



LIETUVOS RESPUBLIKOS
KONKURENCIJOS TARYBA

2012 ANNUAL REPORT

Vilnius 2013

TABLE OF CONTENTS

TABLE OF CONTENTS	2
FOREWORD.....	3
IMPACT ASSESSMENT	4
KEY FACTS AND EVENTS.....	5
ENFORCEMENT OF THE LAW ON COMPETITION	8
Anti-competitive agreements and their prevention	8
Abuse of a dominant position	11
Merger control	11
Anti-competitive actions of public administration entities	14
ENFORCEMENT OF THE LAW ON ADVERTISING	17
OTHER FIELDS OF ACTIVITY	19
CASE LAW	21
LEGISLATIVE ACTIVITIES	24
STATE AID	28
INTERNATIONAL COOPERATION	29
ADVOCACY.....	32
ADMINISTRATIVE CAPACITIES.....	35
ANNEXES	36

Abbreviations used in the Annual Report

EC – European Commission

EU – European Union

GRL – The Government of the Republic of Lithuania

Konkurencijos taryba, KT — Competition Council of the Republic of Lithuania

LA – Law on Advertising of the Republic of Lithuania

LC – Law on Competition of the Republic of Lithuania

LPUPR – Law on the Prohibition of Unfair Practices of Retailers of the Republic of Lithuania

SACL – The Supreme Administrative Court of Lithuania

TFEU – Treaty on the Functioning of the European Union

VRAC – Vilnius Regional Administrative Court

FOREWORD

In the beginning of 2012 the Competition Council of the Republic of Lithuania announced its mission of safeguarding effective competition for the benefit of consumers and set out three strategic goals:

- maximising consumer welfare,
- strengthening the society's competition culture, and
- strengthening the Competition Council's administrative capabilities.

The Competition Council has, for the second time since 2011, carried out and announced an impact assessment of its activities. This time, we calculated direct and indirect benefits provided to consumers as a result of the Competition Council's activities during the last three years (2010-2012). According to the report, in each year covered by the survey, the average direct financial benefit to consumers amounted to about EUR 13.24 million, which almost 13 times exceeded the Competition Council's average annual budget.

The stories behind the numbers are no less important. In 2012 having established an infringement in the case of *E-TURAS*, the Competition Council stopped 29 travel agencies coordinating their pricing policies to the detriment of consumers. The investigation into the exclusivity arrangements between *UAB G4S-Lietuva*, the largest provider of cash handling services, and the Lithuania's three top banks, encouraged the parties to terminate the exclusivity clauses even before the Competition Council issued its infringement decision. The latter set a record-high fine amounting to a total of EUR 16 million. More importantly, the Competition Council's intervention reduced the entry barriers for *UAB G4S-Lietuva* competitors, thus creating better conditions for competition. This should benefit consumers as cash handling costs incurred by banks are eventually covered by consumers when paying cash handling related fees. The focus on preventing consumer harm will continue in 2013 as we will become better at using our newly acquired prioritization tool.

On the advocacy front, the challenges to building a better competition culture remain, but in 2012 the Competition Council showed its strong commitment to lead the change. We listened to the voice of the business community arguing for more competition education and responded with a series of seminars – to be continued this year – targeting trade associations, which, as our decisional practice confirms, appear to be vulnerable to price coordination activities. We have also increased our advocacy efforts in relation to municipalities and ministries, in particular in the field of state aid and public restrictions of competitions. To this end, the Competition Council issued Guidelines for Competition Impact Assessment of Draft Decisions, which we will continue to promote in 2013.

To strengthen our administrative capacity, we invested in people, investigative technologies and better working environment. The latter has been improved with the Competition Council moving to a new building, where, unlike in our communal past, the authority operates completely on its own. A number of new people have been hired and five members of staff spent long spells being seconded or doing traineeships at the world's leading competition agencies, such as the EU Commission, the Federal Trade Commission and the Office of Fair Trading. We will need and expect the best from our staff in 2013: not only will we continue to focus on high impact cases and advocacy actions, but our authority will play an important role in the forthcoming Lithuania's Presidency of the Council of the European Union.

Šarūnas Keserauskas
Chairman

IMPACT ASSESSMENT

The mission of the Competition Council (Konkurencijos taryba, KT) is to safeguard effective competition for the benefit of consumers by implementing competition policy in Lithuania and, within the scope of the KT competence, controlling the compliance with the requirements of the laws.

In order to assess the implementation of its mission, the KT for the second time carried out an impact assessment of its activities on consumers. The results demonstrated that the benefits provided to consumers as a result of the KT activities were more than 13 times higher than the annual budget of the agency.

The objective of the impact assessment is twofold: firstly, this exercise is a means of external accountability, which enables the state institutions, businesses and society to assess the activities of the KT and see the benefits brought by its work; secondly, after having set its enforcement priority in 2012, the KT employs this methodology when deciding on whether to open an investigation for it to bring the highest benefits to consumers.

The KT impact assessment covered both direct and indirect benefits to consumers created by the KT during the period between 2010 and 2012. The estimates were calculated based on conservative rules and assumptions. The findings have shown the total consumer benefits resulting from the KT's work to constitute from LTL 45,72 million (EUR ~ 13,24 million) to LTL 268,37 million (EUR ~ 77,73 million) depending on whether only direct financial benefits to consumers were assessed or whether imposed fines and the benefits resulting from the deterrent effect of the KT activities were also considered. The comparison of these figures with the 2010-2012 KT budget of LTL 10,9 million (EUR ~ 3,16 million) (on average LTL 3,6 million (EUR ~ 1,04 million per year) showed that the direct benefits provided to consumers exceed the KT's annual budget by more than 13 times.

KEY FACTS AND EVENTS

EVALUATION OF ACTIVITY

June – the KT, for the third year in a row, was included in the list of world's leading competition authorities, compiled by the United Kingdom journal 'Global Competition Review'. This time, when assessing the KT's activity, attention was devoted to the improvements in the disclosure of cartels as well as important amendments to the LC enabling the KT to control cartels more efficiently.

EVENTS

May – the KT organized a press conference with the aim of sharing its knowledge on the benefits to consumers resulting from the disclosure of the cartel within the production and trading market of the orthopaedic devices.

September – the KT held a press conference in order to commemorate an important date for the KT's activity – 20th anniversary of the KT. During the conference, representatives of the KT reviewed the development of the LC in Lithuania, development of the KT activity as well as discussed the issues of journalists' interest.

December – the Chairman of the KT, Šarūnas Keserauskas, participated in the conference organized by the Lithuanian Business Confederation wherein he gave a presentation "Why an independent arbiter is needed in the battle of competition". The aim of the conference was to draw attention to the issues that arise in the cases when government institutions fail to ensure the effective competition among undertakings.

LEGAL REGULATION

January – new methodology of setting fines for the infringements of the LC came into force.

March – Seimas of the Republic of Lithuania adopted a new wording of the LC.

June – the KT introduced the Guidelines for Competition Impact Assessment of Draft Decisions designed for the public administration entities engaged in the decision making process related to economic activity.

By the resolution of 13 June 2012, No. 629, the GRL changed the measures of levy charges for analyzing merger notifications. According to the resolution concerned, the levy charge is differentiated with regard to the amount of the combined aggregate income of the merging parties.

July – pursuant to the provisions of the LC, the KT adopted and announced its Enforcement Priority – to create possibilities of using the resources of the KT in a way that allows a better protection of effective competition and maximisation of consumer welfare. The KT has also announced the Description of Enforcement Priority's Implementation Principles, according to which, the KT will decide whether the investigation falls within the established enforcement priority. The aforementioned principles are: a) the potential impact of an investigation on effective competition and consumer welfare; b) the strategic importance of such an investigation; and c) the rational usage of resources.

JUDICIAL DECISIONS

April – on 20 April, the SACL upheld the KT's decision of December 2012, whereby the KT acknowledged that two of the biggest insurance companies operating in Lithuania, *AB Lietuvos draudimas* and *UAB DK PZU Lietuva* had concluded an insurance pool agreement. In this case the SACL acknowledged that as a result of the prohibited agreement the trade between

Member States could have been restricted and stated that the KT justly determined not only the breach of the LC, but also of the requirements of Article 101 of the TFEU.

May – by the resolution of 17 May, the SACL acknowledged that the decision of the KT to impose fines on the Association of Providers of Orthopaedic and Rehabilitation Services and nine companies engaged in the production and trading of orthopaedic devices for concluding the cartel agreement was legitimate.

June – by the resolution of 21 June, the SACL rejected the KT's appeal and upheld the decision adopted by the VRAC whereby the complaint of *AB Rokiškio sūris* and *UAB Marijampolės pieno konservai* was satisfied and the KT's resolution of 9 June 2011 was repealed. By the latter resolution, the KT imposed fines on the aforementioned undertakings for concluding anticompetitive agreement. The SACL did not evaluate whether the actions of the undertakings infringed the LC, and the KT's resolution was admitted to be illegitimate because, according to the courts, the resolution concerned was adopted after the limitation period of proceedings had passed.

November – the SACL upheld the KT's decision to impose a fine on *UAB Plungės duona* for a failure to provide the information required to the investigation.

PREVENTION OF INFRINGEMENTS

February – when preventing the infringements of competition, in the course of the year the KT organized a series of seminars targeted at the members of associations "Associations' activities: how to respect competition rules?"

COOPERATION

March – the KT and the Police department under the Ministry of the Interior of the Republic of Lithuania signed a collaboration agreement with the aim of ensuring a prompt inspection of undertakings in the cases when the assistance of police officers is necessary.

November - according to the EC's technical assistance programme TAIEX, the officers from the central bank of Armenia came to the KT with the aim of gaining experience and knowledge related to the implementation of competition law in the sector of finance.

Collaboration agreement was signed with the Public Procurement Office enabling the KT to use the data supplied by the Public Procurement Office when conducting the investigations concerned with the infringements of the LC.

ADMINISTRATIVE CHANGES

May – the member of the KT, Elonas Šatas, was appointed to the position of the deputy chairman.

PERFORMANCE RESULTS

NUMBER OF UNDERTAKINGS SANCTIONED AND AMOUNTS OF FINES IMPOSED

Year	2012	2011	2010	2009	2008
Undertakings sanctioned	43	64	43	52	23
Amount of fines, LTL	63 235 100	17 055 100	12 221 300	4 393 10	2 869 500
Fines collected to the state budget, LTL	6 533 486	N/D*	N/D	N/D	N/D

* No data is available since such statistics was not produced in previous years.

INFORMATION, CONSULTATION AND OTHER ACTIVITIES

Enquiries received in 2012	1678
Letters and replies* sent in response to inquiries received:	1704
Of which:	
To institutions of the Republic of Lithuania	354
To undertakings and organisations	1032
To natural persons	231
To foreign entities	88
Written consultations	36
Approved draft prices and tariffs	3

* Including letters mailed *ex officio* without having a specific inquiry to respond to.

ENFORCEMENT OF THE LAW ON COMPETITION

RESOLUTIONS PASSED IN ENFORCING THE LC REQUIREMENTS

	2012 m.	2011 m.	2010 m.	2009 m.	2008 m.
Established infringements of the LC	11	13	16	8	15
Initiated investigations	29	19	29	22	34
Refusals to initiate investigations	21	27	28	28	20
Cases terminated	9	19	5	7	6
Cases closed (is pending before the court)	1	0	0	0	0
Authorisations to implement concentration or its individual actions	29	56	37	46	52

Anti-competitive agreements and their prevention

Article 5 of the LC:

“All agreements which have the purpose of restricting competition or which restrict or may restrict competition shall be prohibited and shall be void from the moment of conclusion thereof, including:

- 1) agreements to directly or indirectly fix prices of certain goods or other conditions of purchase or sale;*
- 2) agreements to share the product market on a territorial basis, according to groups of buyers or suppliers or in any other way;*
- 3) agreements to fix production or sale volumes for certain goods as well as to restrict technical development or investment;*
- 4) agreements to apply dissimilar (discriminating) conditions to equivalent transactions with individual undertakings, thereby placing them at a competitive disadvantage;*
- 5) agreements to require other undertakings to assume supplementary obligations which, according to their commercial nature or purpose, have no direct connection with the subject of the contract.”*

In 2012, the KT launched eight investigations, terminated five investigations, and adopted two resolutions on the infringement of the LC. In one of the aforementioned cases the KT disclosed a prohibited agreement within the market of online package tours, when consumers' possibilities to take advantage of bigger discounts when purchasing package tours online had been restricted. For this infringement the KT imposed a fine of LTL 5,433,000 (EUR ~ 1,573,505) on 29 undertakings. In another case, for the first time in the KT's practice, a fine of LTL 86,400 (EUR ~ 25,023) was imposed on the undertaking for failure to comply with the KT's request to provide the information required for the investigation.

In 2012, the KT carried out several investigations of a large scope, one of which was the investigation concerned with the wholesale and retail of food products. The KT intends to introduce the conclusions of the investigation in 2013.

With an intention of improving the effectiveness of investigations, the KT purchased software for the analysis of evidence, developed inner procedures of investigations as well as signed collaboration agreements with other state institutions.

One of such collaboration agreements enabling the KT to conduct the inspections of undertakings effectively and efficiently has been signed with the Police Department under the Ministry of the Interior. On the basis of the aforementioned agreement the KT's officers engaged in the inspections conducted in the premises of undertakings, will be able to use the help of police forces required to ensure public order during these inspections. Inspections of undertakings are an integral part of the LC enforcement. They carry a significant importance in the collection of evidence on the infringements of the LC. This agreement is an important step towards the improvement of the effectiveness of the KT's investigations.

Another collaboration agreement has been signed with the Public Procurement Office, having regard to the fact that often prohibited agreements are concluded when providing offers to public procurements. The agreement enables the KT to obtain the information of the

Public Procurement Office when conducting investigations. It will help the KT to collect evidence easier, especially in the investigations of prohibited agreements within the public procurement.

Prohibited agreement within the package tour sector

The KT imposed fines totalling LTL 5 million (EUR ~ 1,5 million) on 29 companies engaged in sales of package tours and on *UAB Eturas*, the administrator of the online tour search system, for the prohibited agreement by the means of which the application of discounts when selling package tours online was being limited.

Having conducted the investigation, the KT concluded that 30 tour operators, which used the online tour search and booking system *E-TURAS*, and the system administrator *UAB Eturas* had coordinated the discount level for online tours sold to consumers. It was established that during the period of August 2009 to March 2010 the maximum discount that consumers could get had been limited up to 3 percent of the total tour price. In this case the discount limit was set through the *E-TURAS* system without any direct contact of the tour operators. By such actions the tour operators and the system administrator *UAB Eturas* infringed Article 5 of the LC which prohibits anticompetitive agreements such as price-fixing agreements between competitors. Furthermore, having considered that such discount limitation through the *E-TURAS* system affected trade between Member States of the EU, the infringement of Article 101 of the TFEU was also established.

Competition in prices is one of the key factors of effective competition making it possible for buyers to purchase goods or services under the best conditions. In Lithuania as well as in the EU, agreements on the fixing of price or of the part thereof and, thus, on the fixing of discount or of the part thereof, are considered to be one of the most severe and the most harmful infringements of competition law as the agreements concerned affect the process of competition directly and are *per se* restrictive of competition.

When competing undertakings conclude a prohibited agreement (cartel), the undertakings not involved in the agreement suffer, since by competing fairly the latter, contrary to the participants of the cartel, are subject to higher risk which limits their possibilities to provide consumers with more beneficial offers. More importantly, such agreements harm consumers by limiting their possibilities to take advantage of the benefits granted by competition, for instance, purchase products and services for the price determined by effective competition rather than by agreements between competitors. Under a coordinated maximum level of discount, the process of competition, safeguarded by the KT, was harmed. The tour operators avoided the need to compete while providing discounts to consumers, who, in turn, lost a possibility to take advantage of the benefits of competition.

One of the offending companies, *UAB 700LT*, was exempted from the fine by the KT as this company being the first to provide the KT with all information related to the prohibited agreement complied with all conditions of immunity. *UAB 700LT* avoided a fine of LTL 160,000 (EUR ~ 46,339) to be imposed for the infringement established. This example shows that a company, which is a party to the prohibited agreement between the competitors, having provided the KT with the information regarding such agreement and having fulfilled the established requirements set out in the Leniency rules may avoid sanctions.

Restriction of competition in the markets of cash handling and cash-in-transit services

The KT imposed fines totalling LTL 57 million (EUR ~ 16 million) on the provider of security services *G4S Lietuva* (*G4S*) and three major banks in Lithuania: *AB DNB* bank, *AB SEB* bank and *Swedbank* (together the Banks). The fines were imposed because *G4S* and the Banks concluded

agreements which restricted the abilities of *G4S* competitors to operate in the markets of cash-in-transit¹ and cash handling services².

Having received a complaint from the provider of security services, i.e. cash-in-transit and cash handling services, *Eurocash, UAB*, in 2009, the KT launched an investigation.

As the Banks committed themselves to buying all cash handling services exclusively from *G4S*, the ability of other providers of such services to compete had been significantly restricted. For the duration of the agreements, the Banks could not use cash handling services provided by the competitors of *G4S* even if the former were to make better offers.

Provision of cash handling services is closely related to cash-in-transit services provided to the clients of the Banks (companies). Because of these circumstances the above mentioned agreements were also harmful to the interests of the clients of the banks as they could not choose any other provider of cash-in-transit services but *G4S*.

Having evaluated all the circumstances determined in the course of the investigation, the KT found *G4S* and the Banks in breach of Article 5 of the LC which prohibits anticompetitive agreements. In addition, the KT acknowledged that the agreements concluded between the Banks and *G4S* had had an impact on trade between the EU Member States and, thus, had violated Article 101 of the TFEU.

Having repealed the investigated provisions that had been restricting the abilities of the Banks to choose alternative providers of the services concerned, the possibilities for *G4S*'s competitors to enter the market of cash handling and cash-in-transit services or expand within it increased, which, in turn, resulted in the increase of the opportunities of the Banks and their clients to enjoy the benefits brought by the competition between the undertakings.

Undertaking fined for the failure to comply with the KT officers' request to submit information

The KT imposed a fine of LTL 86,400 (EUR ~ 25,023) on *UAB Plungės duona* for a failure to comply with the obligatory requirements to provide the information needed for the investigation.

When conducting the investigation on a suspected prohibited agreement between the undertakings engaged in the wholesale and retail of food products, the officers of the KT a couple of times addressed *UAB Plungės duona* asking to provide the information needed to conduct the investigation. The information necessary for the investigation failed to be provided in due time, regardless multiple requests of the KT. The answers were received only after the investigation on the failure to comply with the obligatory instructions of the KT's officers had been launched.

The admitted infringement of *UAB Plungės duona* is held to be a severe infringement of the requirements of the LC of a procedural nature. The undertakings' behaviour that obstruct the KT's officials to timely conduct the necessary investigation actions complicates the rapid and qualitative investigations or make them even impossible. The fine imposed on *UAB Plungės duona* is a clear signal that the KT will strictly evaluate the intended or careless behaviour of undertakings by the means of which the investigation carried out by the KT's officers has been impeded.

¹ Cash-in-transit services – services provided to banks. These services include transportation of cash, cash handling (calculation, sorting, etc.) and safe keeping.

² Cash handling services – services provided to clients by banks. These services include collection of cash from the clients, transportation of cash to cash centres owned by a cash service provider, cash handling (calculation, sorting, etc.) in the cash centres and direct credit transfer.

Abuse of a dominant position

Article 7 of the LC:

„It shall be prohibited to abuse a dominant position within a relevant market by performing any acts which restrict or may restrict competition, limit, without due cause, the possibilities of other undertakings to act in the market or violate the interests of consumers, including:

- 1) direct or indirect imposition of unfair prices or other conditions of purchase or sale;*
- 2) restriction of trade, production or technical development to the prejudice of consumers;*
- 3) application of dissimilar (discriminating) conditions to equivalent transactions with certain undertakings, thereby placing them at a competitive disadvantage;*
- 4) the conclusion of contract subject to acceptance by the other party of supplementary obligations which, according to their commercial nature or purpose, have no direct connection with the subject of such contract.“*

In 2012, the KT terminated two investigations concerning suspected abuse of dominance as no infringements of Article 7 of the LC had been established.

Having evaluated the circumstances and the possessed facts, the KT terminated the investigation regarding *TEO LT, AB (TEO)* actions concerned with the provision of fixed telephone network services. The KT initiated the investigation under suspicion that *TEO* applied possibly too low prices to its clients when making calls to the network of *TEO* and to mobile telephone networks.

The KT also terminated the investigation concerned with suspected abuse of dominance by three undertakings, i.e. *Klaipėdos autobusų parkas, Kautra* and *Busturas*, when determining the fee for a onetime entrance to the bus station (respectively those of Kaunas, Klaipėda and Šiauliai) and when applying different tariffs of services for carriers depending on the categories of the routes they take. Having conducted the investigation and evaluated all the circumstances, the KT acknowledged that there were no legal grounds for liability in the sense of the LC.

Having examined the complaint of Lithuanian Business Employers' Confederation and Lithuanian National Business Confederation as well as the information provided by Small and Medium-sized Business's Council regarding the actions of National Association of Carriers *Linava* when setting the prices of TIR books, in 2012, the KT initiated the investigation on the alleged abuse of dominance by the association *Linava*.

During the investigation the KT will evaluate whether an assumed dominant distributor of TIR books, the Association *Linava*, does not abuse its dominant position when determining different prices for TIR books sold to the members of the Association and the candidates to the members of the Association. In addition, the KT will evaluate whether the Association *Linava* does not infringe the LC when setting possibly unfair (too high) prices for TIR books.

Merger control

Article 8 of the LC:

“The intended concentration must be notified to the Competition Council and its permission must be obtained where combined aggregate income of the undertakings concerned in the business year preceding the concentration is more than LTL 50 million and the aggregate income of each of at least two undertakings concerned in the business year preceding concentration is more than LTL 5 million.”

On 1 May 2012, the new wording of the LC came into force introducing the innovations that made the implementation of mergers easier for the undertakings:

- The amount of the combined aggregate income of the merging parties, which when exceeded, the intended merger must be notified to the KT, has increased from former LTL 30 millions (EU ~ 8,7 million) up to LTL 50 millions (EU ~ 14,5 million).

- The notion of related persons has been changed. Henceforth, when calculating the combined aggregate income, the undertakings included in the calculation must possess 1/3 or more of the shares, votes or assets, including all the previous acquisitions (according to the wording held thitherto, when calculating the combined aggregate income the undertakings included had to possess 1/4 or more of the shares, votes and assets).
- New provision has been introduced, according to which, the cases when two or more undertakings create a new undertaking – a joint venture – which do not perform functions of an independent undertaking, are not considered to be mergers. In this case, there is no need to notify the KT.
- The new wording of the LC has changed the regulation of the consequences of a non-notified merger whereof notification is required. Solely those merger agreements that have not been later cleared by the KT, are considered invalid and do not create any consequences in law.
- With the aim of improving the conditions for business, the new wording of the LC has established additional cases wherein the undertakings can perform individual merger actions without the KT's prior clearance of the merger. The LC acknowledges the opportunity of undertakings to announce public bid to buy-up shares or conclude agreements on the transfer of securities, included in the trade in the controlled market, even without the permission for individual actions, provided that the actions concerned will be notified to the KT during a seven day period from the moment they were performed, and without the use of benefits granted by securities.
- The undertakings participating in the merger have to self-assess the compliance of non-competition obligations with the LC. After the new wording of the LC came into force, the KT was relieved of the responsibility to evaluate every additional restriction of activity created by the merging parties, i.e. the agreement which restricts the ability of the merging parties to freely operate in the relevant market (for instance, obligation not to compete, not to purchase and other). Before setting additional restrictions of activity, the parties to the merger are obliged to self assess whether these agreements are necessary and directly related to the implementation of the merger. The KT holds that restrictions are necessary and directly related to the implementation of the merger when they are in line with the principles established in the practice of the EC. When conducting the assessment of the determined restrictions of the merger, the undertakings have to take into account the principles, set out in the notice of the EC, concerned with the restrictions, necessary or directly related to the merger of undertakings (2005/C 56/03) as well as the principles, determined by the EC's decisions in the merger cases. Moreover, the undertakings have to assess whether certain agreements can be considered to be directly related to the merger and necessary to its implementation.

By the resolution of 2012, the GRL changed the values for the examination of the merger notification.

Levy values are differentiated according to the value of combined aggregate income of the merging parties for the financial year preceding the merger. The resolution establishes LTL 5,600 (EUR ~ 1,622) levy for the examination of the merger notification when the income goes up to LTL 100 million (EUR ~ 289,620), LTL 8,000 (EUR ~ 2,316) levy, when the income are from LTL 100 million (EUR ~ 289,620) to LTL 500 million (EUR ~ 1,448,100) and LTL 11,200 (EUR ~ 3,243) levy, when the income starts from LTL 500 million (EUR ~ 1,448,100).

DYNAMICS OF MERGER CASES

Year	2012	2011	2010	2009	2008
New notifications received	31	46	40	42	54
Total authorisations granted:	29	49	33	47	52
Authorisations subject to conditions and obligations	0	1	0	1	4
Authorisations to perform individual actions of concentration	0	7	4	3	2
Refusals to issue an authorisation	0	0	0	0	0
Withdrawn notifications	2				

Failure to notify a merger prior to its implementation

In March 2012, the KT imposed a fine of LTL 100,000 (EUR ~ 28,962) on the *Corporation of European Pharmaceutical Distributors N. V. (CEPD)* for implementing unauthorised merger.

The KT determined that the *CEPD*, which prior the merger together with other share holder possessed the control over *UAB Nacionalinė farmacijų grupė*, increased the amount of its shares up to 100 per cent and, thus, acquired a total control over *UAB Nacionalinė farmacijų grupė*.

Such acquisition of a total control is considered to be a merger in the sense of the LC. If the total income of the merging parties exceeds thresholds provided in the LC, the merger has to be cleared by the KT. The *CEPD* notified the KT about the intended merger only after its implementation. Having examined the notification concerned, the KT concluded that the merger should not create or strengthen a dominant position or significantly restrict competition in the relevant markets and, therefore, cleared the implemented merger, however it did not eliminate the *CEPD's* liability for the infringement of the LC.

The implementation of a merger without the clearance of the KT is a serious infringement of the LC, regardless of whether the competition was restricted as a result thereof. The supervision of the implementation of mergers is carried out in order to observe structural changes in the relevant markets and prevent such mergers or their individual actions wherefore the undertakings would become dominant or would strengthen their dominance in the relevant markets or significantly restrict competition in other ways. The KT strictly evaluates the failure to comply with the obligation set out in the LC, according to which, the merger has to be notified and cleared prior its implementation, because, otherwise, such actions violate the major aim of the merger control.

Abandoned intentions to implement mergers

Two undertakings have abandoned their intentions to implement mergers already notified to the KT. Having conducted the preliminary assessment, the KT concluded that after the implementation of the mergers, wherein *UAB Lodvila*, would have acquired 45 per cent of *GP GRUPĖ*, *UAB* shares, and *UAB Fragrances International* would have acquired 49 per cent of *SIA Douglas Baltic* shares, two biggest competitors would be joined. In the former case, the undertakings engaged in the production of security documents (personal identity documents, banderols on tobacco and alcohol products, recoverable medicine passports and others) and commercial printings, whereas in the latter case, the undertakings engaged in the trade of cosmetics and perfumery would merge. It was determined that in both cases a respectively small number of undertakings had been operating in the assessed markets until the mergers, therefore, according to the KT's examination, the implementation of the mergers between the two biggest competitors could have lessened the competition in the assessed markets. Having received the KT's preliminary conclusions, in both cases, the undertakings concerned withdrew

their merger notifications and informed the KT that they abandon their intentions to implement the mergers.

Shorter terms of examination concerned with merger notifications

In 2012, the terms of examination concerned with merger notifications became notably shorter. While in the previous years, on average, a term of examination concerned with one merger notification took up to 40 and more days, in 2012, the KT would examine the notification and clear the merger, on average, during a 32 day period. The latter number does not include problematic mergers wherein a thorough examination is needed not only for the analysis of the material provided by the merging parties, but also for the analysis of the market, where competitors and other participants of the market have to be questioned in order to evaluate whether the merger will not create or strengthen a dominant position or restrict the competition.

It is worth emphasizing that the efficiency of the examination of merger notifications is largely determined by the accuracy and exhaustiveness of the information provided in the notification, therefore, the undertakings are encouraged to consult the KT about the preparation and submission of merger notifications. The undertakings' willingness to cooperate with the KT and generously as well as promptly provide the information has a great impact on the efficiency of the examination of merger notifications. Therefore, in the reported year, with the aim of increasing the efficiency of examination of merger notifications, the KT devoted a considerable amount of attention to providing the undertakings with the information on the importance of the merger control on the market and an obligation of the undertakings to provide the KT with the information necessary to adopt decisions on mergers.

Anti-competitive actions of public administrative entities

Article 4 of the LC:

"When carrying out the assigned tasks related to the regulation of economic activity within the Republic of Lithuania, entities of public administration must ensure freedom of fair competition.

Entities of public administration shall be prohibited from adopting legal acts or other decisions which grant privileges to or discriminate against any individual undertakings or their groups and which give rise to or may give rise to differences in the conditions of competition for undertakings competing in the relevant market, except where the difference in the conditions of competition cannot be avoided when the requirements of the laws of the Republic of Lithuania are complied with."

It is in the KT's interest to ensure that public institutions would undertake actions to encourage fair competition. When realizing this goal, the KT analyses the possible effect made on competition by legal acts drafted by institutions, examines already adopted competition restrictive decisions of institutions and devotes a great amount of attention to the spread of competition culture and creation of more beneficial competitive environment. With the aim of helping institutions to avoid the distortion of competition conditions, in 2012, the KT drafted and announced the Guidelines for Competition Impact Assessment of Draft Decisions. The objective of the guidelines is twofold: to help decision makers to evaluate the influence of drafted decision on the competition and choose the most relevant decision to avoid ungrounded competition restrictive decisions and reduce the administrative weight for undertakings, as well as help decision makers to evaluate the effect on competition made by the implemented decisions.

Having determined the infringement of Article 4 of the LC and in attempt to ensure the elimination of differences in competition conditions, the KT regulates the implementation of the adopted decisions and employs all possible means to ensure that the imposed obligations would be fulfilled properly.

RESOLUTIONS PASSED IN ENFORCING ARTICLE 4 OF THE LC

	2012	2011	2010	2009	2008
Established infringements of the LC:	5	11	6	19	9
failure to fulfill the obligations	2	0	0	0	0
Initiated investigations	5	8	14	5	7
Refusals to initiate investigations	13	6	13	13	10
Closed investigations	0	1	1	3	0
Suspended investigations (is pending before the court)	1	0	0	0	0

The exploitation of public waste management system

The KT acknowledged that the decisions adopted by the municipalities of Pakruojis and Joniškis that grant *UAB Pakruojo komunalininkas* and *UAB Joniškio komunalinis ūkis* with the right to exploit the systems of public waste management without the competition ensuring procedure and the agreements concluded on the grounds of these decisions infringed Article 4 of the LC. These decisions and agreements prevented other undertakings from offering and providing services of public waste collection and transportation in the territories of these municipalities. The KT obligated the municipalities of Pakruojis and Joniškis to repeal relevant points in the agreements and terminate the agreements in order to ensure that *UAB Pakruojo komunalininkas* and *UAB Joniškio komunalinis ūkis* as well as other undertakings engaged in the provision of public waste management, sorting and transportation services in the territories of Pakruojis and Joniškis would operate under the same conditions and the consumers could enjoy the benefits granted by the competition.

Renovation and modernization of heat economy

The KT acknowledged that, when adopting the decision to extend the agreement on the modernization and renovation of the heat economy of Kazlų Rūda city with *UAB Litesko* until 2030, Kazlų Rūda municipality privileged the aforementioned undertaking and, thus, infringed the requirements of Article 4 of the LC. The municipality extended the agreement for a longer term than the one set in the conditions of the public tender wherein the provider of services had been chosen in 2000 and, thus, created different conditions of competition for *UAB Litesko* and other undertakings able to provide analogous services of heat and hot water supply in Kazlų Rūda city. The KT obligated the municipality to repeal or amend the decision and the concluded agreement so as to eliminate the contradiction of the requirements of Article 4 of the LC, and create a possibility for potential competitors to submit their offers and compete for the right to become a heat supplier in Kazlų Rūda city.

Stationary personal health care services

The KT determined that the orders on the new profile of providing stationary personal health care services issued by the Minister of Health do not comply with Article 4 of the LC. Approved by the Minister of Health, the provisions concerned with the order of issuing the permits to provide stationary services that are reimbursed from the budget of Compulsory Health Insurance Fund (CHIF), have been admitted to be restrictive of competition. This order of issuing permits anticipated that the permit for an institution to start providing the stationary services reimbursed by the CHIF may not be issued if the other health institutions engaged in the provision of analogous services reimbursed by the CHIF, agree to increase the scope of the provided services. The KT admitted that such order, when the possibilities of the health institutions to initiate the provision of stationary services reimbursed by the CHIF depend on the opinion of the health institutions providing the same services, discriminates new providers of such services against existing providers and, thus, restricts the competition.

The KT obligated the Ministry of Health to repeal or amend the aforementioned provisions in order to eliminate the contradiction of the requirements of Article 4 of the LC and ensure that new providers of stationary health care services would not be subject to discrimination by the existent providers. The KT also advised the Ministry of Health to revise the order of referral for stationary personal health care services reimbursed by the funds from the budget of the CHIF, ensuring that the referrals issued to the patients in order to receive the services concerned would not restrict their rights to choose between certain health institutions regardless the ownership or legal form of the latter. The KT draws attention that, in 2013, the KT launched an investigation to evaluate whether the Ministry of Health properly fulfilled the obligation imposed by the KT's resolution.

Fulfilment of obligations

The KT evaluated whether the municipalities of Vilnius and Neringa fulfilled their obligations imposed by resolutions, according to which, the Municipalities had infringed the requirements of Article 4 of the LC.

The KT concluded that the obligations imposed on Neringa municipality had not been properly fulfilled as the municipality concerned failed to amend the relevant provisions of the exemption from local charges for the permission to enter into the State protected territory of Kuršių Nerija National Park and, thus, avoid granting privileges to the undertakings registered in Neringa Municipality, that provide services of passenger carrying to Kuršių Nerija.

Having regard to this fact, the KT applied to Klaipėda Regional Administrative Court which repealed the LC contradicting provisions of the exemption from local charges.

In the second case, the KT acknowledged that there are no grounds for the conclusion, according to which, Vilnius Municipality failed to fulfil the obligations set in the resolution adopted by the KT. Having amended the agreement with *UAB Universali Arena* and having approved the rules on the allocation of funds for the financing of non-commercial events, the municipality created possibilities for the undertakings to compete with *UAB Universali arena* under equal conditions when submitting offers to lease the premises for the organization of events.

ENFORCEMENT OF THE LAW ON ADVERTISING

Article 2 of the LA:

'Misleading advertising means advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to harm another person's capabilities in competition.

Comparative advertising means any advertising, which explicitly or by implication identifies a competitor of the advertiser and the goods or services offered by the competitor.'

When supervising misleading and comparative advertising defined by the LA, the KT advised individuals and enterprises on the current issues of the advertisement dissemination. The KT also applied the means of prevention in the cases of possible infringements – warned enterprises about certain actions by the means of which they may possibly infringe the provisions of Articles 5 and 6 of the LA and suggested to terminate such actions.

In 2012, a notable decrease in the number of grounded complains on misleading and prohibited comparative advertisements of mobile network services was noticed.

On the other hand, other problematic fields of advertising have been noticed. The KT established a number of infringements related to inaccurate conditions of certain campaigns (failure to indicate certain stores in the network of stores wherein the campaign had been applied, which items had been subject to the discount, failure to indicate additional fees and other conditions of purchase, etc.), still occurred some ungrounded statements about the features of the products.

RESOLUTIONS PASSED IN ENFORCING THE REQUIREMENTS OF THE LA

	2012 m.	2011 m.	2010 m.	2009 m.	2008 m.
Established infringements of the LA	6	11	18	19	10
Initiated investigations	12	8	19	19	15
Refusals to initiate investigations	5	6	6	6	4
Cases closed	1	1	1	4	1

Misleading advertisement of UAB Ermitažas

The KT imposed a fine of LTL 14,000 (EUR ~ 4,056) on UAB Ermitažas for misleading advertising.

UAB Ermitažas by the means of television and some websites disseminated an advertisement about a campaign being promoted in a network of stores Ermitažas, wherein all the goods were subject to a 25 per cent discount, however in the course of the investigation it was determined that the discount concerned was not applied to the goods subject to other discounts, i.e. sugar, alcohol, tobacco products, lottery tickets, phone recharge cards, ordered products.

The KT acknowledged that the disseminated advertisement about the discount of 25 per cent applied to all the goods failed to comply with two criteria of advertising – fairness and comprehensiveness. The KT noted that the advertisement disseminated via television was unfair, and in some websites – incomprehensible. The aforementioned clauses in the advertisement disseminated via television had not been indicated, and in some websites had been indicated incomprehensibly, i.e. not all groups of the goods without the 25 per cent discount had been indicated.

The KT determined that the information about the price of a service, without a doubt, is essential and has an impact on the economic behaviour of a consumer. The information about the size of the discount is related to the price, therefore, it is held to be essential and determinant in the sense of the decisions made by consumers as well as their economic behaviour.

Misleading advertisement of *Dormeo* mattresses

The KT imposed a fine of LTL 48,000 (EUR ~ 13,901) on *UAB Studio moderna* for misleading advertising.

UAB Studio moderna via television, press publications, campaign brochures and the internet informed consumers about the silver fibre in *Dormeo Renew Silver Clima* and *Dormeo Renew Silver Clima Plus* mattresses. Having tested the mattresses with the ionizing beam analyser, the State non food products inspectorate did not find any tracks of silver, therefore, asked the KT to investigate whether this advertisement was misleading. *UAB Studio moderna* failed to provide evidence to support the advertisement.

The KT acknowledged that the advertisement failed to comply with the criterion of fairness, since the statements in the advertisement could have raised a grounded consumers' expectation that the advertised item is more valuable than it actually is and, thus, encourage consumers to purchase this particular item.

When imposing the fine, the KT took into consideration an aggravating circumstance, i.e. the fact that in the course of the year *UAB Studio moderna* had repeatedly infringed the LA.

OTHER FIELDS OF ACTIVITY

Unfair practices of retail companies

LPUPR Article 1:

'The goal of the law is to restrict the use of market power held by the retail companies with significant market power and to ensure the balance between the interests of suppliers and the retail companies with significant market power.'

LPUPR Article 2:

„A retail company with significant market power is an undertaking engaged in retail trade in non-specialized stores with food, beverages and tobacco predominating, and alone or together with other related undertakings engaged in the same retail trade that meet all the requirements indicated below:

1) out of all the stores governed by the undertaking (or undertakings) in the Republic of Lithuania at least 20 stores have the sales area of no less than 400 square metres;

2) the amount of the combined aggregate income of the stores governed by the undertaking (or the undertakings) are not less than LTL 400 million (EUR ~ 1,158 million). If the retail company is an undertaking of a foreign country, the common aggregate income is calculated as a sum of the income received in the Republic of Lithuania.

The KT regulates the compliance with the provisions of the LPUPR, supervises the law concerned and starting with 2011 every year submits the monitoring report to the GRL.

In the monitoring report of 1 March 2011 the KT introduced some suggestions on the development of the LPUPR with the aim of clarifying and supplementing the list of unfair actions prohibited by the law concerned. In the report of 2013, the KT suggested to regulate the powers and responsibility required to perform the supervision more clearly and to establish the term for the monitoring report submission till 1 June.

In 2012, no complaints concerned with the possible infringement of the provisions of the LPUPR were received. However, based on the information received during the process of supervision the KT initiated and completed two investigations on the infringements of the LPUPR. In one case, the infringement was established, in another case the investigation was terminated because the suspected retail company eliminated the suspicions of the infringement (the latter investigation was carried out by the KT in 2012, however the decision was adopted at the beginning of 2013).

The actions of UAB PALINK evaluation according to the requirements of the LPUPR

The KT imposed a fine of LTL 360,000 (EUR ~ 104,263) on UAB PALINK, the manager of the network of retail stores IKI for the actions in breach of the LPUPR.

The LPUPR prohibits retail companies with a significant market power to perform actions that contradict honest economic activity. By the means of such actions the risks of enterprises engaged in retail trade activity is transferred to the suppliers or additional obligations are imposed on them, or the possibilities of suppliers to operate in the market freely are limited. By the law concerned these actions are defined as prohibited requests to a supplier.

The KT determined that UAB PALINK had concluded agreements on the provision of advertising services with the suppliers of food products and drinks. These agreements included a provision whereby analogous goods will not be supplied to the undertakings engaged in retail trade for the same or lower price during the whole period of the campaign. Some of the actions prohibited by the LPUPR are to demand the supplier to ensure that the prices of the goods sold to the undertakings engaged in the retail trade would be lower than the prices of the same goods sold to the other buyers.

In the resolution, the KT noted that *UAB PALINK* by the means of prohibited actions not only limited the freedom of suppliers, but also due to such limitation the consumers could have been harmed, since other shopping centres had less opportunities to offer the same goods for a lower price.

It is the first case wherein the KT established the infringement of the LPUPR.

CASE LAW

JUDICIAL EXAMINATION OF THE KT RESOLUTIONS

Year	2012	2011	2010	2009	2008
Total number of cases	51	57	65	51	40
Judicial decisions:	31	26	24	19	21
the KT resolution upheld	17	19	20	15	16
partly amended	10	4	1	1	3
overruled	4	3	2	3	2
Pending cases	20	31	41	32	19

Please also see Annex 10.

Application of the TFEU and the LC

Decision within the market of the production and trading of orthopaedic devices

On 17 May 2012, the SACL passed the ruling upholding the KT's decision of 20 January 2011, No. 2S-2, to impose fines on the Association of Providers of Orthopaedic and Rehabilitation Services and nine companies engaged in the production and trading of orthopaedic devices for concluding prohibited agreements. The agreements were concerned with the prices and production amounts of orthopaedic devices reimbursed by the Compulsory Health Insurance Fund (CHIF) as well as the sharing of funds allocated by the CHIF for the reimbursement of the devices concerned.

The SACL noted that as a result of the concluded agreements the National Health Insurance Fund (NHIF) was deprived of the possibility to take advantage of the benefits granted by competition, i.e. to purchase from the orthopaedic companies a large amount of orthopaedic devices that meet the quality requirements at a lower price. Both, the state and consumers had been harmed since the agreement, having set non-objective prices of the orthopaedic devices and the CHIF's budget being limited, caused poorer welfare of consumers as less orthopaedic devices could be bought. Such agreements distorted the structure of competition and eliminated the conditions to efficiently allocate resources as well as improve the quality of orthopaedic devices.

By its ruling, the SACL upheld the KT's conclusions according to which the CHIF infringed the requirement of Article 4 (1) of the LC to ensure the freedom of fair competition, since the CHIF was aware of the anticompetitive agreements concluded by the orthopaedic companies and not only took no actions to stop them, but also encouraged such behaviour.

According to the assessment of the SACL, neither the actions of the NHIF, subject to the breach of Article 4 (1) of the LC, nor the legal regulation in force in the market of orthopaedic devices diminish the undertakings' liability for the breach of the LC. Only because the prices of orthopaedic devices, applied by the companies of orthopaedics, which were the parties to the agreement with the NHIF, were set by compulsory legal acts, it does not mean that the companies of orthopaedics could not compete in prices. The undertakings concerned had the possibility to provide offers and data to the NHIF independently (and thus compete with each other for the forthcoming price of orthopaedic products). The undertakings could also provide the set amount of orthopaedic devices and compete for the number of patients and the amount of reimbursement funds provided by the CHIF individually without harmonizing prices within the Association. According to the SACL, the KT reasonably evaluated the actions of the NHIF as being the mitigating circumstances relieving the liability of the undertakings and, therefore, reduced the fines imposed on the undertakings.

Decision in the insurance sector

In April 2012, the Supreme Court upheld the KT's decision of December 2012, wherein the KT acknowledged that two of the biggest insurance companies operating in Lithuania concluded an insurance pool agreement in the construction sector. In this case, for the first time the agreement's compatibility with the General block exemption Regulation³ had been assessed. Even though General block exemption agreements are not always subject to the breach of the requirements set out in the rules of competition, in this particular case the SACL concluded that the agreement failed to comply with the conditions of the General block exemption Regulation and could have restricted the competition in the relevant market.

By acknowledging that the assessed insurance pool agreement could have restricted competition, the Supreme Court noted that when standardizing the conditions of insurance agreements as well as the sums of insurance and deposits, competition could have been harmed since the independence of the undertakings was restricted and, thus, the structure of fair competition was distorted. The Supreme Court took into account the fact that the agreement provided a thorough regulation of risk assessments, calculation of the amount of insurance deposits, the set minimal deposit and the maximum possible deposit as well as the set amount of commission. The Supreme Court admitted that whether the agreement restricts or may restrict competition does not have any impact on the qualification of the breach, however it is important to prove the breach as the KT carries different kind and level responsibility of substantiation.

In this case the Supreme Court for the first time confirmed that as a result of the prohibited agreement the trade between Member States could have been restricted, and, thus not only the LC, but also the requirements of Article 101 of the TFEU had been infringed. The Supreme Court acknowledged that anticompetitive agreements covering the whole territory of the State are regarded as being capable to restrict the trade between Member States.

Decision on non-notified merger

By the resolution of 1 March 2012, the VRAC upheld the KT's resolution of 15 July 2010, No. 2S—19, according to which, the KT acknowledged that *AB City Service*, having acquired 37.2 per cent *UAB Būsto administravimo agentūra* shares without the clearance of the KT, had infringed the requirements of the LC.

The VRAC noted that the KT exercises the right to impose sanctions on the undertakings if the conditions to notify the merger as set out in the LC are satisfied but the KT is not notified prior the implementation of the merger. The VRAC noted that the merger is established according to qualitative criteria. Moreover, the VRAC stated that the notion of control set in the LC is interpreted as encompassing the cases wherein: 1) the control is acquired (e.g. one share holder acquires the right to make decisions individually), 2) the control is acquired when undertakings or an undertaking and a current share holder of a company conclude an agreement and 3) having acquired the shares, only two or more share holders can make the decisive influence on the company.

Decision on the actions of VIASAT

By the resolution of 10 April 2012, the VRAC upheld the conclusions of the KT's resolution of 31 May 2010, No. 2S-14, according to which, *VIASAT* disseminated a misleading advertisement on the services of digital television and at the same time performed actions of unfair competition that could have violated the interests of many consumers.

³ On the Commission's regulation (EU) of 24 March 2010, No. 267/2010, on Article 101 (3) of the Treaty on the Functioning of the European Union application to certain agreements, decisions and concerted actions in the insurance sector.

The VRAC noted that the KT has a duty to launch the investigation on the infringement of Article 15 of the LC, provided that the public interest is clearly expressed, i.e. the social conflict is of a large scope. In order to enforce the KT's right and duty to investigate the actions of unfair competition, one of the alternative circumstances allowing to make a premise that the public interest may be harmed has to be ascertained: 1) the actions of unfair competition harm the interests of many undertakings, 2) the actions of unfair competition harm the interests of many consumers. However, there are no grounds to directly associate these circumstances with the KT's competence to implement the sanctions established by the laws in the sense of Article 16 of the LC. Having launched the investigation under the circumstances allowing to make a premise that actions of unfair competition harm the interests of many undertakings as well as consumers and having estimated that the actions concerned had been performed but the fact of a harm on the interests of many undertakings and consumers had not been proved, the grounds for the implementation of the sanctions set by the laws do not disappear.

Decision on the actions of Neringa municipality

On 31 December 2012, Kaipėda Regional Administrative Court adopted a decision whereby the court acknowledged that Neringa municipality had failed to fulfill the obligations imposed by the KT's resolution of 13 December 2007, No. 2S-27. The municipality failed to eliminate the restriction of competition and the contradiction of Article 4 of the LC. The latter arose as a result of the municipality's decision on the exemptions from the local charges for the permission to enter into the State protected territory of Kuršių Nerija National Park.

In this case, having conducted the investigation and determined⁴ that the public administration entity failed to fulfill its obligations, for the first time, pursuant to Article 18 (1)(3) of the LC, the KT applied to the court with a request to repeal the aforementioned exemptions that had given rise to the differences in conditions of competition. The court satisfied the KT's request and acknowledged that the implementation of the exemptions does not comply with the requirements of Article 4 of the LC and, therefore, has to be terminated.

Decision on the actions of *Plungės duona*

In November 2012, the Supreme Court upheld the KT's decision of 23 February 2012, no. 2S-3⁵, and admitted that *UAB Plungės duona* had failed to comply with the requests of the officers authorised by the KT to provide the information necessary to the investigation and, thus, infringed the requirements of the LC.

As the Supreme Court noted, a failure to provide information harms the investigation carried out by the KT, and therefore, the KT justly imposed a fine on *UAB Plungės duona*. This case is the first occurrence when the undertaking was sanctioned for the failure to provide the information important to the investigation.

⁴ Also see p. 16

⁵ For more information about the KT's decision concerned see p. 10

LEGISLATIVE ACTIVITIES

HARMONISATION OF LEGAL ACTS

Draft laws, Government Resolutions and other legal acts of institutions received for harmonisation	171
Positions on EU legal acts <i>drafted and submitted</i> via the <i>LINESIS system</i> *	2
Positions agreed with other institutions via the <i>LINESIS system</i>	122

* Information system on Lithuania's membership in the EU

Development of national competition law

New wording of the LC

A new wording of 1 May 2012 enabled the KT to conduct the investigations more efficiently as well as made the procedure clearer for the parties involved.

The KT anticipated its right to determine the prioritisation principles in order to utilise its limited resources for the investigation of the most significant infringements and, thus, ensure the greatest benefits to consumers.

The new wording of the LC granted the KT with increased powers concerned with the investigation of infringements and the collection of evidence. One of the most significant new powers is the right to obtain the information on the subscribers and users of the services as well as the content transferred by the means of the electronic connection networks from the providers of electronic connection services. This right creates better conditions for the KT to prove the most serious infringements of the LC that are usually secret and hard to investigate.

Moreover, with the aim of encouraging the undertakings, subject to the most serious infringements of the competition rules, to address the KT and confess, the new wording of the LC determines that the participants of a prohibited vertical agreement on direct or indirect fixing of prices may be also exempted from the fine. The sanctions as set by the LC would not be applied to the head of the undertaking exempted from the fine (as well as the head with whom the business relations are terminated). With the aim of ensuring the interests of the undertakings concerned (e.g. that the information provided by them would not be used against them in the cases concerned with the redress), the information in question may only be disclosed to the undertakings, suspected of the infringement of the LC, and only with the aims related to the right of defence. This regulation will encourage companies and their heads to provide the possessed information about the infringement and, thus, avoid the sanction. The KT will work on better assumptions to ascertain the most serious infringements of the LC.

In the new wording of the LC the regulation of mergers has been partially changed. The change having the most significant impact on undertakings is the increase of the amount of the combined aggregate income of the merging parties from LTL 30 million (EUR ~ 8,688,601) to LTL 50 million (EUR ~ 14,481,001), which when exceeded, the intended merger must be notified to the KT and the clearance must be obtained. By the means thereof, the KT seeks for the notification of those mergers that may affect the structure of markets to the greatest extent, which in turn would effect the competition⁶.

The new wording on the LC anticipates not only more efficient means of the competition safeguarding but also grants the undertakings more legal certainty. For instance, a new wording provides a clearer regulation of requirements applied in the protection of trade and professional secrets.

⁶ For more information about the regulation of merger control see p. 11, 12

Description of the enforcement priority

Exercising prioritization powers enshrined in the new wording of the LC, on 2 July 2012, the KT on its website published the KT's enforcement priority – to conduct investigations or interfere in the way the market works, provided that such interference would significantly contribute to protection of effective competition with the purpose of maximizing consumer welfare.

The KT has also announced the Description of enforcement priority's implementation principles, according to which, the KT will decide whether the investigation falls within the established enforcement priority. These principles are: a) the potential impact of an investigation on effective competition and consumer welfare; b) the strategic importance of such an investigation; and c) the rational usage of resources. Pursuant to the principles concerned, the KT will allocate its resources to the investigations of those infringements of the LC that are considered to be of utmost significance and harm to consumers.

Methodology of setting fines for the infringements of the LC

By the resolution of 18 January 2012, No. 64, the GRL approved new methodology of setting fines for the infringements of the LC (Methodology of setting fines).

According to the new Methodology of setting fines, the base amount of the fine is calculated by taking up to 30 per cent of value of sales directly or indirectly related to the infringement. Such methodology of setting fines allows to achieve better individualisation of fines and, when needed, to apply bigger fines with stronger deterrent effect, for instance, to multiply the base amount of the fine by the number of years of infringement and increase the amount of the fine for the repeated infringement with the aim of achieving deterrence. It is expected that the new methodology of setting fines and a clear system concerned with the exemption from fines and their reduction, established in the Methodology of fine setting, will encourage undertakings to avoid infringements.

Guidelines for Competition Impact Assessment of Draft Decisions

On June 2012, the KT approved the Guidelines for Competition Impact Assessment of Draft Decisions (Guidelines). It is expected that the Guidelines will become a helpful tool to be used by public administrative bodies (decision makers) in order to evaluate the possible impact that the project of the draft decision will have on the competition and select the most appropriate decisions as well as evaluate already enforced decisions' impact on the competition. The Guidelines may help companies to avoid ungrounded restrictions when public administrative bodies adopt decisions related to the economic activity.

Public administrative bodies as well as other policy makers are advised to act pursuant to the general competition assessment principles established in the Guidelines.

Comments on the draft amendments to the Law on Heat Economy of the Republic of Lithuania

The Law on Heat Economy regulates the national management of the heat economy, the activity and responsibility of the undertakings within the heat economy as well as the rights of heat consumers. The aim of the Law is to create assumptions for the functioning of a competitive, economically grounded and trusted heat economy and ensure effective protection of rights and legal interests of the consumers and participants of the market.

The KT noted that the draft amendments to the law set the means whereby one company would be granted exclusive rights to transmit and supply the heat within the relevant market. Hence, the suggested legal regulation would create a monopoly of heating network operator, therefore, the competition in the relevant market would be eliminated, and the undertakings providing the same services would be forced to leave the market. Moreover, the suggested

separation of vertically integrated undertakings raised doubts for the KT. The KT noticed that some of the means provided in the draft amendments to the law may be considered to be state aid and, therefore, should be negotiated with the EC.

Comments for the National health insurance fund

In October 2012, the KT submitted comments on two documents drafted by the National Health Insurance Fund, i.e. the order of the Minister of Health Care whereby a change in the organisation of state support method for the purchase of orthopaedic devices was sought (Method), as well as the draft on the purchase of orthopaedic devices reimbursed by the Compulsory Health Insurance Fund, and that of the methodology of setting base prices. The KT drew attention to the fact that by the means of the relevant points set out in the Method the suggestions were made to indirectly set the sum, allocated to the reimbursement of the produced orthopaedic devices, in the agreements with the orthopaedic companies. The funds divided according to the amount of the production of orthopaedic devices allowed to be produced by the undertakings would result in a groundless restriction of undertakings' abilities to compete.

Comments on the LA

The KT put forward suggestions concerned with the setting of more efficient procedures, strengthening of liability for the infringements under aggravating circumstances and for the use of the advertisements subject to the most harmful effect on consumers (advertisements subject to the infringement of Article 7 (1-21) of the Law on prohibition of unfair practices to consumers (LPUPC)) and other aspects of the improvements in the LA. The KT submitted comments on European Parliament and Council's directive 2005/29/EC on the transfer of unfair commercial practice to the LA and the LPUPC.

Comments on the draft resolutions of the Republic of Lithuania within the sector of railway transport

The KT submitted comments on the draft resolutions of the GRL drafted by the Ministry of Transport and Communications, i.e. the draft concerned with the change of rules in the examination of complaints by the railway companies (carriers) and the draft concerned with the change of rules in the estimation of the levy for the use of the public railway infrastructure.

Comments on State aid

The KT examined a draft law amending Articles 15 and 18 of the Law on Higher Education and Research of the Republic of Lithuania submitted by the Prime Minister. Having conducted a thorough investigation, the KT drew attention to the fact that the draft law concerned suggests to determine that the parks of education and technology, provided they are public legal persons, would be granted the right to manage, use and dispose of the property of the state on the grounds of trust. Hereby, the said parks could rent the received property for the duration of 25 or 20 years on the grounds of trust without any competition to the companies which would conduct applied research and perform experimental activity as well as introduce innovations, if it is set in the trust agreements and necessary to ensure the activity of education and technology parks. The KT noted that the transference of the property may be regarded as state aid and suggested the aid providers to act pursuant to the EU acts regulating state aid or to amend relevant points without the violation of the legal acts of state aid. Moreover, the KT, with the aim of ensuring the principle of fair competition and creating equal conditions for all the undertakings to compete for the ability to claim the right concerned with the rent of premises, suggested to adopt a resolution, according to which, the park of education and

technology would have to organize the competition of the undertakings for the right to receive the services of property rent.

Having examined the draft Law on the amendments of the Law on Post drafted by the Ministry of Transport and Communications, the KT noted that the requirements concerning State aid set in the EU legal acts are applied to the means provided in the draft. With regard to this, the KT suggested the Ministry of Transport and Communications to assess whether the compensations to the providers introduced in the draft Law on Post do not violate the provisions of the EU Law.

The KT more than once submitted comments on the support for the production of energy from renewable sources, as well as on the possible conformity of the financing of the services adequate to the services of public interests with the criteria defined by the EU legal acts. The KT noted that when implementing the means of sponsorship mentioned above, the provisions of the EU legal acts regulating State aid should not be violated and suggested to inform the EC about the means concerned.

Participation in the EU legislative activity

The participation in the EU legislative activity is a never ending process which will become even more intense during the period of Lithuanian Presidency of the EU Council. The KT contributes to this process by the means of the information system on Lithuania's membership in the EU (LINESIS): in 2012, the KT submitted its position on a new draft of a legal act 'Proposal for a Council decision on the conclusion of an Agreement between the European Union and the Swiss Confederation concerning cooperation on the application of their competition laws' and its position for the meeting of Coreper 'Draft Council conclusions on Special Report No 15/2011 by the European Court of Auditors: Do the Commission's procedures ensure effective management of State aid control?'. Within the scope of the KT's competence a total of 122 positions drafted by other Ministries and discussed at the meetings of the EU Council, its Working Groups and Coreper were approved.

STATE AID

The KT closely cooperated on State aid issues both with the Lithuanian institutions and the EC. During the reporting year 17 notifications on State aid and 9 Forms of summarized information on State aid granted according to the exemption regulation were submitted to the EC (see Annexe 9).

Together with other interested institutions the KT directly participated in the submission of comments and proposals on the modernization of the EU State aid system implemented by the EC. When preparing to a new programming period of 2014-2020, the EC set three aims of the State aid modernisation:

- to encourage the growth within a stronger, more dynamic and competitive internal market;
- to ensure the implementation of rules devoting a great amount of attention to the cases having the most significant influence on the internal market;
- make the rules simpler and adopt decisions faster.

To this end, 11 filled in questionnaires concerned with the State aid for the sea transport, environment protection, regional State aid, *de minimis* aid, procedure of State aid provision and others have been introduced. In 2013, on the basis of these questionnaires the EC will prepare drafts of new legal acts concerned with the regulation of the State aid provision.

The KT has been further supplementing the State Aid Register, wherein from the outset of the Register operation (1 October 2005) to 31 December 2012 entries were made on 113 543 *de minimis* aid cases and on about 323 State aid schemes.

INTERNATIONAL COOPERATION

International cooperation

The KT has been actively contributing to the activities concerned with the issues of competition supervision. The KT most actively cooperated within the European Competition Network (ECN). A considerable amount of attention has also been devoted to the cooperation with international organizations, i.e. the Organisation for Economic Cooperation and Development (OECD), the International Competition Network (ICN) and the European Competition Authorities (ECA) as well as to bilateral connections of competition authorities.

European Union

ECN cooperation takes various forms, the most significant and beneficial ones being participation in the activities of relevant working groups or subgroups, informal exchange of information on the practice of application of competition law and the good examples, as well as, pursuant to the provisions of the Council regulation No 1/2003, a possibility for the EU Member states to ask each other to perform the inspections of the undertakings suspected of the infringements of the competition law and receive information required for the investigation.

The specialists of the KT participated in 15 ECN meetings of working groups and subgroups, wherein the issues related to the modernisation of State aid, exemption from fines and their calculation, the sector of banks and cooperation when conducting market investigations and applying the provisions of the competition law had been discussed.

The KT representatives also participate in the activities of advisory committees when the issues of decision making in the antitrust and merger cases are being considered by the EC. A competition authority representative from one of the EU Member states is invited to be the speaker of the case during the advisory committee meeting. In 2012, the speaker in the *E-books* case was a representative of the KT.

Two times during the past year the chairman went to the meetings of the leaders from European competition authorities organised by the EC Directorate General for Competition. During these meetings the leaders of the European competition authorities discussed the relevant issues of the competition law and policy as well as defined possible trends of development related to significant economic changes in the market.

In cooperation with ECN the KT was providing information to the newsletters issued by the EC containing the most recent information on the activities of national competition authorities of all the EU Member states in the field of application of Articles 101 and 102 of the TFEU, development of national competition law and its advocacy, as well as judicial examination of competition cases in the national courts of the EU Member states and other relevant information.

OECD

The KT has been participating in the activities of the OECD for 12 years already, starting from 2000, when for the first time Lithuania has been granted with observer rights in the Competition Committee. The aforementioned observer rights in request of the KT were renewed every two years. The meetings of the OECD Competition Committee take place three times a year. At least one representative of the KT attends these meetings wherein the KT presents written submissions on relevant competition policy matters. In 2012 the following submissions were presented:

1) a presentation on Leniency for Subsequent Applicants for the discussion in the meeting of Working Party No 3 on Co-operation and Enforcement,

2) two presentations – ‘Improving International Co-operation in Cartel Investigations’ and ‘Competition and Commodity Price Volatility’ - for the Global Forum on Competition.

ICN

With the aim of cooperating and sharing the good practice of enforcing the competition law and policy, competition authorities from all over the world has been joined by the framework of the International Competition Network (ICN). The KT contributes to the activities of this network by sharing its experience gained in the course of enforcement of the LC and formation of competition culture.

In 2012, the KT participated in a couple of events organised by the ICN, the more important ones being the seminar on the issues of the effective enforcement of the competition law and quality of decision making that took place in Washington, in spring. In the seminar, the Chairman of the KT presented the practice of the LC enforcement and perspectives in Lithuania and had an opportunity to learn about other countries’ practice and achievements in the examination of competition cases. The other event, wherein representatives of the KT took part, was the seminar in autumn organised in cooperation with the ICN and the French competition authority on the issues of advocacy. During the seminar the experts of the competition law from more than 20 countries shared their experience on how to encourage the advocacy in the society and public sector as well as how to ensure the most effective examination of cases in courts.

ECA

The KT also cooperates with other European competition authorities within the network of European Competition Authorities (ECA). One of the forms of this cooperation is the annual meetings of the heads of competition authorities. In 2012, the meeting concerned was organised by the Estonian competition authority in Tallinn. In the course of the event the representatives of the competition authorities discussed the issues of the developments related to competition law and policy well as future perspectives, considered important problems of competition relevant to the whole European food market as well as other relevant subjects.

Seminars and conferences

In autumn, the 9th Regional Annual Conference on Competition took place in Riga. The KT representatives expressed their opinions on many agenda questions, i.e. advocacy, the most current cartel cases examined by the KT, the process of their investigation, the ways of determining the infringement, the opportunities of closer cooperation. Moreover, the Guidelines for Competition Impact Assessment of Draft Decisions⁷ announced in June were introduced in the course of the conference. In February, the representatives of the KT participated in the EC Competition Forum in Brussels, and in September they took part in the International Competition Law Forum.

In December, the Chairman of the KT participated in the conference of the Roundtable Discussion ‘Enforcement of competition law in Central and Eastern Europe’ in Budapest (Hungary). The major organisers of already the 4th Annual conference were Hungarian Competition Law Research Centre and the University of Reading (United Kingdom). During the conference the participants reviewed the most significant competition law cases of the present and discussed the importance of economic evidence in the examination of cases in courts.

⁷ For more information about the guidelines for Competition impact assessment on draft decisions see p. 14, 25

Study visits and training

As the Lithuanian Presidency of the Council of the EU in 2013 is approaching, the KT is involved in the preparatory works the main of which in 2012 were trainings of the KT Presidency Group within the framework of the EU-funded Project 'Improvement of Professional Qualifications of the Lithuanian Civil Servants Representing the Interests of Lithuania in the EU'.

2012 were plentiful of trainings: two employees of the KT had an opportunity to go on a secondment in the Office of Fair Trading (OFT). In 2012, two other specialists won the competition and spent five months on a secondment in the EC Directorate General for Competition. Returned from the secondments, the KT specialists not only put their experience into practice but also shared it with others. An employee from prohibited agreement division went on another valuable three month secondment in the US Federal Trade Commission, Bureau of Competition where the specialist was involved in the investigation of competition cases within various industry sectors and participated in trainings organised by the Federal Trade Commission and the American Bar Association. It is indeed valuable experience and knowledge for the further career in the field of the competition law.

Technical assistance

In 2012, the implementation of the EU Twinning Project 'Strengthening the Enforcement of Competition and State Aid Legislation in Armenia' was continued. This project was implemented by the KT in cooperation with the German Federal Ministry of Economics and Technology.

In November, according to the EC TAIEX technical assistance program, three employees from the Central Bank of Armenia came to the KT with the aim of gaining experience and knowledge concerned with the enforcement of the competition law in the sector of finance. During this visit the KT shared its experience in disclosure of cartels, presented the criteria used to determine the dominance abuse and the principles of merger control with the reference to the practice of Lithuanian courts and the EU authorities as well as tangible examples of cases. During this visit the employees of the Central Bank of Armenia were also introduced to the EC State aid monitoring system in the financial sector.

ADVOCACY

In pursuit to perform its functions, the KT not only supervises the laws within its competence, but also ensures that about its activities would know and understand the largest possible part of the society because the correct conception of the competition law largely determines the economic behaviour of companies in the market and the response to the negative manifestations of competition.

KT activity presentation

The KT attempted to pursue this goal by the means of various measures.

In 2012, the website of the KT was renewed, now visitors can find the required information related to the activity of the KT faster and easier. General requirements set for the websites of the state, municipality authorities and institutions have been taken into consideration when constructing the menu of the website and organising the layout of texts.

The KT constantly publishes press releases on the most recent decisions adopted by the KT, new legal acts that come into force or their amendments, events and other relevant information. In the course of the year the KT announced more than 100 press releases informing the society about its activity. The information announced in the KT's website by the means of press is disseminated to the wider circle of the society and, thus, widens the scope of advocacy and conception of the competition law.

During the reported year two press conferences were organised:

- In May, the SACL upheld the decision adopted by the KT in 2011 to impose fines on the Association of Providers of Orthopaedic and Rehabilitation Services and nine companies engaged in the production and trading of orthopaedic devices for concluding the cartel agreement. This case received a considerable amount of attention from the press and a part of society. Thus, in pursue to eliminate certain doubts and once again to emphasize and to show the tangible benefit resulting from the disclosed cartel agreement, the KT organised a press conference. A large group of journalists and other persons in interest were acquainted with the essence of the disclosed cartel, the harm cartel had caused to consumers, observed positive changes of the orthopaedic devices' prices in the market after the termination of the cartel agreement, moreover, the questions of society's interest were answered.
- In autumn, the KT commemorated a 20 year anniversary of the LC of the independent Lithuania. To this end, the KT organised a press conference and invited representatives of the press as well as those who write about and are interested in the subject of competition. During the conference the history of the LC creation was remembered, its 20 year development, the best examples of its enforcement and the benefit of the decisions adopted by the KT were introduced.

Infringement prevention

In addition to the supervision of laws within the scope of the KT's competence, the authority was actively engaged in the work of prevention by organising seminars targeted at business representatives and participated in the meetings with public administration entities.

Six seminars were organised in the field of cartels, wherein members of associations had been acquainted with the most current practice of competition law implementation by the KT and the SACL. The requirements of the competition law had been presented to the members of associations of Self-medication Industry, Lithuanian Cable Television, Lithuanian

Telecommunication Operators, and Administrations of Business associations as well as to the members of Lithuanian Insurance association and other associations.

During the aforementioned events the decisions of associations that may infringe the norms of the competition law and possible means that may prevent infringements of the LC were analysed. The impact of the decisions adopted by the governing bodies of associations on the responsibility of association members and possible behaviour of the members, if the issue under association's consideration does not comply with the LC, was discussed. The relevant questions were answered, a thorough explanation on the possible responsibility for the infringements of the competition law norms was given and the conditions of exemption from fines after the infringement were discussed. Members of associations, once more, were encouraged to use the KT's program concerned with the exemption from fines.

In the seminar targeted at the Business Support agency it was explained how to ensure effective competition in the public procurement and in the meeting of the Council of pensioners' matters the KT informed about the current issues of the KT's activity.

In 2012, in pursue to strengthen the knowledge concerned with the implementation of the LC the KT's representatives participated in many meetings organised by public administration entities, wherein the KT presented news on the competition law and policy and explained the practice of the LC implementation:

- In 2012, the KT participated in the meetings of representatives of Ministries wherein the authority submitted its comments on the draft law of drinking-water and the draft on the rules concerned with the examination of complaints of Railway companies (carriers). Moreover, the KT participated in the meetings of the health matters committee of the Government of the Republic of Lithuania on the draft law on Tobacco.
- In March 2012, in the meeting of the Board of the Association of Local Authorities in Lithuania, wherein the issues of the LC implementation were also subject to consideration, the KT introduced some aspects of the KT's control concerned with the activity of local authorities, investigations on decisions adopted or actions performed by the local authorities, discussed the most frequent mistakes and analysed the relation between the LC and the Law on Public Procurement. In the aforementioned meeting the KT explained its actions in the cases wherein the local authorities failed to fulfil the obligations imposed on them, advised how to avoid competition restrictive mistakes and answered questions.
- In the meeting with the representatives of the Office of the President of the Republic of Lithuania the KT discussed the relevant problematic aspects of heat economy legal regulation.
- In pursue to ensure the conditions of effective competition the KT cooperated with other state institutions. The representatives of the KT participated in the Public tender commission's meetings organised by the Communications Regulatory Authority and in the working group concerned with the activity of pharmacies formed by the Ministry of Health.
- In the area of the State aid the KT provided written and oral consultations to the State aid providers. The KT together with specialists from other institutions participated in 23 meetings wherein the issues related to the drafts on state support measures by the Ministries of Economy, Agriculture, Transport and Communications, Environment, Culture, Education and Science, Social Security and Labour and Finance as well as agencies for Science, Innovation and Technology and Environmental Projects Management were discussed. Moreover, the KT took part in the meetings of the committee of the European Territorial Co-operation program, wherein the issues related to the State aid when preparing investment and other state support projects in the activity of Renewable sources of energy and Firm funding were considered.

Advocacy

In 2012, a number of seminars and conferences were organised in the course of which the KT's employees made public and disseminated the knowledge of the implementation of the competition law norms and practice and, thus, strengthened the advocacy in the environment of Lithuanian business and state institutions. The KT participated in two events organised by the Lithuanian Business Confederation in cooperation with the newspaper "Verslo žinios" and a law firm SORAINEN.

In the front of the State aid the KT organised a seminar allocated to Lithuanian Business Support Agency on the topic 'Aspect of state aid regulation in Lithuania'. During the seminar the participants were acquainted with the major provisions of the EU State aid, State aid control procedures in Lithuania and the main principles of *de minimis* aid registration in the register of the provided State aid. The KT organised advisory trainings to the agencies of the European Social fund and Environmental Projects Management.

In pursue to strengthen the benefit created by competition and the conception of the harm created by restricted competition, in 2012, the KT announced the Guidelines for Competition Impact Assessment of Draft Decisions⁸.

⁸ For more information about the guidelines see p. 14, 25

ADMINISTRATIVE CAPACITIES



In 2012 the KT was composed of Chairman Š. Keserauskas and 3 members of the KT – S. Cemnolonskis, E. Šatas and J. Šovienė, of whom three are lawyers and one is an economist.

On 31 January 2012, in the administration of the KT 64 positions were confirmed, of which 60 positions were actually filled. On the basis of their professions the employees of the institution are divided between 26 lawyers, 8 economists and 26 specialists of other professions. In 2012, LTL 4,456,000 (EUR ~ 1,290,546) was allocated from the State budget for the activity of the KT.

Number of the KT's members and employees according to age groups				
aged 18 to 30 years	aged 31 to 40 years	aged 41 to 50 years	aged 51 to 62,5 years	over 62,5 years
23	15	3	18	5

ANNEXES

Annex 1

Results of implementation of the Konkurencijos taryba Activity Programme for 2012

Evaluation criterion	Plan for 2012	Actual in 2012	Implementation %
1. Number of established infringements of the LC and other national laws within the competence of the KT	20	18	90
2. Number of legal acts harmonised with other institutions	50	171	342
3. Number of notifications on State aid examined and submitted to the EC and the number of Forms of summary information on State aid (%)	100	100	100
4. Number of instances of employees participation in conferences and seminars, press releases and various publications introduced, undertakings and consumers consulted on the issues of competition law (%).	100	100	100
5. Number of instances of employees participation in the inter-institutional working groups, consultations and meetings, public administration entities acquainted with the issues of the competition law	30	45	150
6. Number of instances of employee participation in the international and other Member State institutions' working groups, conferences and different meetings	15	39	260

In 2012, in total 91 decisions were taken in enforcing the requirements of the LC and the LA: in 18 instances infringements of the relevant laws were established; 1 investigation was terminated after the undertakings who had been suspected of having infringed competition law had offered commitments that were assessed to be appropriate and sufficient in order to eliminate the competition problems in question; 9 investigations were terminated since no infringement was established, and in 22 instances the KT refused to initiate investigations in accordance with the relevant provisions of the LC. In total, 29 investigations were initiated.

Annex 2

Enforcement of the Law on Competition

Enforcement of the Law on Competition		
Concerning prohibited agreements		
Established infringements (2):		
07/06/2012 No. 2S-9	On the compliance with the requirements of Article 5 of the LC and Article 101 of the TFEU of the actions of undertakings engaged in sales of package tours and other related activity: <i>UAB AAA Wrislit</i> <i>UAB Alijus ir KO</i> <i>UAB Aviaeuropa</i> <i>UAB Baltic Clipper</i> <i>UAB Baltic Tours Vilnius</i> <i>UAB Daigera</i> <i>UAB Eturas</i> <i>UAB Ferona</i> <i>UAB Freshtravel</i> <i>UAB Grand Voyage</i> <i>UAB Guliverio kelionės</i> <i>UAB Gustus vitae</i> <i>UAB Kalnų upė</i> <i>UAB Keliautojų klubas</i> <i>UAB Kelionių akademija</i> <i>UAB Kelionių gurmanai</i> <i>UAB Kelionių laikas</i> <i>Tourism UAB Litamicus</i> <i>UAB Megaturas</i> <i>UAB Neoturas</i> <i>UAB Smaragdas travel</i> <i>UAB TopTravel</i> <i>UAB Travelonline Baltics</i> <i>UAB Tropikai</i> <i>UAB Vestekspress</i> <i>UAB Vipauta</i> <i>UAB Vistus</i> <i>UAB Visveta</i> <i>UAB Zizag Travel</i> <i>UAB ZIP Travel</i>	358 800 Lt 2 400 Lt 12 100 Lt 154 600 Lt 112 000 Lt 79 300 Lt 51 100 Lt 33 200 Lt 12 200 Lt 1 900 Lt 639 800 Lt 29 100 Lt 131 300 Lt 202 500 Lt 389 900 Lt 14 400 Lt 107 500 Lt 58 600 Lt 2 090 700 Lt 107 000 Lt 229 400 Lt 138 900 Lt 115 900 Lt 28 400 Lt 164 300 Lt 10 800 Lt 3 700 Lt 131 400 Lt 13 100 Lt 8 700 Lt
20/12/2012 No. 2S-10	On the compliance with the requirements of Article 5 of the LC and Article 101 of the TFEU of the actions of <i>AB SEB bank</i> , <i>Swedbank</i> , <i>AB</i> , <i>AB DNB bank</i> and <i>UAB First Data Lietuva</i> and <i>UAB G4S Lietuva</i> and on the compliance with the requirements of Article 7 of the LC and Article 102 of the TFEU of the actions of <i>UAB G4S Lietuva</i> : <i>AB SEB bank</i> <i>Swedbank, AB</i> <i>AB DNB bank</i> <i>UAB G4S Lietuva</i>	24 808 200 Lt 14 243 600 Lt 8 630 200 Lt 9 437 800 Lt
Terminated investigations (5)		
Concerning abuse of a dominant position		
Refusals to initiate investigations (2)		
Cases closed (2)		

Concerning legal acts passed by public administration entities		
Established infringements (4):		
19/04/2012 No. 2S-5	On the compliance with the requirements of Article 4 of the LC of the decisions of Kazlų Rūda Municipality to extend the agreement with <i>UAB Litesko</i> concerned with the modernization and renovation of the heat economy of Kazlų Rūda city.	
19/04/2012 No. 2S-6	On the compliance with the requirements of Article 4 of the LC of the decisions of Pakruojis District Municipality authorising <i>UAB Pakruojis komunalininkas</i> to provide the services of public waste management.	
26/04/2012 No. 2S-7	On the compliance with the requirements of Article 4 of the LC of the decisions of Joniškis District Municipality granting <i>UAB Joniškio komunalinis ūkis</i> with the right to exploit the system of public waste management.	
16/10/2012 No. 2S-14	On the compliance with the requirements of Article 4 of the LC of the orders of the Minister of Health regulating the provision of personal health care services.	
Concerning the implementation of the resolutions adopted by the KT (2)		
22/05/2012 No. 2S-8	On the fulfillment of the obligations imposed by the KT's resolution of 13/12/2007, No. 2S-27 "On the compliance with the requirements of Article 4 of the LC of the exemptions from local charges for the permission to enter into the State protected territory of Kuršių Nerija National Park approved by Neringa Municipality's decision of 27 December 2004, No. T1-271".	
19/06/2012 No. 2S-10	On the fulfillment of the obligations imposed by the KT's resolution of 20/09/2007, No. 2S-19 „On the compliance with the requirements of Article 4 of the LC of Vilnius City Municipality's actions when purchasing services provided by <i>UAB Rubicon Eventus</i> “	
Suspended investigations (1)		
08/03/2012 No. 1S-34	On the suspension of the investigation concerned with the compliance with the requirements of Article 4 of the LC of Šiauliai District Municipality's decisions authorising <i>Kuršėnai komunalinis ūkis, UAB</i> to provide the services of municipal and green waste collection as well as transportation.	
Refusals to initiate investigations (13)		
Concerning actions of unfair competition		
Refusals to initiate investigations (1)		
Concerning a failure to fulfil the obligations imposed by the KT		
Established infringements (1):		
23/02/2012 No. 2S-3	On the failure of <i>UAB Plungės duona</i> to comply with the requests of the KT to provide the information needed for the on going investigation.	86 400 Lt

Annex 3

Enforcement of the Law on Advertising

Concerning misleading and comparative advertising		
Established infringements (5):		
05/01/2012 No. 2S-1	Concerning the compliance of advertising of the chain of stores <i>Techasas</i> with the requirements of the LA <i>UAB Techasas Trade</i>	10 000 Lt
02/02/2012 No. 2S-2	Concerning the compliance of advertising of <i>UAB Ermitažas</i> with the requirements of the LA <i>UAB Ermitažas</i>	14 000 Lt
03/07/2012 No. 2S-11	Concerning the compliance of advertising of <i>Top Shop</i> with the requirements of the LA <i>UAB Studio moderna</i>	29 500 Lt
04/09/2012 No. 2S-12	Concerning the compliance of advertising of the mobile phone <i>Samsung Galaxy Note</i> with the requirements of the LA <i>Samsung Elektronics Baltics</i>	15 500 Lt
20/12/2012 No. 2S-16	Concerning the compliance of advertising of <i>Dormeo</i> mattresses with the requirements of the LA <i>UAB Studio moderna</i>	48 000 Lt
Refusals to initiate investigations (2)		
Terminated investigations (1)		

Annex 4

Enforcement of the Law on the Prohibition of Unfair Practices of Retailers of the Republic of Lithuania

Established infringements (1):		
06/06/2012 No. 1S-74	Concerning the compliance of UAB PALINK actions with the requirements of the LPUPR <i>UAB PALINK</i>	360 000 Lt

Annex 5

Merger control

Authorisations to implement merger (29):		
05/01/2012 No. 1S-2	Concerning the authorisation for <i>UAB Realvesta</i> and <i>UAB Investavimo paslaugos</i> to implement merger by acquiring up to 100 per cent of <i>AB Umega</i> shares	
26/01/2012 No. 1S-12	Concerning the authorisation for <i>Schindler Deutschland Gmbh</i> to implement merger by acquiring up to 70 per cent of <i>Klaipėdos liftas</i> shares	
09/02/2012 No. 1S-17	Concerning the authorisation for <i>AB Hanner</i> to implement merger by acquiring 50 per cent of <i>UAB SHUSARY investicija</i> shares and <i>UAB ME Holding NT</i> acquiring 50 per cent of <i>UAB Proterma</i> shares	
23/02/2012 No. 1S-26	Concerning the authorisation for <i>UAB ATEA Baltic</i> to implement merger by acquiring 100 per cent of <i>UAB Biznio mašinų kompanija</i> shares	

01/03/2012 No. 1S-29	Concerning the authorisation for <i>Total Produce Holdings B.V.</i> to implement merger by acquiring 50 per cent of <i>Frankort & Koning Beheer Venlo B.V.</i> shares together with <i>Newco Beheer B.V.</i> obtaining the control over the aforementioned enterprise	
08/03/2012 No. 1S-36	Concerning the authorisation for <i>Altor Fund III GP</i> to implement merger by acquiring up to 88 per cent of <i>Haarslev Industries A/S</i> shares and obtaining a total control over the aforementioned company	
02/04/2012 No. 1S-47	Concerning the authorisation for <i>Metinvest B.V.</i> to implement merger by acquiring 100 per cent of the shares owned by the following undertakings: <i>Brandfeld Finance Limited, Vernan Services Limited, Lasartico Holdings Limited, Stransten Holdings Limited, Royware Investments Limited, Sitler Management Limited</i> ir <i>Barlenco Ltd.</i> and obtaining an indirect control over <i>Joint Stock Company „Zaporiz'ky Integrated Iron and Steel Works „Zaporizhstal“</i>	
26/04/2012 No. 1S-54	Concerning the authorisation for <i>FR&R Invest CH S.A.</i> to implement merger by acquiring 40 per cent of <i>SIA Contact Holding</i> shares and obtaining a joint control over the aforementioned company together with <i>BaltCap Private Equity Fund L.P.</i>	
02/05/2012 No. 1S-56	Concerning the authorisation for <i>UAB Stamija</i> to implement merger by acquiring 70 per cent of <i>AB Specializuota komplektavimo valdyba</i> shares and obtaining a total control over the latter	
22/05/2012 No. 1S-66	Concerning the authorisation for <i>UAB Agrinvest</i> to implement merger by acquiring 50 per cent of <i>UAB RAZ SPV9</i> shares and obtaining joint control over the latter together with <i>UAB GEKO investicijos</i>	
29/05/2012 No. 1S-68	Concerning the authorisation for <i>AB Šiaulių bankas</i> to implement merger by acquiring up to 100 per cent of <i>UAB Pavasaris</i> shares	
05/06/2012 No. 1S-73	Concerning the authorisation for <i>UAB Lietuva Statoil</i> to implement merger by acquiring a part of business owned by <i>UAB Rasmitas</i> — petrol station and other real estate in J. Tiškevičiaus g. 24, Vilnius	
18/06/2012 No. 1S-78	Concerning the authorisation for <i>KŪB Litcapital I</i> to implement merger by acquiring 50 per cent of <i>UAB the Book</i> shares	
19/06/2012 No. 1S-81	Concerning the authorisation for <i>UAB Linas Agro Konsultacijos</i> to implement merger by acquiring up to 100 per cent of the <i>Labūnava</i> agricultural holding of <i>Kėdainiai District</i> shares	
26/06/2012 No. 1S-84	Concerning the authorisation for <i>Norica Holding S.a.r.l.</i> to implement merger by acquiring up to 66 per cent of <i>Zakłady Azotowe w Tarnowie — Moscicash S.A.</i> shares and obtaining a total control over the aforementioned company	
05/07/2012 No. 1S-96	Concerning the authorisation for <i>UAB PRO FINANCE</i> to implement merger by acquiring 25,01 per cent of <i>UAB Lignoterma</i> shares and obtaining a joint control over the latter together with <i>AB Amilina</i> and <i>KŪB Litcapital I</i>	
16/07/2012 No. 1S-99	Concerning the authorisation for <i>Jonas Girijotas</i> to implement merger by acquiring 100 per cent of <i>UAB Rimdasta</i> shares	
30/07/2012 No. 1S-101	Concerning the authorisation for <i>UAB NTG Holding</i> to implement merger by acquiring 51 per cent of <i>UAB Nekilnojamojo turto gama</i> shares, <i>UAB NTP Holding</i> acquiring 51 per cent of <i>UAB NT panorama</i> and <i>UAB Stelita Holding</i> acquiring 51 per cent of <i>UAB STELITA</i> shares.	
30/07/2012 No. 1S-107	Concerning the authorisation for <i>AB Kauno grūdai</i> to implement merger by acquiring 51 per cent of <i>UAB „East West Agro“</i> shares	
21/08/2012 No. 1S-108	Concerning the authorisation for <i>Clement Power Venture Inc.</i> to implement merger by acquiring up to 100 per cent of <i>UAB Kauno termofikacijos elektrinė</i> shares	
04/10/2012 No. 1S-137	Concerning the authorisation for <i>AB Linas Agro Group</i> to implement merger by acquiring 100 per cent of <i>UAB Dotnuvos projektai</i> shares	

05/10/2012 No. 1S-138	Concerning the authorisation for <i>Akola ApS</i> to implement merger by acquiring up to 100 per cent of <i>UAB Mestilla</i> shares	
31/10/2012 No. 1S-146	Concerning the authorisation for the Limited partnership „Litcapital I“ to implement merger by acquiring up to 44 per cent of <i>UAB NNL LT</i> shares	
31/10/2012 No. 1S-147	Concerning the authorisation for <i>AB LOTOS Geonafra</i> to implement merger by acquiring up to 100 per cent of <i>UAB Manifoldas</i> shares	
12/11/2012 No. 1S-155	Concerning the authorisation for <i>LIONS GROUP, UAB</i> to implement merger by acquiring 50 per cent of <i>UAB TOPO TECHNIKA</i> shares	
07/12/2012 No. 1S-165	Concerning the authorisation for <i>DLA International Holding A/S</i> to implement merger by acquiring 60 per cent of <i>Hankija — Maatalous Oy</i> shares	
20/12/2012 No. 1S-174	Concerning the authorisation for <i>Lithuania SME Fund KŪB</i> to implement merger by acquiring 45.26 per cent of <i>UAB KETURI KAMBARIAI</i> shares	
20/12/2012 No. 1S-175	Concerning the authorisation for Kęstutis Tubutis to implement merger by directly and indirectly acquiring up to 76 per cent of <i>UAB AD Baltic</i> shares, 100 per cent of <i>UAB KEMI SERVICE</i> shares and up to 76 per cent of <i>SIA AD Baltic</i> shares	
20/12/2012 No. 1S-176	Concerning the authorisation for <i>BASF SE</i> to implement merger by acquiring the business of <i>Ciech S.A. tolueno diizocianato (TDI)</i>	
Refusals of the authorisation to perform individual actions of merger		
08/06/2012 No. 1S-77	Concerning the refusal of the authorisation for <i>KŪB Litcapital I</i> to implement individual actions of merger according to the provided notification about the merger of <i>KŪB Litcapital I</i> acquiring up to 50 per cent of <i>UAB the Book</i> shares	
03/12/2012 No. 1S-163	Concerning the refusal of the authorisation for <i>Lithuania SME Fund KŪB</i> to perform individual actions of merger according to the provided notification about the merger of <i>Lithuania SME Fund KŪB</i> acquiring up to 45.26 per cent of <i>UAB Keturi kambariai</i> shares	
Established infringements (2):		
29/03/2012 No. 2S-4	Concerning the compliance of <i>Corporation of European Pharmaceutical Distributors N.V.</i> actions with the requirements of Article 10 (1) and Article 11 (2) of the LC <i>Corporation of European Pharmaceutical Distributors N.V.</i>	110 000 Lt
29/03/2012 No. 2S-4	Concerning the compliance of <i>AB City Service</i> actions with the requirements of Article 10 (1) and Article 11 (2) of the LC (Official Gazette, 1999, No.30-856; 2003, No.74-3430; 2004, No.63-2244; 2007, No.117-4780; 2009, No.46-1795) <i>AB „City Service“</i>	8 900 Lt
Terminated investigations (2)		
The total in 2012 - 63 235 100 Lt		

Annex 6

Total national State aid in Lithuania in 2011 (preliminary)

Sector	Aid forms	A1	A2	B1	C1	C2	D1	Total (LTLm)	Total (MEUR)
1.1. Agriculture		59,80	237,44					297,24	86,09
1.2. Fisheries		0,97						0,97	0,28
2. Industry/services		400,55	26,34					426,89	123,63
2.1. Horizontal aid		123,69						123,69	35,82
2.1.1. Research, development and innovations		34,09						34,09	9,87
2.1.2. Environmental protection		24,40						24,40	7,07
2.1.3. Small and medium sized-enterprises (including venture capital)		29,33						29,33	8,49
2.1.4. Trade									
2.1.5. Energy efficiency									
2.1.6. Investment									
2.1.7. Culture		4,36						4,36	1,26
2.1.8. Employment programmes		31,44						31,44	9,11
2.1.9. Qualification improvement		0,07						0,07	0,02
2.1.10. Privatisation									
2.1.11. Rescue/ restructuring									
2.2. Sectoral aid		5,50	3,00					8,50	2,46
2.2.1. Steel industry									
2.2.2. Ship building									
2.2.3. Transport		5,50	3,00					8,50	2,46
2.2.4. Coal industry									
2.2.5. Synthetic fibre									
2.2.6. Other sectors									
2.3. Regional aid		271,36	23,34					294,70	85,35
TOTAL:		461,32	263,78					725,10	210,00

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

** aid granted under temporary State aid measures not included

EXPLANATIONS OF SYMBOLIC MARKINGS:

A1 — non-recoverable aid: subsidies, grants

A2 — tax exemptions, tax relief, write-off of default payments and fines, other exemptions

B1 — different types of increase of the state-owned equity in enterprises or increase of its value

C1 — soft loans

C2 — tax deferrals

D1 — State guarantees

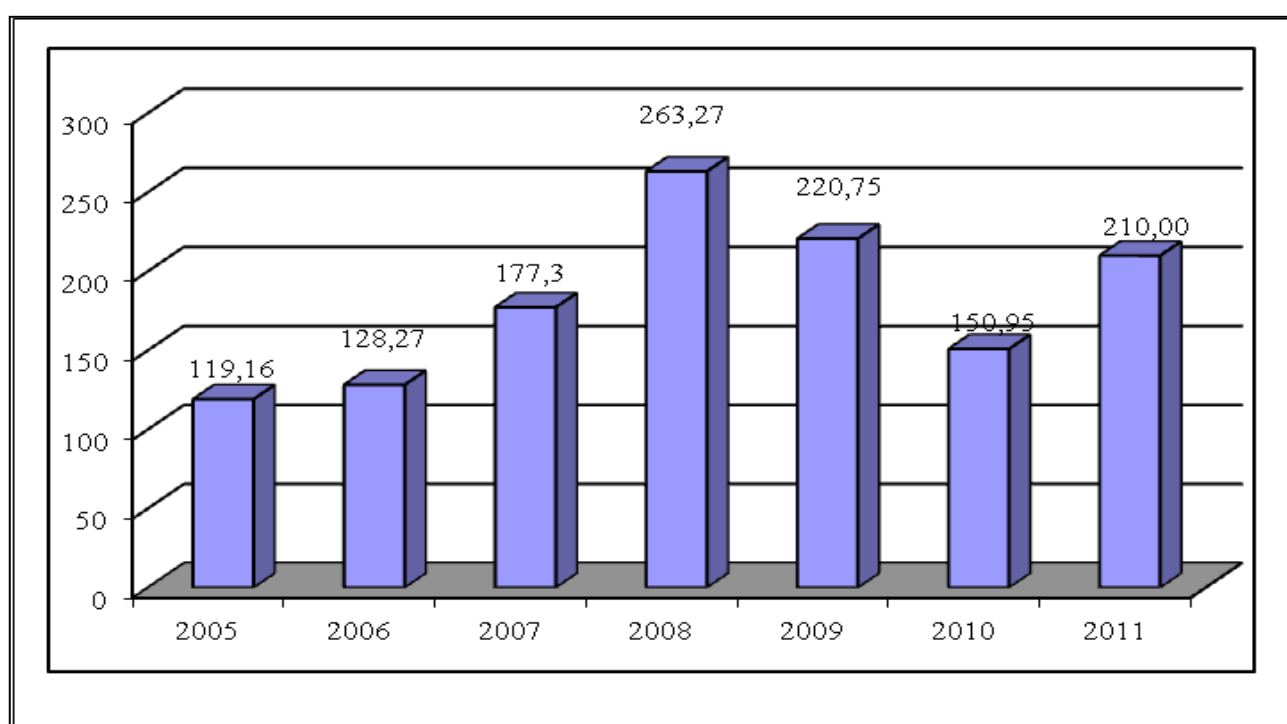
Annex 7

Total national State aid in Lithuania in 2000-2010

Indicators	Year	2005	2006	2007	2008	2009	2010	2011
MEUR		119,16	128,27	177,29	263,27	220,75	150,95	210,00
EUR per employee		80,85	85,57	115,56	163,09	134,53	92,34	129,65
% of GDP (at current prices)		0,58	0,54	0,63	0,82	0,83	0,55	0,68
% of national budget expenditures		2,41	2,37	2,73	2,19	1,91	1,34	1,82
% of national budget deficit		71,77	119,28	61,15	25,32	9,07	7,78	12,40
Average annual population (m)		3,41	3,39	3,37	3,35	3,34	3,29	3,05

Annex 8

Total national State aid in Lithuania in 2005-2011 (MEUR)



Annex 9

Decisions of the European Commission on State Aid Notifications in 2012

Notification registration date by the European Commission	Title	Sector	Purpose	Duration of the aid scheme	Decision of the Commission	Decision date
12/04/2010	N 137/2010 Construction of the infrastructure of Klaipėda passenger and cargo terminal	Sea transport	Sectoral aid	From 30/11/2010	Positive	22/02/2012
29/06/2007	N 372/2007 Aid for the development of bio fuel	Production of refined petroleum products	Environmental protection	Until 31/12/2013	Positive	21/05/2012
04/01/2012	SA.34166 Development (change) of rural area information technology broadband network	Broadband networks	Sectoral aid	Until 31/12/2014	Positive	16/05/2012
12/01/2012	SA.34208 Rescue and restructuring of Lithuanian Central Credit Union	Financial and insurance activity	Remedy for a serious disturbance in the economy	From 23/12/2011	Positive	26/09/2012
27/01/2012	SA.34288 Prolongation of the Lithuanian Bank Support Scheme	Financial and insurance activity	Remedy for a serious disturbance in the economy	Until 30/06/2012	Positive	06/03/2012
08/02/2012	SA.34335 Financing of research and applied activity projects	Research and innovations	Horizontal aid	-	Not aid	19/12/2012
11/07/2012	SA.35129 Prolongation of the Lithuanian Bank Support Scheme	Financial and insurance activity	Remedy for a serious disturbance in the economy	Until 31/12/2012	Positive	27/07/2012
01/08/2012	SA.35227 Tax reliefs for Lithuanian films	Film funding activity	Culture	Until 31/12/2018	Positive	18/12/2012
21/09/2012	SA.35444 Financial support for cinema projects	Film Funding activity	Culture	Until 31/12/2016	Positive	07/11/2012

Annex 10

Judicial representation in 2012: Outcome Analysis

	Cases in the Vilnius Regional Administrative Court (first instance)	Cases in the Supreme Administrative Court of Lithuania (appellate instance)	Completed cases – outcome	Total number of cases
Application of Article 4 of the LC – anticompetitive decisions of public administrative entities	<p>1. Kaunas City Municipality v. Konkurencijos taryba (concerning refusal to initiate an investigation)</p> <p>2. Lithuanian Business Employers Confederation v. Konkurencijos taryba (concerning refusal to initiate investigation)</p> <p>3. Vilnius District Municipality v. Konkurencijos taryba (concerning infringement)</p> <p>4. Ministry of Health of the Republic of Lithuania v. Konkurencijos taryba (concerning infringement)</p> <p>5. Association <i>SCIENTIA LIBERA</i> and Baltic Institute of Advanced technology v. Konkurencijos taryba (concerning refusal)</p>	<p>1. Ministry of Justice v. Konkurencijos taryba (concerning infringement)</p> <p>2. Kazlų Rūda Municipality and <i>UAB Litesko</i> v. Konkurencijos taryba</p> <p>3. Kaunas City Municipality and <i>UAB Kauno švara</i> v. Konkurencijos taryba (concerning infringement)</p> <p>4. Klaipėda City Municipality, Palanga City Municipality and Klaipėda, Šiauliai and Telšiai Regional waste management centres v. Konkurencijos taryba (concerning infringement)</p>	<p>1. <i>UAB Eurovaistinė</i> v. Konkurencijos taryba (concerning refusal) resolution neither repealed nor amended</p> <p>2. Prosecution General v. Konkurencijos taryba (concerning refusal to initiate investigation) — resolution neither repealed nor amended</p> <p>3. Businessmen Association of Klaipėda District (concerning refusal to initiate investigation) — resolution repealed</p> <p>4. Trakai District Municipality and <i>UAB Trakų rajono komunalinių įmonių kombinatas</i> v. Konkurencijos taryba (concerning infringement) — resolution neither repealed nor amended</p> <p>5. Vilnius City Municipality (<i>UAB JCDecaux Lietuva</i>, <i>UAB Clear Channel Lietuva</i>, <i>UAB Baltijos vaizdinė reklama</i>) v. Konkurencijos taryba (concerning infringement) — resolution neither repealed nor amended</p> <p>6. Vilnius City Municipality v. Konkurencijos taryba (concerning infringement) — resolution neither repealed nor amended</p>	15

Application of Article 5 (Art. 101 of the TFEU)–antitrust agreements	<p>1. <i>UAB AAA Wrislit</i> <i>UAB Aviaeruopa</i> <i>UAB Baltic Clipper</i> <i>UAB Baltic Tours Vilnius</i> <i>UAB Daigera</i> <i>UAB Eturas</i> <i>UAB Ferona</i> <i>UAB Freshtravel</i> <i>UAB Grandvoyage</i> <i>UAB Guliverio kelionės</i> <i>UAB Kalnų upė</i> <i>UAB Keliautojų klubas</i> <i>UAB Kelionių akademija</i> <i>UAB Kelionių gurmanai</i> <i>UAB Kelionių laikas</i> <i>UAB Litamicus</i> <i>UAB Megaturas</i> <i>UAB Neoturas</i> <i>UAB Smaragdas Travel</i> <i>UAB Toptravel</i> <i>UAB Travelonline Baltics</i> <i>UAB Vestekspres</i> <i>UAB Visveta</i> <i>UAB Zigzag Travel</i> <i>UAB ZIP travel</i> v. Konkurencijos taryba (concerning infringement)</p> <p>2. <i>UAB Klaipėdos translit</i>, <i>UAB Klaipėdos jūrų krovinių kompanija Bega</i>, <i>UAB Uosto vartai</i>, <i>UAB Amber Bay</i>, <i>UAB Nordis Shipping Service</i>, <i>UAB Fertimara</i>, <i>UAB Afalita</i>, <i>UAB Jungtinė ekspedicija</i>, <i>UAB Jūrtransa</i>, <i>UAB Okeaninių konteinerių servisas</i>, <i>UAB Vakarų laivų agentai</i>, <i>UAB Baltlanta</i>, <i>UAB Fregatų aptarnavimo agentūra</i>, <i>Lietuvos ir Latvijos UAB Astramara</i>, <i>UAB Prekybos namai Skelmė</i>, <i>UAB BPA</i>, <i>UAB Jūrų agentūra forsa</i>, <i>UAB Limarko jūrų agentūra</i>, <i>UAB Nurminen Maritime</i>, <i>UAB MK laivyba</i>, <i>UAB GREEN TERMINAL</i> <i>MH Muller and Co</i>, <i>UAB Arijus</i>, <i>UAB Baltijos pervežimai</i> <i>UAB Baltic Forwarding and Shipping</i>, <i>UAB Volfra</i> — <i>Klaipėda</i>, <i>UAB Baltnautic Shipping Ltd</i>, <i>UAB Litma v.</i> Konkurencijos taryba (concerning infringement)</p>	<i>UAB VPA Logistics v.</i> Konkurencijos taryba (concerning infringement)	<p>1. <i>AB Autoūkis v.</i> Konkurencijos taryba — resolution amended by reducing the fine</p> <p>2. <i>UAB Autodina v.</i> Konkurencijos taryba — resolution amended by reducing the fine</p> <p>3. <i>UAB Moller Auto v.</i> Konkurencijos taryba — resolution amended by reducing the fine</p> <p>4. <i>UAB Eksortus and UAB Specialus montažas-NTP v.</i> Konkurencijos taryba — resolution neither repealed nor amended</p> <p>5. <i>AB Rokiškio sūris and UAB Marijampolės pieno konservai v</i> Konkurencijos taryba (concerning infringement) — resolution repealed</p> <p>6. <i>AB Lietuvos draudimas and UAB DK PZU Lietuva</i> (concerning infringement) — resolution amended by reducing the fine</p> <p>7. <i>BJ UAB Interatlas v.</i> Konkurencijos taryba (concerning infringement)— resolution amended by reducing the fine</p> <p>8. <i>UAB Puse plus Kaunas v</i> Konkurencijos taryba (concerning infringement) — resolution neither repealed nor amended</p> <p>9. <i>BAUB Optinių laikmenų prekybos perspektyvos v.</i> Konkurencijos taryba (concerning infringement) — resolution amended by reducing the fine</p>	12
---	---	---	--	-----------

Application of Art. 4 and 5 of the LC (Art. 101 of the TFEU)			1. Association of orthopaedic and rehabilitation services providers, its members and National Health Insurance Fund under the Ministry of Health v. Konkurencijos taryba (concerning infringement (also applied Art. 101 of the TFEU)) — resolution amended by reducing the fine	1
Application of Art. 7 of the LC (Art. 102 of the TFEU) — abuse of a dominant position	1. <i>UAB Cgates v. Konkurencijos taryba</i> (concerning termination of investigation) 2. <i>UAB Kauno televizijos servisas v. Konkurencijos taryba</i> (concerning refusal to start investigation)	1. <i>TEO LT, AB v. Konkurencijos taryba</i> (concerning termination of investigation) 2. <i>AB ORLEN Lietuva v. Konkurencijos taryba</i> (concerning infringement (also applied Art. 102 of the TFEU))	1. Lithuanian Cable Television Association and Lithuanian Telecommunication Operators' Association v. Konkurencijos taryba (concerning termination of investigation) — complaint repealed 2. <i>UAB Vilniaus energija v. Konkurencijos taryba</i> (concerning infringement) — resolution repealed 3. <i>UAB CSC Telecom v. Konkurencijos taryba</i> (concerning termination of investigation) — case terminated; resolution neither repealed nor amended 4. Lithuanian Cable Television Association v. Konkurencijos taryba (concerning termination) — resolution neither repealed nor amended	8
Merger control		1. <i>Corporation of European Pharmaceutical Distributors N. V. v Konkurencijos taryba</i> (concerning infringement)	1. <i>AB City Service v Konkurencijos taryba</i> (concerning infringement) — resolution partially amended 2. <i>Plass Investment Limited v. Konkurencijos taryba</i> (concerning the authorisation) — resolution neither amended nor repealed	3

Application of Art. 15 of the LC — unfair competition			1. <i>Viasat AS v. Konkurencijos taryba</i> (concerning infringement) — resolution neither amended nor repealed 2. <i>UAB Senojo bokšto klinika v. Konkurencijos taryba</i> (concerning refusal to initiate investigation) — resolution neither amended nor repealed	2
Application of Art. 15 of the LC and Art. 5 of the LA — unfair competition and misleading advertising			1. <i>UAB 4finance v. Konkurencijos taryba</i> (concerning refusal to initiate investigation) — resolution neither repealed nor amended 2. <i>UAB Tobago v. Konkurencijos taryba</i> (concerning the termination of statement examination) — case terminated 3. <i>Lietuvos advokatūra v. Konkurencijos taryba</i> (concerning refusal to initiate investigation) — resolution repealed, the KT obligated to conduct an investigation	3
Application of Art. 5 and Art. 6 of the LA — misleading and prohibited comparative advertising	1. Lithuanian Cable Television Association and Lithuanian Telecommunication Operators' Association v. Konkurencijos taryba (concerning refusal to initiate investigation)		1. <i>UAB Omnitel v. Konkurencijos taryba</i> (concerning infringement). Resolution neither amended nor repealed. 2. <i>UAB Interselas v. Konkurencijos taryba</i> (on infringement). Resolution neither amended nor repealed. 3. <i>IMK LT, UAB v. Konkurencijos taryba</i> (concerning infringement). Resolution amended by reducing the fine to LTL 15000 4. <i>UAB Ermitažas v. Konkurencijos taryba</i> (concerning infringement) Resolution neither amended nor repealed.	5
Procedural infringements			1. <i>UAB Plungės duona v. Konkurencijos taryba</i> — resolution amended by reducing the fine	1

Application of the LPUPR		<i>UAB PALINK v.</i> Konkurencijos taryba (concerning infringement)		1
Total:	10	9	31	51

Cases in which resolutions of the Konkurencijos taryba were upheld: 17

Cases in which resolutions of the Konkurencijos taryba were partly amended: 10

Cases in which resolutions of the Konkurencijos taryba were repealed: 4

Annex 11

Participation of the *Konkurencijos taryba* in other administrative and civil cases in 2012

Administrative cases	Civil cases	Total number of cases
1. <i>Konkurencijos taryba</i> v. Neringa Municipality (failure to fulfil obligations). Application of the <i>Konkurencijos taryba</i> granted	1. Subject to restructuring <i>UAB Urbico</i> v. <i>Nordea Bank Finland Plc.</i> <i>Konkurencijos taryba</i> as the institution submitting conclusions 2. <i>BAB flyLAL — Lithuanian Airlines</i> v. <i>Air Baltic Corporation AS</i> and Air port <i>Ryga</i> (concerning indemnification of damages) (<i>Konkurencijos taryba</i> as the institution submitting conclusions) 3. Lithuanian neighbouring rights association v. <i>UAB Liuks</i> and <i>UAB Naujasis Vilnius</i> (concerning termination of illegitimate actions and paying gathering) (<i>Konkurencijos taryba</i> as the institution submitting conclusions) 4. <i>UAB SDG</i> v. <i>UAB Verslo aljansas, G. L. ir G. L.</i> (concerning indemnification of damages resulting from actions of unfair competition) (<i>Konkurencijos taryba</i> as the institution submitting conclusions) 5. <i>Helena V. v. UAB Inchape Motors.</i> <i>Konkurencijos taryba</i> as the institution submitting conclusions (concerning the conditions of guaranteed technical maintenance of vehicles) 6. <i>AB Gubernija</i> v. <i>UAB Kalnapilio-Tauro grupė, AB Volfas Engelman, AB Kauno alus.</i> <i>Konkurencijos taryba</i> involved as the institution submitting conclusions	7