the advertising campaign. The Council estimated that such an obligation not only restricted the supplier's freedom to set the prices of analogous goods to be sold to other companies but also limited the possibilities of the companies to purchase the goods from the suppliers under more favourable conditions than *UAB PALINK*. As a result of the aforementioned, the interests of all consumers were possibly harmed.

**On May 27**, Vilnius Regional Administrative Court (the Court) rejected the complaint of Lithuanian Business Employers' Confederation concerning the Council's refusal to open an investigation on the actions by public administration bodies when applying Customs Convention on the International Transport of Goods under Cover of TIR Carnets as these actions were suspected of non-compliance with the requirements of Article 4 of the Law on Competition.

**On June 18**, the Court upheld the Council's decision whereby the latter acknowledged that the agreements between *UAB G4S Lietuva* and three banks - *AB DNB*, *AB SEB* and *Swedbank*, *AB* restricted the possibilities for *G4S* competitors to operate in the market of cash handling and cash-in-transit services and, thus, breached the provisions of the Law on Competition and the Treaty on the Functioning of the European Union whereby companies are prohibited from concluding agreements that restrict competition. The contractors appealed the Court ruling to the Supreme Administrative Court.

**On April 25**, the Supreme Administrative Court upheld the Council's decision whereby the latter acknowledged that Corporation of European Pharmaceutical Distributors N.V. (CEPD) had infringed the requirements of the Law on Competition. The Supreme Administrative Court established that a non-notified merger implemented by CEPD was a serious infringement of the Law on Competition and the Council had rightly imposed the fine of 110 000 LTL.

The Supreme Administrative Court also noted that proper fines deter from anti-competitive behaviour in the future therefore very small fines or exemption from fines would fail to achieve it.

10

COUNCIL'S RESOLUTIONS WERE APPEALED TO COURTS

100

PAGES LONG WAS THE LONGEST RESPONSE PRESENTED TO COURT



## STATE AID

*The Council administers the State Aid Register.*

In 2013: *de minimis* aid was granted **12 986 times**.

On average *de minimis* aid granted per undertaking - **23 855 LTL**.

Total *de minimis* aid granted: **LTL 309,8 million**.

In the sector of production of agricultural products *de minimis* aid was granted **8 738 times**.

On average in the sector of production of agricultural products *de minimis* aid granted per undertaking - **348 LTL**.

Total *de minimis* aid granted in the sector of production of agricultural products - **LTL 3 million**.

In the fishery sector *de minimis* aid was granted **9 times**.

On average in the fishery sector *de minimis* aid granted per undertaking - **2 200 LTL**.

Total *de minimis* aid granted in the fishery sector - **LTL 19,8 thousand**.

## BENEFITS BROUGHT BY THE COUNCIL

**LTL 1,97 million**

TOTAL SUM OF FINES IMPOSED ON 10 COMPANIES FOR THE INFRINGEMENTS OF THE LAW ON ADVERTISING AND THE LAW ON COMPETITION

**LTL 186 million**

AVERAGE BENEFIT BROUGHT TO CONSUMERS ANNUALLY DUE TO DETERRANCE IN 2011 - 2013

**LTL 41,3 million**

ACCORDING TO PRELIMINARY CALCULATIONS THE DIRECT BENEFIT BROUGHT TO CONSUMERS BY THE COUNCIL IN 2011 - 2013

THE COUNCIL'S ANNUAL BUDGET FOR 2013

**LTL 4,4 million**

**7 YEARS TOOK THE LONGEST CASE EXAMINATION AT COURTS**

On April 15, the Supreme Administrative Court upheld the Council's resolution concluding that the decisions by Kazlų Rūda Municipality restricted competition. The Supreme Administrative Court confirmed the Council's conclusions, according to which, the Municipality had granted privileges to *UAB Litesko* and, thus, created different competitive conditions by extending the contract for modernisation and renovation of heating infrastructure with *UAB Litesko* until 2030 without any competitive procedure and regardless of the tender provisions stating that the longest possible extension could be until 2025.

On January 21, the Supreme Administrative Court upheld the Council's decision to impose a fine on *AB Orlen Lietuva* for the abuse of dominance with the aim of restricting fuel import into the territory of Lithuania.

Among other Council's cases, this one was subject to the longest examination at courts.

Already in 2005, the Council imposed a fine on *AB Mažeikių nafta* (now *Orlen Lietuva*) for the abuse of dominance but the Supreme Administrative Court repealed this decision and obligated the Council to carry out an additional investigation. Having conducted a detailed investigation, the Council acknowledged that *AB Orlen Lietuva* had abused its dominant position in the Lithuanian market of fuel (petrol and diesel) sales. The company appealed this decision to the court.

**2 MONTHS TOOK THE SHORTEST CASE EXAMINATION AT COURTS**

Having examined the case, the Supreme Administrative Court confirmed the Council's arguments based on which the infringement of the provisions of the Law on Competition and the Treaty of Functioning of the European Union was established. The Supreme Administrative Court also noted that when setting the fine the Council rightly evaluated the abuse of dominance as a very serious infringement and the fact that the company had repeatedly infringed the Law on Competition.

After the Council's investigation the company was obligated to terminate actions that restrict competition.

Competition Council of the Republic of Lithuania

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