



COMPETITION COUNCIL  
OF THE REPUBLIC OF LITHUANIA

# **2011 ANNUAL REPORT**

Vilnius  
2012

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## **Abbreviations used in the Annual Report**

CC	Competition Council of the Republic of Lithuania
EC	European Commission
EU	European Union
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

The mission of the Competition Council is to safeguard effective competition for the benefit of consumers. We endeavour this by encouraging State institutions and undertakings to refrain from restricting competition and by imposing sanctions upon infringers. Perceiving our mission in this sense, we acknowledge that neither encouragement nor especially punishment are an end in themselves, and the activities of competition authorities should be assessed in accordance with the impact of those activities on consumers. How does the Competition Council look in this respect?

With a view to finding a response to this question, in 2011, for the first time in the existence of the Competition Council, we decided to assess the impact of activities of our institution. The calculations based on best practices of foreign States and scientific methods showed that direct benefits provided by the Competition Council to consumers during the period from 2008 to 2010 on the average amounted to approximately LTL 155 million per year, and this exceeded the average annual budget of the Competition Council during that period by more than forty times. The calculation of benefits constitutes a form of external accountability, and we are determined to provide these calculations each year. Therefore, already last year we critically evaluated and commenced to improve the internal working procedures of our institution, so that we may concentrate the available resources on investigating cases which are most significant for consumers.

In 2011, the Competition Council was not only performing self-assessment but was also subject to assessment conducted by others. External assessment may be an unpleasant process with displeasing outcomes; however, improvement without a critical and constructive view from the outside would be far more complex. Therefore, the performance audit announced early 2011 and conducted by the National Audit Office of Lithuania was especially useful for us. Having noted that the country lacks strategic viewpoint in forming competition policy, the National Audit Office drew attention to the limited resources and the increasing functions of the Competition Council as the policy implementing institution, and due to these reasons the Council often may only react to the complaints received instead of initiating *ex officio* investigations or engaging in an active preventive activity. Our work was also similarly evaluated by the independent international publication *Global Competition Review*, which noted that the Competition Council places efforts to strengthen the enforcement of competition rules; however, these efforts are constantly being restricted by one of the lowest budgets in comparison with other institutions of the European Union.

The lack of resources is a serious restriction of activity, however not only our institution suffers from it, and not only in Lithuania, and therefore, if we wish to be of the greatest use for consumers, we must exploit better what we have and to focus on the most important competition problems. With a view to achieving this, already in 2011 we have been improving our internal working procedures, so that we may refrain from initiating investigations of minor importance demanding unproportionally high expenses. It should become even less complex to properly distribute resources in 2012 thanks to the right of the Competition Council to establish priorities of activity provided for in the new Law on Competition.

The possibility to choose the directions of activity granted to the Competition Council obligates us to clarify to the general public our priorities and the type of infringements we will be persecuting. Clarity is also a necessity for businesses, especially taking into consideration the personal liability of managers for competition infringements that was introduced in 2011 and the new regulations on calculation of fines which became effective early 2012 and which allow to impose more precise sanctions with a greater deterrent effect. The Competition Council will lay down its priorities of activity in a more comprehensive manner in a separate document; however, the fundamental principle is already clear: we will investigate those cases where the intervention of the Competition Council in the functioning of the market could bring the



greatest benefits for consumers. This principle is well illustrated by the cartel of manufacturers of orthopaedic technical articles disclosed in 2011. In this case the Competition Council not only proved that the manufacturers of orthopaedic technical articles, instead of competing, mutually coordinated the prices of orthopaedic technical articles compensated for, but also established that the National Health Insurance Fund had contributed to the infringement. As a result of these agreements, the State budget funds were being used irrationally, the access of patients to the articles in question was growing worse, and the patients had to pay higher contributions for the articles that were partially compensated for. Following the intervention of our institution, the manufacturers of orthopaedic technical articles were forced to start competing, and this should allow using taxpayers' money more sparingly, and a greater number of consumers should receive compensations for orthopaedic technical articles.

Investigation of cases of major impact constitutes an ambitious objective, and the aforementioned amendments of legal acts will undoubtedly help to achieve this objective. Nevertheless, during the twentieth year of existence of the competition authority, it is not the laws being improved that have a greater importance for ensuring effective competition but rather the people who abide by and enforce these laws.

Here I would firstly like to mention business entities. I sincerely believe that the majority of enterprises honestly wish to abide and do abide by the laws because this improves the reputation of enterprises and is beneficial for the business and the consumers. Our institution will support these enterprises by performing awareness-raising activities. In 2011, the representatives of the Competition Council gave a number of presentations in the events organised by the Lithuanian business associations and other private entities. We will continue these activities in 2012 thereby aiming at creating a business environment wherein the enterprises themselves commit fewer infringements of the Law on Competition and do not tolerate the restrictions of competition by others. I hope that this aim of the Competition Council will be supported not only by businessmen but also by other State institutions the decisions of which determine the conditions of competition in Lithuania.

I will complete this introduction by noting another, a much smaller, group of people – the employees of the Competition Council. They are the ones conducting investigations, raising public awareness, and without their enthusiasm and knowledge it would be impossible to properly enforce even the most perfect laws. Our people are the greatest asset of the institution, therefore, as a manager, I will strengthen our team so that we may work together the best possible for the sake of consumers.

I would like to use this opportunity to thank my predecessor, the former head of the Competition Council Jonas Rasimas and the present member of the Council Jūratė Šovienė who temporarily managed the institution. The rearrangements commenced by them allowed the institution to function more effectively and professionally. We will continue to follow these work principles in the future.

Šarūnas Keserauskas  
Chairman of the Competition Council

## Mission of the Competition Council

The Competition Council is an institution responsible for implementation of competition law and policy, and its mission is to safeguard effective competition for the benefit of consumers.

In implementing this mission, the Competition Council endeavours to ensure that enterprises and state institutions do not restrict competition in the relevant markets and that the markets function usefully both for consumers and the Lithuanian economy. The Competition Council is not a regulator of the market – it acts as a guardian of the market and carries out this function by using various tools. These tools may range from the dissemination of knowledge about the benefits of competition and explanations on how one should follow competition rules to warnings with a view to eliminating the threats to competition or even sanctions for restriction of competition. When choosing one or another tool, the Competition Council evaluates the specific circumstances and uses the most effective tool.

In addition to the enforcement of the Law on Competition, the Competition Council also carries out the supervision of certain provisions of other laws of the Republic of Lithuania, namely the Law on Advertising, the Law on the Prohibition of Unfair Business-to-Consumer Commercial Practices, the Law on the Prohibition of Unfair Practices of Retailers, the Law on Prices, and the Railway Transport Code.

## Key facts and events

### EVALUATION OF ACTIVITY

**January** – the results of the audit “Protecting the Freedom of Competition” by the National Audit Office of Lithuania announced.

*In early 2011, the conclusions of the audit entitled “Protecting the Freedom of Competition” carried out by the National Audit Office of Lithuania were announced. They positively evaluated the achievements of the Competition Council during the past years and indicated the relevant problems the resolution of which would create preconditions for a more effective activity in the course of implementation of competition policy in Lithuania.*

*The audit conclusions contain specific recommendations for the Government of the Republic of Lithuania and the Competition Council concerning the ways to improve competition law and its implementing measures, with a view to improving the competitive environment. Several recommendations should be mentioned: the possibility to refuse to initiate investigations according to the established criteria, to review the procedure of imposing and establishing fines for infringements of the Law on Competition by introducing an additional amount of fine having a deterrent effect, to increase the funding for the institution, etc.*

**June** – the Competition Council, for the second year in a row, included in the list of leading world’s competition authorities compiled by the United Kingdom journal “Global Competition Review”.

**October** – the results of the first ever Impact Assessment of Activity of the Competition Council on Consumers announced.

*In 2011, following the best international practices, the Competition Council for the first time carried out the impact assessment of its activity on consumers and published the results of the impact assessment. The published results demonstrated that the benefits provided to consumers as a result of activity of the Competition Council during the years 2008 to 2011 exceeded the budget of the institution several tens of times.*

*The objective of the Impact Assessment was twofold. First, this document was a means of external accountability enabling the society to assess the activities of the Competition Council and directly see the benefits brought by its work. Second, having regard to the objective of the Competition Council to prioritise its work and concentrate on conducting investigations in the areas where resolution of competition restriction problems would provide the highest benefits to consumers, the methodology provided in this document will be used as an integral part of the Competition Council’s decision making process when an issue of whether to initiate an investigation arises.*

*Although the calculation of benefit was based on extremely cautious assumptions and rules, the results nevertheless showed that the total average benefits provided to consumers as a result of activity of the Competition Council in the course of one year constitute from LTL 154.76 million to LTL 921.22 million, depending on whether the impact assessment takes into consideration solely the direct economic benefits to consumers, or whether it also includes the fines collected to the state budget and the benefits resulting from the deterrent effect of the institution. Having compared these sums with the total budget*

allocated to the Competition Council during the years 2008 to 2010, i.e. LTL 11.2 million (on average LTL 3.7 million per year in question), it is evident that the benefits provided to consumers solely by direct activity of the institution exceed the annual budget of the Competition Council by nearly 42 times.

*PERFORMANCE RESULTS*  
*NUMBER OF UNDERTAKINGS SANCTIONED AND AMOUNTS OF FINES IMPOSED*

<b>Year</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Undertakings sanctioned</b>	22	23	52	43	64
<b>Amount of fines, LTL</b>	618 281	2 869 500	4 393 100	12 221 300	17 055 100

*INFORMATION, CONSULTATION AND PRICE COORDINATION*

<b>Inquiries received in 2011</b>	<b>1196</b>
<b>Letters and replies* sent in response to inquiries received:</b>	<b>946</b>
<b>of which to institutions of the Republic of Lithuania</b>	<b>203</b>
<b>to undertakings and organisations</b>	<b>443</b>
<b>to natural persons</b>	<b>253</b>
<b>to foreign entities</b>	<b>47</b>
<b>Approved draft prices and tariffs</b>	<b>11</b>

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

*COOPERATION IN THE COURSE OF CONDUCTING INVESTIGATIONS*

**March** – the officials of the Competition Council assisted the officials of DG Competition of the European Commission to carry out an inspection in relation to an investigation in the Baltic countries on suspicion that EU competition law could have been infringed in the markets of railway cargo transportation and related products.

**June** – the officials of the Competition Council carried out an inspection in Lithuania at the request of the Latvian competition authority, in view of suspicion that undertakings functioning in both member states could have concluded anti-competitive agreements.

**September** – the officials of the Competition Council assisted the officials of DG Competition of the European Commission to carry out an inspection in relation to an investigation concerning alleged infringements of EU competition law in supplying natural gas to Central and Eastern Europe.

*INTERNATIONAL ACTIVITY*

**February** – the European Union Twinning Programme Project partners – the Competition Council and the German Federal Ministry of Economics and Technology started to implement a project “Strengthening the Enforcement of Competition and State Aid Legislation in Armenia”.

**September** – in cooperation with Vilnius University, the 8<sup>th</sup> Regional Competition Conference was organised in the course of which the representatives of the competition authorities of the Baltic region and the invited guests exchanged their experiences.

**December** – Lithuania’s observer status in the OECD Competition Committee was extended for 2012-2013.

*LEGAL REGULATION*

**April** – amendments to the Law on Competition were adopted whereby the personal liability of managers of undertakings was introduced.

**May** – Explanatory Note concerning cases involving minor infringements of the Law on Advertising was adopted.

**August** – comments on the Draft Description of the Procedure for establishing the amount of fines imposed for infringements of the Law on Competition prepared by the Ministry of Economy were submitted.

**September** – the draft Explanatory Notes concerning cases involving minor infringements of the Law on Competition prepared by the Competition Council was submitted for public consultation and comments actively presented by law firms were received.

**September** – amendments to the Law on Competition drafted at the initiative of the President of the Republic of Lithuania Dalia Grybauskaitė were submitted to the Parliament.

### *JUDICIAL DECISIONS*

**March** – the Supreme Administrative Court of Lithuania upheld the decision of the Competition Council to impose fines upon the Lithuanian Association of Communication Agencies and its members for having concluded a prohibited agreement.

**April** – the Vilnius Regional Administrative Court dismissed the complaint of AB *ORLEN Lietuva* against the resolution of the Competition Council adopted in 2010 whereby the company had been fined LTL 8.2 million for abuse of dominant position.

**June** – the Supreme Administrative Court of Lithuania by its final judgment partially upheld the appeal lodged by the companies engaged in production of and trade in audiovisual works and reduced the fines imposed upon these companies by the Resolution of the Competition Council adopted in 2010.

**July** – the Supreme Administrative Court of Lithuania by its final judgment dismissed the claim of AB *ORLEN Lietuva* to award indemnification of material damages in the amount of LTL 4.7 million and of moral damages in the amount of LTL 1 from the Lithuanian State represented by the Competition Council.

**December** – the Supreme Administrative Court of Lithuania dismissed the appeal lodged by four Lithuanian milk processing companies whereby they were claiming to compensate the damage that they had allegedly incurred due to the unlawful actions of the Competition Council.

### *PROMOTION OF COMPETITION CULTURE*

**June** – total 5 presentations were given at the conference on “Limits of the Freedom of Competition and Supervision of Competition: future perspectives”. This conference was organised by the Lithuanian Business Confederation *ICC Lithuania*, with which the Competition Council has a cooperation agreement in place, and *SORAINEN* law firm.

**October** – total 3 presentations on “Application of Competition Law in the Pharmaceutical Sector” were given at the pharmaceutical conference organised by *UAB Ekspozona* and the Law firm *LAWIN*.

### *NEW FORMS OF ACTIVITY*

**April** – a working group of public advisors was composed of the experts in competition law and economics from the United Kingdom and Greece, who, at the request of the Competition Council, provide advice on issues of general economic and legal nature.

**June** – a meeting of the representatives of the Competition Council and the Public Procurement Office took place, with a view to achieving a better coordination of institutions’ activities and resolving the arising problems within the limits of their competence.

### *ADMINISTRATIVE CHANGES*

**4 April** – Lawyer **Šarūnas Keserauskas** commenced his work as the Chairman of the Competition Council, who was appointed to the Chairman’s position for a term of six years by the Decree of the President of the Republic of Lithuania Dalia Grybauskaitė.

**23 August** – Lawyer **Elonas Šatas** was appointed to the position of a member of the Competition Council for a term of six years by the Decree of the President of the Republic of Lithuania Dalia Grybauskaitė.

## **Enforcement of the Law on Competition**

During 2011, when conducting investigations concerning the compliance with the requirements of the LC and the TFEU and analysing the concentration notifications, efforts were made to focus on investigations of the most significant infringements. This was achieved having terminated the investigations that demanded considerable working time resources but the outcome of which had not been useful. In addition, before initiating investigations considerable attention was devoted to prior analysis of the circumstances of an alleged infringement in order to initiate as few as possible investigations that raised certain doubts concerning their final outcome. In enforcing concentration control, in 2011 there was a considerable increase in the number of issued authorizations to implement concentration or its individual actions in comparison to 2010.



	2011	2010
Established infringements of LC	13	16
Initiated investigations	19	29
Refusals to initiate investigations	27	28
Cases closed	19	5
Authorisations to implement concentration or its individual actions	56	37

## Anti-competitive agreements and their prevention



*“In 2011, final decisions were taken in twelve cases, and this shows high activity in the area of investigating anti-competitive agreements. Several cartels were established involving an especially big number of participants and covering a significant share of the examined market.”*

**Jolanta Ivanauskienė**

Head of Division of Anti-competitive Agreements

In 2011, five decisions were reached (see Annex 2), whereby 54 enterprises were fined in the amount of LTL 16 959 500 for concluding and participating in anti-competitive agreements, and the sixth investigation concerning the failure to provide information specified by the CC officials was also completed (the final decision pending to be taken in 2012). Four new investigations were initiated, on one occasion the CC refused to initiate the investigation and seven investigations were terminated, one of them – after the undertaking had submitted commitments. At the end of 2011, six investigations were still in progress most of them scheduled to be completed in 2012. In relation to the investigations of prohibited agreements in 2011 the CC conducted 15 inspections in the premises of the undertakings.

During the reporting year in the area of anti-competitive agreements the CC managed to achieve similar performance results to the ones of 2010 when the focus of attention and the number of staff in charge of this area increased significantly as compared to previous years. Besides, the duration of investigation became shorter, for instance, from the moment of initiation of investigation until the adoption of the final decision of the CC to impose monetary sanctions a period of 8 to 9 months elapses; and in cases when the completion of the investigation is not subject to undertakings' hearing procedure (investigation is terminated), investigations are often completed in 5 to 6 months. Of course, investigations should be conducted even more efficiently and this shall remain the focus of attention in the future as well.

Several especially significant investigations of anti-competitive agreements should be mentioned.

A resolution on the restriction of competition in the market of orthopaedic technical articles was passed. This resolution not only imposed sanctions on the enterprises having formed the cartel but also established that the behaviour of the National Health Insurance Fund under the Ministry of Health had infringed the requirements of competition law (Art. 4 of the LC), and obliged the latter to remove the obstacles to fair competition.

Considerable focus was placed on the public procurement sector: a total of 5 investigations concerning alleged cartels among participants in public procurement procedures were completed; in two of these cases infringements of competition law were established and fines were imposed; several investigations shall be continued in 2012. An active cooperation of

the CC with the contracting entities and the Public Procurement Office led to an increase of investigations in the public procurement area (for comparison, in 2010, only two decisions were reached). It is expected that further successful cooperation will allow disclosing even more cartel agreements in the future.

In 2011, several complex large-scale investigations were completed, namely the case concerning exchange of information between the undertakings engaged in trade of dairy products (following an additional investigation an infringement was established and monetary sanctions were imposed) and the investigation conducted in the pharmaceutical sector which was terminated after the undertakings had submitted commitments to the CC. At the end of the year, a cartel of undertakings providing ship agency services was disclosed which was fined nearly 12 million Lit.

These and some of the other key investigations of anti-competitive agreements are presented in greater detail below.

In 2012, the investigation of the most dangerous infringements that cause the most damage to consumers shall remain a priority in the area of prohibited agreements. The CC shall aim at improving the instruments necessary for effective performance of such investigations, for instance, by acquiring more advanced software for collection and analysis of evidence.

#### **Cartel agreement in the market for the production and trade in orthopaedic technical articles**

The CC imposed fines in the amount of approximately 3 million LTL on eleven undertakings and their association engaged in production and trade in orthopaedic technical articles for concluding and participating in anti-competitive agreements setting the prices and production quantities of orthopaedic technical articles, as well as for sharing the funds allocated from the Compulsory Health Insurance Fund (CHIF) for compensation of orthopaedic technical articles. In this case the CC concluded an infringement of not only Article 5 of the LC but also of Article 101 of the TFEU.

The investigation was initiated upon receipt of the information from a company functioning on the market of orthopaedic technical articles. It should be noted that in accordance with the provisions of the LC, a cartel member having informed the CC about the infringement may be exempted from fines. However, in the case in question the CC acknowledged that the company which informed the CC about the infringement did not itself infringe any competition law requirements since its actions clearly showed that the undertaking was evidently dissociated from taking part in the cartel and was never a member of the cartel.

It was established that the prohibited agreements which were in effect from 2006 to 2010 had caused distortion and restriction of competition in the market of orthopaedic technical articles compensated for to the insured from the CHIF budget. These agreements inflicted damage upon the state budget as the participants thereof by mutual agreement fixed non-competitive prices and this led to an inefficient use of budget funds. The National Health Insurance Fund (NHIF) operating limited resources could serve much fewer patients. The agreements also incurred direct damage to patients, as the companies supplying orthopaedic technical articles acting in concert did not compete when offering goods, and this caused higher prices and poorer quality of goods.

It was also established that the NHIF under the Ministry of Health also infringed the LC requirements since it, being aware of the anti-competitive agreements concluded by the companies, not only failed to take measures to prevent such behaviour but rather encouraged the undertakings to engage in this kind of behaviour. The NHIF was obligated to terminate such actions, and it was proposed to the Ministry of Health to take all the measures to ensure that the procedure for the compensation of orthopaedic articles guarantee competition in the market concerned.

In response to this decision of the CC, in 2011, a Working Group was formed which also included a representative of the CC. The Working Group prepared the necessary drafts of legal acts to ensure that orthopaedic technical articles are purchased in a competitive manner. These legal acts are scheduled for adoption in 2012.

#### **Investigation in the milk processing market**

Two milk processing companies – UAB *Marijampolės pieno konservai* and AB *Rokiškio sūris* by a resolution of the CC were fined nearly 2 million Lit.

companies and with third parties of confidential information about the quantities of raw milk purchased and the quantities of individual milk products produced and marketed, thereby infringing the requirements of Article 5 of the LC.

The investigation was conducted in enforcing the judgement of the SACL whereby the CC was obligated to conduct an additional investigation concerning the actions of the companies UAB *Marijampolės pieno konservai* and AB *Rokiškio sūris* functioning in the milk processing market with regard to which the CC had already reached a decision in February 2008. Having conducted the investigation, the CC confirmed the conclusions of its first decision and once again concluded that the exchanges of information effected by milk processing companies via the Lithuanian Dairy Association *Pieno centras* from 2001 – 2007 had infringed the competition law requirements. By exchanging confidential information on the quantities of raw milk purchased and the production and marketing of certain individual milk products, the companies limited the independence of their actions replacing it by concerted actions, and this allowed the participating companies observing and at the same time controlling the behaviour of each other. By virtue of such actions the companies eliminated the uncertainty with regard to the actions of competitors, as all the companies taking part in the exchange of information realised that due to the transparency of their concerted actions neither the companies nor their competitors shall undertake any active measures of mutual competition.

When imposing a fine on AB *Rokiškio sūris*, the CC took into consideration the circumstances established during the additional investigation as well as the fact that in the course of this investigation the company changed its position, i.e. refused to acknowledge the infringement thus eliminating the grounds for applying an attenuating circumstance and leaving the previously imposed fine. The fine upon the latter company was increased up to LTL 1 649 600 (in 2008 a fine in the amount of LTL 824 800 was imposed), and the previous fine of LTL 256 500 imposed upon UAB *Marijampolės pieno konservai* was not increased.

#### **Public procurement of industrial equipment**

The CC fined UAB *Eksortus* LTL 52 400 and UAB *Specialus montažas – NTP* LTL 334 200 for having coordinated prices of procurement proposals during public tenders of industrial equipment organised by the State Enterprise *Ignalina Nuclear Power Plant* and UAB *Vilniaus energija*.

The CC established that the employees of UAB *Specialus montažas – NTP* and UAB *Eksortus* responsible for drafting public procurement proposals had cooperated on the matters of drafting tender proposals for procurement of industrial equipment organised by the State Enterprise *Ignalina Nuclear Power Plant* and UAB *Vilniaus energija* by, among other things, coordinating the prices of tender proposals. Consequently, UAB *Eksortus* and UAB *Specialus montažas – NTP* did not compete for submitting better proposals to the organisers of the aforementioned public tender, but rather submitted proposals agreed upon in advance. These actions prevented the organisers of the public tender to benefit from the actual competition at the same time forcing them to procure industrial equipment under the conditions of simulated competition.

#### **Coordination of prices of public tender proposals**

The CC imposed total LTL 32 000 fines upon five undertakings providing the services of administration of support from EU Structural Funds and other project management and related services for having coordinated the prices of public tender proposals.

It was established that UAB *Eldra*, UAB *Investicinių projektų konsultantai*, UAB *Investicijų tiltas*, UAB *Verslo logika* and UAB *Zarkompa* from 2008 to 2009 had cooperated when submitting proposals for public tenders. The facts established in the course of the investigation confirmed that these undertakings had put in place a complex scheme of coordinating actions when drafting tender proposals and participating in public tenders, according to which the other parties to the prohibited agreements would submit supporting proposals at higher service prices with a view to show that the public tender was being carried out in a competitive manner and that supposedly all the invited undertakings proposing different prices were taking part in the public tender. All these actions allowed UAB *Verslo logika* to win public tenders. UAB *Verslo logika* was awarded six of the seven investigated tenders (one public tender was awarded to UAB *Investicinių projektų konsultantai*). When submitting tender proposals to various contracting authorities, the aforementioned companies in advance coordinated these proposals, including their prices.

### **Price cartel in the market for ship agency services**

The CC imposed total of nearly LTL 12 million fines upon the Lithuanian Shipbrokers and Agents Association and 32 ship agency companies for concluding and participating in an anti-competitive agreement infringing the requirements of Article 5 of the LC and Article 101 of the TFEU. The gravity of the infringement and its long duration were the key factors having determined the amount of fines.

Having *ex officio* conducted an investigation the CC established that 32 companies and their association providing ship agency services in Klaipėda Seaport since 1998 to 2011 (for a period of 13 years) had agreed to apply minimal ship agency tariffs and monitored the compliance thereof. Having agreed on the minimal tariffs for services the companies providing ship agency services avoided the necessity to compete on the services' prices and prevented the owners of ships arriving at Klaipėda Seaport from enjoying advantage of the benefits provided by competition.

### **Commitments assumed by undertakings engaged in wholesale trade in pharmaceuticals**

The CC reached a decision to terminate the investigation concerning the actions of undertakings engaged in wholesale trade in pharmaceuticals, medical goods and medical devices after the latter had assumed commitments that formed the grounds for elimination of the actions which could have infringed the LC and avoidance of such actions in the future.

The resolution of the CC concerned UAB *Berlin Chemie Menarini Baltic*, UAB *GlaxoSmithKline Lithuania*, limited liability company *Fresenius Kabi Polska*, UAB *Viasana*, UAB *Nutricia Baltics*, UAB *Tamro*, UAB *Limedika* and UAB *Armila*.

The assumed commitments obligated these companies to ensure that all agreements for distribution of pharmaceuticals or other similar agreements would not contain any clauses under which wholesalers of pharmaceuticals would have an obligation to coordinate with the pharmaceutical manufacturer their terms and conditions proposed for the public tenders organised by budget institutions. The commitments also obligated the companies to ensure that such type of provisions was not being implemented in practice. This will offer greater possibilities for different wholesalers who are often selling the products of the same pharmaceutical manufacturer to compete by prices.

With a view to promoting competition between the companies engaged in wholesale trade in pharmaceuticals, medical goods and medical devices, the CC, on the basis of the information obtained in the course of the investigation, formulated recommendations to the Ministry of Health whereby the CC proposed to review the pricing of reimbursed pharmaceuticals and to create conditions facilitating parallel import of pharmaceuticals from foreign countries. The CC is of the opinion that having implemented the proposed recommendations the Lithuanian patients would be able to enjoy advantage of the benefits provided by competition.

### **Investigation concerning failure to comply with instructions to provide information**

In December 2011, the investigation concerning an alleged procedural infringement, i.e. concerning the failure to comply with the instructions of the CC officials to provide information, was completed.

In accordance with the drafted conclusions of the investigation, UAB *Plungės duona* allegedly infringed the requirements of the LC obligating the undertakings to provide to the CC the information necessary for investigations. In the course of investigating an alleged anti-competitive agreement between the companies engaged in the production and trade of food products this company was repeatedly requested to provide information but it failed to do so within the specified time limits. The responses were received only once the investigation concerning the failure to comply with the instructions of the CC officials to provide information was initiated.

This type of infringement allegedly committed by UAB *Plungės duona* is a dangerous infringement of procedural requirements of the LC since the failure of a single undertaking to provide information complicates or even makes impossible the entire investigation.

The CC is determined to strictly assess such cases of failure to provide information in order to ensure the uniformity of investigations concerning alleged infringements of the requirements of the LC and the TFEU.

The final decision of the CC concerning these actions of the company is scheduled for 2012.

#### **The Lithuanian Cynological Society is to improve Regulations on admission of new members in light of the comments of the CC**

Certain competition problems on the market for sale of pure-breed puppies had already been solved having conducted an investigation and adopted a Resolution of the CC of 1 April 2010, whereby a fine of LTL 32 300 was imposed upon the Lithuanian Cynological Society (LCS) for prohibiting its members to sell puppies with pedigree documents issued by the Lithuanian Cynological Society to natural and/or legal persons with the intention of reselling the puppies. However, in 2011, the activity of the LCS was being examined once again. This time the Regulations on Admission of new Members raised concerns in terms of competition law since they did not contain any transparent and objective criteria for admission of new members. Taking into consideration the importance of this association and the necessity for persons willing to engage in the sale of pure-breed puppies to become a member thereof, unclear regulations on admission of new members could restrict the ability of new competitors to enter this market. Having consulted with the CC and evaluated the comments submitted by the CC, the LCS prepared a draft of criteria for admission of new members to the LCS that should ensure a clear and objective procedure of admission of new members eliminating the barriers to entry for new market participants.

### **Abuse of a dominant position**

#### **Investigation concerning distribution of the TV channel “Viasat Sport Baltic” terminated after the company had provided commitments**

The CC terminated the investigation concerning compliance with the requirements of Article 9 of the LC of the actions of *Viasat World Limited* and *Viasat AS* once *Viasat World Limited* assumed commitments, and the CC acknowledged that there were no legal grounds to continue the investigation as to compliance with the requirements of Article 102 of the TFEU of the actions of these companies.

In 2009, having received the complaints of *TEO LT*, AB and UAB *Kavamedia*, the CC initiated an investigation concerning the actions of *Viasat World Limited* and *Viasat AS* when distributing the TV channel *Viasat Sport Baltic* for providers of television rebroadcasting. In the course of investigation it was established that the TV channel *Viasat Sport Baltic* had been distributed to the digital television operators functioning in Lithuania under different terms, namely, the complaining entities *TEO LT*, AB and UAB *Kavamedia* were offered to acquire the TV channel *Viasat Sport Baltic* for distribution only together with the *Viasat* Golden Package, although other providers of multi-channel subscriber digital television services could acquire this channel for distribution separately from the *Viasat* Golden Package. In the opinion of the CC, the application of such different rebroadcasting terms could result in restriction of competition among digital television service providers, constituting an abuse of the dominant position of *Viasat World Limited* and *Viasat AS*.

Having evaluated the possible competition problems outlined in the investigation conclusions, *Viasat World Limited* provided to the CC information and evidence that it had terminated the suspected actions and offered commitments not to apply different *Viasat Sport Baltic* channel distribution terms. The CC found these commitments suitable and sufficient to eliminate the competition law problems established during the investigation.

According to the CC, the commitments offered by *Viasat World Limited* are useful both to digital television operators and their consumers (audiences), because those operators which were unable to acquire this TV channel and offer it to their audiences due to the different terms of distribution of the *Viasat Sport Baltic* TV channel applied by *Viasat World Limited* and *Viasat AS*, will be able to do this after the commitments assumed by the latter undertakings. This should create a possibility for digital television operators to compete more effectively and allow the audience to have access to a wider range of television programmes.

#### **Investigations concerning alleged abuse of a dominant position in applying predatory prices**

The CC conducted two investigations in view of suspicion that the undertakings were abusing their dominant position in applying “predatory” prices. The prices applied by dominant undertakings, especially when they are lower than the prices of competitors, are often viewed by the latter as being too low (“predatory”) set in order to push the competitors out of the market. However, as the practice of the CC shows, such prices often have an objective substantiation and cover the costs necessary to create the goods or services therefore they may not be deemed as “predatory”.

### **Prices of digital television and high-speed Internet**

Having assessed the circumstances established during the investigation, the CC terminated the investigation concerning an alleged abuse of the dominant position by *TEO LT*, *AB* in applying “predatory” prices.

In response to the complaint of the Lithuanian Cable Television Association (LCTA) received in 2010 the CC initiated an investigation concerning compliance with the requirements of Article 9 of the LC of the actions of *TEO LT*, *AB*. The LCTA indicated that *TEO LT*, *AB*, in the attempt to attract new clients, had placed a special offer whereby it was offering to new clients to use the services of digital television GALA and high-speed internet ZEBRA for the entire year without payment, provided that the clients undertook to use these services for a minimum period of three years and pay standard tariffs for services for two years of the three-year period.

It was established in the course of the investigation that the prices of services valid during the special offer of *TEO LT*, *AB* which were lower than the usual tariffs did cover the costs incurred in relation to provision of these services, and therefore those prices could not be considered to be too low (“predatory”) and such pricing applied by *TEO LT*, *AB* did not infringe the requirements of the LC.

### **Prices of rail transportation of passengers on domestic routes**

The CC by its resolution terminated the investigation concerning an alleged abuse of the dominant position of *AB Lietuvos geležinkeliai* (Lithuanian Railways) by applying low prices of rail transportation of passengers on domestic routes. The investigation was initiated in response to the complaint of *UAB Tolimojo keleivinio transporto kompanija TOKS* indicating that *AB Lietuvos geležinkeliai* was transporting passengers on domestic routes at low prices and as a result of that suffering losses which the company was covering from the profit earned in other fields of activity such as the management of public railway infrastructure, cargo transportation and passenger transportation on international routes. In the opinion of the complainant, *AB Lietuvos geležinkeliai* by such actions was seeking to push out the complainant and other carriers from the market of passenger transportation on several domestic routes.

The data collected in the course of the investigation showed that the average tariffs of transportation of passengers on domestic routes applied during the investigated period had exceeded the average variable costs of rail transportation of passengers by 25-33 per cent, and therefore there were no grounds to consider that the pricing in question had been predatory and infringing Article 9 of the LC.

## **Concentration control**



**Jurgita Brėškytė**  
Head of Division of Dominant  
Undertakings and Mergers

*“The objectives sought by concentration control, i.e. ensuring that effective competition is safeguarded following the mergers of undertakings, may only be achieved if the undertakings participating in concentration properly and in due time fulfil their obligation to notify the Competition Council about the intended concentration. A total of four investigations concerning non-notified concentrations initiated in 2011 evidence the significantly increased activeness of the Competition Council in investigating this type of infringements of the Law on Competition that violate the fundamental principles of concentration control.”*

In 2011, considerable attention was placed on concentration control. A total of 49 authorisations to implement concentration were issued (see Annex 4), whereas in 2010 – total 33 authorisations. Those concentration cases that involve competing undertakings were examined with particular attention since they could have the greatest negative impact on competition. In 2011, the pharmaceutical sector was especially marked by abundance of concentrations involving competing undertakings. It is worth mentioning the concentration implemented by UAB *Gintarinė vaistinė* (Amber Pharmacy) which was authorised by the CC only after UAB *Gintarinė vaistinė* had undertaken to sell or otherwise transfer the pharmacies in five municipalities. The CC thus ensured that the merger of competitors does not lead to a dominant position or significant restriction of competition in the market.

#### DYNAMICS OF CONCENTRATION CASES

Year	2007	2008	2009	2010	2011
New notifications received	78	54	42	40	46
Total authorisations granted:	74	52	47	33	49
Of which to undertakings registered in foreign states	14	13	14	11	12
Authorisations subject to conditions and obligations	2	4	1	0	1
Authorisations to perform individual actions of concentration	5	2	3	4	7
Refusals to issue an authorisation	1	0	0	0	0

#### Investigations concerning concentrations implemented without the authorisation of the CC

In 2011, four investigations were initiated in view of suspicion that the undertakings had implemented concentrations without having notified the CC and without having obtained the authorisations to implement such concentrations.

Concentration control is aimed at monitoring the changes in market structures and preventing such mergers of undertakings or other actions of concentration that would place the undertakings in a dominant position or would strengthen their dominance in respective markets, or otherwise significantly restrict competition. With a view to ensuring an effective implementation of concentration control, all the undertakings participating in concentration or undertakings acquiring control should fulfil the obligation provided for in the LC to notify the CC about the intended concentration and to obtain an authorisation from the CC before implementing such concentration. If the concentration is implemented without authorisation, this violates the fundamental principles of concentration control. Regardless of whether the concentration had or didn't have any significant adverse effects on the market, the CC assesses and shall assess such infringements strictly and shall impose the sanctions provided for in the LC, including fines that may amount to 10 per cent of the total annual income of the undertaking having committed an infringement.

The control of non-notified concentrations shall remain among the priorities of the CC in 2012 as well since it allows drawing attention of the entities planning to implement concentration at the importance of concentration notifications and deterring from possible infringements of the LC when no concentration notification is submitted to the CC.

#### Important concentration cases in the pharmaceutical sector

In 2011, the CC received three concentration notifications related to undertakings operating on the markets of wholesale and retail trade in pharmaceuticals and other goods.

In two instances (when *Central European Pharmaceutical Distribution N.V.* acquired 100 per cent of shares of UAB *Nacionalinė farmacijos grupė* and when UAB *Saulėgrąžų vaistinė* acquired 67 per cent of shares of UAB *Thymus vaistinė*) the CC issued authorisations to implement concentration. However, the authorisation to implement concentration for UAB *Gintarinė vaistinė* by acquiring 100 per cent of shares of UAB *Saulėgrąžų vaistinė* and 100 per



cent of shares of UAB *Thymus vaistinė* was issued only after the companies participating in the concentration submitted commitments eliminating the possible adverse effects of concentration.

By this concentration UAB *Gintarinė vaistinė* aimed at developing the company by acquiring its competitors UAB *Saulėgrąžų vaistinė* and UAB *Thymus vaistinė*. All of these companies owned large pharmacy networks functioning in a number of municipalities of Lithuania, therefore, when assessing the impact of this transaction on competition, considerable focus was placed on those municipalities in which both a pharmacy of UAB *Gintarinė vaistinė* and the pharmacies owned by the acquired companies were functioning. It was established in the course of the investigation that as a result of this company development UAB *Gintarinė vaistinė* would acquire significant shares of the market in five municipalities: Jonava District, Varėna District, Kelmė District, Telšiai District and Biržai District. The concentration in question could cause the following adverse effects in the aforementioned municipalities: the number of competitors of UAB *Gintarinė vaistinė* would decrease and the possibilities for small market participants to enter or develop these markets could be restricted. Besides, the share of the market held in the aforementioned municipalities by UAB *Gintarinė vaistinė* together with its closest competitors UAB *Eurovaistinė* and UAB *Nemuno vaistinė* all of which have an advantage over a number of other market participants because all the above companies are engaged in both wholesale and retail trade in pharmaceutical goods would reach 79 to 94 per cent.

In order to avoid possible adverse effects on competition the CC formulated commitments to be assumed by UAB *Gintarinė vaistinė* – renounce from specific pharmacies in the territories of the municipalities of Jonava, Varėna, Kelmė, Telšiai ir Biržai districts. The renunciation of pharmacies should prevent UAB *Gintarinė vaistinė* from acquiring a significant market share in the aforementioned municipalities as a result of concentration, it should also reduce the possible adverse effect on competition and should allow avoiding the restriction of market entry and development possibilities for small market participants. Once UAB *Gintarinė vaistinė* renounces the pharmacies in the territory of five municipalities and transfers the pharmacies to an appropriate purchaser, the consumers in these municipalities will have better possibilities of choosing different pharmacies and the increased number of competitors should have a positive effect on competition in those municipalities.

### **Anti-competitive actions of public administration entities**



*“The Competition Council seeks to ensure that all state institutions consistently encourage efficient competition when regulating the activity of market participants. With a view to achieving this aim the Competition Council regularly assesses the possible effect of draft legal acts of institutions on competition, examines the anti-competitive decisions already adopted by institutions thus trying to create a more favourable competitive environment.”*

***Justina Paulauskaitė***  
*Head of Division of Activities of  
Public Administration Entities*

In assessing the compliance of actions of public administration entities with the provisions of Article 4 of the LC, in 2011, the CC established total 8 infringements (see Annex 2), initiated 7 new investigations, on 12 occasions refused to initiate the investigations and 5 investigations were terminated.



In 2011, when conducting investigations, the CC faced legal regulation problems mostly associated with the restriction of competition in the waste management sector. For instance, the Law on Waste Management currently in force allows the municipalities to authorise a company controlled by the municipality to provide waste collection and transportation services but it fails to indicate specific circumstances under which the municipalities may enforce this right. When assessing whether this does not constitute an infringement of Article 4 of the LC it is not absolutely clear whether the municipalities may rely upon such provisions of the Law on Waste Management and therefore the provisions of the LC would not be applicable, or whether they should after all assess the respective situations in terms of interrelation of both laws. At the end of 2011, the SACL brought before the Constitutional Court of Lithuania an application to examine the compliance of the provision of the Law on Waste Management entitling the municipality to authorise a company established by the municipality to provide waste management services with Part 1 of Article 29 and Parts 1, 3 and 4 of Article 46 of the Constitution of the Republic of Lithuania.

### **Providing mandatory services in Vilnius**

The CC found that the relevant provisions of the Decision of Vilnius City Municipality authorising UAB *Avariija* to provide mandatory services and the contract concluded between the Municipality and UAB *Avariija* on the basis of the Decision constituted an infringement of the requirements of Article 4 of the LC. The Vilnius City Municipality was obligated to repeal the relevant provisions of the Decision, to terminate the aforementioned contract or to amend it as to ensure its compliance with the LC. Hence, both UAB *Avariija* and other companies providing the services of central dispatcher office and emergency service and the services of elimination of breakdowns in internal engineering systems of buildings in the territory of Vilnius city will have to operate in the respective markets under equal terms enjoying advantage of the benefits provided by competition.

### **Passenger transportation on a domestic route in Nemenčinė direction**

The CC concluded that the Decision of the Vilnius District Municipality Council and the contract concluded on the basis thereof, whereby the company controlled by the Municipality *Vilniaus rajono autobusų parkas* was authorised to provide passenger transportation services on a domestic route in Nemenčinė direction without any competitive procedure, had infringed Article 4 of the LC. It should be noted that the Municipality was obligated to repeal or to amend the Decision and the contract concluded on the basis thereof as to ensure their compliance with the requirements of the LC. Domestic transportation services in Nemenčinė direction should be provided to passengers not by a specific company selected by the Municipality but rather only by a company having submitted the best tender proposal and been awarded the public tender.

### **Calculation of base prices of pharmaceuticals**

The CC investigated whether the Outline of Procedure for Calculation of Base Prices of the Budget of the Mandatory Health Insurance Fund approved by the Government of the Republic of Lithuania is in compliance with the requirements of Article 4 of the LC. Although no infringement was established by the CC, it was proposed to the Government, when amending the relevant legal acts, to evaluate whether and how pharmaceutical manufacturers could be encouraged to compete. When submitting its proposals the CC emphasised that a clear, consistent and substantiated regulation would allow expecting that pharmaceutical manufacturers incur lower activity costs and this could affect the final price of pharmaceuticals offered to consumers.

## **Enforcement of the Law on Advertising**

### *RESOLUTIONS PASSED IN ENFORCING THE REQUIREMENTS OF THE LA*

	<b>2011</b>	<b>2010</b>
Established infringements of the LA	11	18
Initiated investigations	8	19
Refusals to initiate investigations	6	6
Cases closed	1	1



*“Unfair actions may be detrimental both to consumers and undertakings. Mislead consumers may end up spending more money and wasting additional time, and fairly functioning undertakings may become weaker. Whereas in 2011 we received a number of complaints concerning unfair actions, we had been improving the procedures of examination of these complaints with a view to using our limited resources for investigations of activities that greatly infringe the interests of consumers.”*

**Justas Margenis**

*Head of Division of Unfair Commercial Practices*

### **Unfair commercial practice**

The CC not only safeguards efficient competition from being restricted by actions of undertakings or public administration entities but it also monitors that the undertakings refrain from engaging in unfair commercial practices. The CC investigates the cases of misleading and prohibited comparative advertising, unfair competition cases and unfair actions of retail trade companies having significant market power.

In 2011, the CC was addressed on 354 occasions (in 2010 – 336) concerning alleged unfair actions of companies. The complainants were most often complaining regarding misleading advertising and the alleged infringements of Article 16 of the LC prohibiting unfair competition. It could be concluded that there is an intensive competition between companies and the consumers more and more actively protect their rights. In exercising the assigned functions, the CC gave consultations to companies on relevant matters (in most cases the CC was requested to provide information on misleading advertising and prohibited comparative advertising, especially concerning the use of trademarks). The CC also imposed preventive measures in cases of alleged infringements, i.e. it issued warnings to companies that their actions in certain cases were allegedly infringing the provisions of Articles 5 and 6 of the LA and Article 16 of the LC and recommended to cease such actions. In eleven instances infringements were established and sanctions were imposed (see Annex 3): in one instance a warning was issued and in ten instances fines were imposed, in two instances of which the providers of advertising were also obligated to end the use of misleading advertising, and in one instance to denounce the advertising statements.

Certain problems have been identified. Firstly, bearing in mind the very limited available resources, the CC receives a great number of complaints concerning the alleged infringements of the LA and therefore it is necessary to establish a more effective complaint examination procedure. With a view to solving this problem the CC adopted Explanatory Notes concerning cases involving minor infringements of the LA that enable to more promptly examine complaints concerning minor facts and also allows the consumers and the companies to have a better understanding of the alleged infringements which the CC considers to be essential and which are viewed by the CC as minor. The amendments to the LA proposed by the CC and outlined in the Section on “Legislative Activities” below should also ensure better possibilities for protection of consumer rights.

The examples of the conducted investigations concerning misleading and prohibited comparative advertising are presented below.

#### **Misleading advertising of the shopping mall *BIG Vilnius***

The CC imposed a fine of LTL 18 600 upon UAB *Entum* for the use of misleading advertising of the shopping mall *BIG Vilnius*.

In the course of the investigation the CC established that it was advertised on television, on the radio and on the Internet that during the promotional offers the prices of all goods were

being reduced from 21 to 70 per cent, however not all the shops in the shopping mall took part in the promotional campaign, and not all goods received discounts.

The provider of advertising UAB *Entum* claimed that it had taken measures to inform the consumers about the promotional offer and to avoid the possible misleading by making a reference to the website during the advertising disseminated on the radio and television, and on the website the consumers could find all the information about the promotional offer. UAB *Entum* also specified that a consumer who had not checked the terms of the promotional offer on the designated website was able to do that directly having arrived at the shopping mall. According to the provider of advertising, the salesmen could indicate whether a certain good was subject to discounts of the promotional offer, and posters were displayed in the shopping mall *BIG Vilnius* announcing that a specific shop was taking part in the promotional offer and listing the goods that were subject to discounts. Additional information was also available from the information centre of the shopping mall *BIG Vilnius*.

Having conducted the investigation the CC found the advertising disseminated on the television and the radio to be misleading because not all the goods were subject to discounts. The provider of advertising itself specified that only 60 per cent of the companies that took part in the promotional offer had applied discounts on all goods or services.

Besides, the CC noted that the advertising disseminated on the television and the radio had not been comprehensive. The advertising could lead the consumers to expect to acquire all the goods and services with advertised discounts in all the places of trade and provision of services located in the shopping mall, although in reality the consumers could only benefit from the promotional offer in those places of trade and provision of services that took part in the promotional offer.

The CC also concluded that the fact that the provider of advertising had placed comprehensive advertising on the Internet and the posters displayed in the shopping mall did not refute the fact that the misleading advertising disseminated on television and the radio could have affected the economic behaviour of consumers.

#### **Comparative advertisements by UAB *IMK LT***

The CC imposed a fine of LTL 20 000 upon UAB *IMK LT* for the use of prohibited comparative advertising that was erroneously and unobjectively comparing the prices of goods and services provided by UAB *IMK LT* and its competitors. Advertisements were disseminated both on the Internet and by electronic mail.

The CC established that the prices of goods sold by UAB *IMK LT* that were valid at the moment of the use of advertising were being compared with the no longer relevant and outdated prices of goods of competitive companies. Therefore the CC concluded that these advertisements failed to satisfy the criterion of objective comparison required in the case of comparative advertising. Besides, the CC also established that one comparative advertisement gave wrong prices of goods sold by the competitors of UAB *IMK LT* and also specified wrongly the percentage of the difference between the prices of UAB *IMK LT* and its competitors. Therefore the CC found this advertisement to constitute a prohibited comparative advertisement also because it was misleading consumers.

When comparing the services provided by UAB *IMK LT* with the services provided to consumers by competitive companies it was indicated in the advertisement that UAB *IMK LT* delivered the goods to consumers without payment. However, in the course of the investigation the CC established that the service of free delivery of goods was not being provided to consumers in all cases. In cases when the purchase amount did not exceed LTL 200 the consumer had to pay an additional delivery fee of LTL 10. The CC concluded that this advertisement constituted a prohibited comparative advertisement since it failed to satisfy the necessary requirement of comparative advertising not to mislead.

## **Other fields of activity**

#### **Monitoring of activity of retailers having significant market power**

The implementation of the LPUPR seeks to protect the suppliers (selling food and beverages) from retailers having significant market power (i.e. major retail networks) and to ensure the balance of interests between these suppliers and major retail networks. The LPUPR provides for a list of ten actions which are deemed to be unfair and are prohibited to be applied by major retail networks in respect of suppliers. The CC exercises control over the compliance

with the provisions of the aforementioned Law, carries out monitoring of this Law and as of 2011 each year submits to the Government of the Republic of Lithuania an annual report on the monitoring of the LPUPR.

In implementing the assigned functions throughout the year 2011 the CC had been seeking to improve the provisions of the LPUPR, to gather information on the impact of this Law and to disclose possible infringements.

The CC submitted proposals concerning the improvement of the LPUPR in the Monitoring Report of 1 March 2011. The submitted proposals aimed at specifying and supplementing the list of the prohibited unfair actions provided for in the LPUPR. It was proposed to include a prohibition for major retail networks to associate the prices of the goods supplied by the supplier with the prices applied by the supplier in respect of the third parties. The intention of this proposal was to allow avoiding a situation when a supplier would be forced to establish the same selling prices with all retail networks. It was also proposed to supplement the list of prohibited actions with a prohibition to apply fixed commercial discounts that were not linked to the sale of goods, logistics (distribution and delivery of goods) or promotion of sales. The aforementioned amendments should ensure that the prohibitions provided for in the LPUPR could not be avoided by performing actions that formally did not infringe the LPUPR but nevertheless constituted unfair actions. In view of the proposals concerning the improvement of the LPUPR formulated by the CC, in autumn of 2011, the member of the Parliament of the Republic of Lithuania B. Vèsaitė submitted a Draft Law amending Article 3 of the LPUPR.

It should be noted that in 2011, the CC didn't receive any substantiated complaints concerning an alleged infringement of the provisions of the LPUPR. With a view to obtaining information on the existing situation in relations between the suppliers and the major retail networks, the CC, in cooperation with the Lithuanian Confederation of Industrialists that unites over 2700 companies, distributed an anonymous questionnaire to the members of this Confederation. In addition to this anonymous questionnaire, the CC also performed a direct survey of suppliers and major retail networks in the course of which questions to 273 suppliers and 4 major retail networks were presented. These surveys were a tool for gathering information on the changes in the situation of suppliers (whether following the entry into force of the LPUPR their situation had improved, worsened or remained unchanged), the possible infringements and the like.

However, the results of the surveys conducted by the CC showed that the suppliers were reluctant to provide information on the changes in their situation. Only 6 undertakings replied to the anonymous questionnaire, and only 46 out of 273 suppliers gave responses to the direct survey of suppliers concerning the changes in their situation. Since only a slight number of suppliers had given responses to the questions concerning the changes in their situation following the entry into force of the LPUPR, it was impossible to draw any substantiated conclusions concerning the impact of the LPUPR.

The CC had also been analysing contracts concluded between the suppliers and major retail networks. On the basis of the gathered information, in February 2012, the CC initiated an investigation concerning the actions of one of the major retail networks that had allegedly infringed the provisions of the LPUPR.

When formulating its conclusions in the Monitoring Report of 2012 the CC noted that although during the monitoring period, i.e. in 2011, no actions prohibited under the LPUPR were established in contractual relations between the suppliers and major retail networks, it nevertheless may not be concluded that the undertakings completely renounced from such actions.

The CC also emphasised that the conclusions of the CC were based on very limited data that does not necessarily reflect the actual situation between the suppliers and major retail networks.

Finally, the CC indicated in the Monitoring Report that, taking into consideration the peculiarities of contractual relations and the passiveness of suppliers in providing information on the impact of the LPUPR, the possibilities of the CC to carry out monitoring of the LPUPR were especially limited. Besides, the monitoring causes administrative burden both for undertakings and the CC. Therefore, the CC believes that the necessity of the yearly monitoring report submitted by the CC should be discussed.

### **Coordination of prices and rates**

In 2011, the CC, within the scope of its competence, had been controlling the compliance with the Law on Prices of the Republic of Lithuania and the relevant secondary legal acts – Resolutions of the Government of the Republic of Lithuania (3 February 1994, No. 77; 28 May 2002, No. 756) in the area of pricing, placing a special focus on the establishment of prices and rates of monopoly goods and services provided by State enterprises established by Ministries and the Government of the Republic of Lithuania and public institutions assigned to them. In 2011, the CC received applications concerning coordination of monopoly prices and rates from the Ministries of Environment, Energy, Justice and Internal Affairs, as well as from the Lithuanian Department of Statistics and the National Control Commission for Prices and Energy. The CC approved total of 11 draft prices and rates.

### **Supervision functions in the railway transport sector**

As of October 2011, the CC was exercising the supervision functions that were newly assigned to the CC under the amendments to the Railway Transport Code, i.e. monitoring competition in the railway transport sector and regulating the relations between the manager of public railway infrastructure and the railway companies (carriers).

## **Case law**

### *JUDICIAL EXAMINATION OF THE CC RESOLUTIONS*

<b>Year</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Total number of cases</b>	<b>33</b>	<b>40</b>	<b>51</b>	<b>65</b>	<b>57</b>
<b>Judicial decisions:</b>	<b>9</b>	<b>21</b>	<b>19</b>	<b>24</b>	<b>26</b>
CC resolutions upheld	6	16	15	20	19
partly amended	1	3	1	1	4
overruled	2	2	3	2	3
Pending cases	24	19	32	41	31

Please also see Annex 9.

### **Application of the competition rules of the Treaty on the Functioning of the European Union and the Law on Competition**

#### **Concerning the decisions of associations to fix the price of goods or services**

On 28 March 2011 and 27 May 2011, the SACL passed its Judgements in the administrative cases respectively concerning the CC Resolution No. 2S-13 of 4 June 2009 and Resolution No. 2S-14 of 11 June 2009 whereby the enterprises providing the services of advertising and media planning and their association KOMAA as well as the enterprises providing event organisation services and their association ROA had been found to have infringed the requirements of Article 5 of the LC by taking the decisions within the associations to apply a fixed fee for the participation of these companies in tenders that had to be paid by the organisers of the respective tender. Taking into consideration the case law of the EU Court of Justice concerning the application of the EU competition rules, by virtue of these Judgements the SACL acknowledged that in cases when an agreement between competitors concerning the prices of goods (services) or any other conditions stipulated in points 1, 2, 3 and 4 of Part 1 of Article 5 of the LC is being examined, it is sufficient to establish the fact of conclusion of an agreement between competitors and an object of the agreement, i.e. a direct or indirect setting (fixation) of the price (final price or a part thereof) of a good (service), in order to conclude an infringement of the provisions of the aforementioned Article by concluding an anti-competitive agreement). The adverse effects on competition need not be established and assessed. In the Judgements the SACL also voiced its position concerning the liability of enterprises for anti-competitive agreements concluded by the associations of which the enterprises are members by indicating that an enterprise is liable for the decisions taken within the association because it must evaluate the objectives and activity of the association before becoming a member thereof. Therefore, the enterprise's membership in the association (joining the association) *per se* constitutes consent with the regulations, management and the respective decisions of the association. Hence, even if a member of an association has not expressed its consent with regard

to the anti-competitive agreement of the association but also has not unambiguously objected thereto, it is deemed that such a member takes part in such an agreement thereby infringing the requirements of Article 5 of the LC.

#### **Concerning the establishment of resale prices**

On 23 June 2011, the SACL passed the Judgment concerning the CC Resolution No. 2S-2 of 28 January 2010 which concerned the examination of the agreement of companies engaged in the production and trade in audiovisual works to establish (fix) the resale prices of the films recorded in digital versatile discs and videotapes. This Judgment of the SACL is the first judgment whereby the issue of vertical agreements between the supplier and the distributors to fix the resale prices of goods was being examined. Having analysed these agreements, the SACL, taking into consideration the case law of the EU Court of Justice concerning the application of the EU competition rules, concluded that the establishment of resale prices of goods not only hinders the market participants (the distributors of supplier's goods) to freely determine an independent price policy and compete with each other but also objectively restricts the possibility of final consumers or other third parties to acquire the goods at most favourable prices. Besides, according to the SACL, this creates preconditions for extremely dangerous price-fixing agreements between competitors on a horizontal level of retail trade. The SACL also noted that if an agreement provides for "recommended" prices in terms of competition law such an agreement on prices may be deemed as an agreement on fixed or minimal prices provided that all the circumstances nevertheless evidence the supplier's influence and effect on the purchaser and the purchaser in certain ways agrees to apply these "recommended" prices. Besides, taking into consideration the relevant facts, even if the parties do not conclude a formal agreement (sign the contract), the contact and communication by the company may turn into practical cooperation resulting in the application (supporting) of the fixed prices. Whereas in order to prove that there was no agreement in terms of competition law it is important to establish that the distributor's price policy has been drawn up independently and had not been affected by the cooperation with the supplier.

#### **Concerning the assessment of the right of municipalities to conclude in-house transactions**

On 31 March 2011, 5 May 2011 and 15 December 2011, the SACL passed the Judgements having examined the cases on the basis of the complaints of Trakai District Municipality and Vilnius City Municipality concerning the lawfulness of the CC Resolution No. 2S-7 of 19 March 2009, Resolution No. 2S-8 of 1 April 2010 and Resolution No. 2S-15 of 10 May 2010. By these Resolutions the CC had concluded that the decision of Trakai District Municipality whereby it, without any tender or other competitive procedure, authorised the company UAB *Trakų paslaugos* established by the Municipality to carry out the public territory management works, as well as the analogue decisions of the Vilnius City Municipality to authorise UAB *Grinda* established by the Municipality to provide the services of street maintenance, snow cleaning and other mandatory services and to authorise UAB *Vilniaus vystymo kompanija* established by the Municipality to provide building design management and construction management services had infringed the requirements of Article 4 of the LC. In all the cases concerned the municipalities based the lawfulness of their decisions on the fact that the municipalities were entitled to independently decide on the organisation of provision of services and the transactions concluded between the Municipality and its companies were in conformity with the requirements applicable to in-house transactions formulated in the case law of the EU Court of Justice and provided for in Part 5 of Article 10 of the Law on Public Procurement on the basis of *Teckal* criteria according to which it is not mandatory to organise public tenders for the procurement of goods (services).

In the aforementioned Judgements the SACL, by systematically interpreting the relation of the provisions of the Law on Local Self-Government, the Law on Public Procurement and the provisions on in-house transactions with Article 4 of the LC, arrived at an important conclusion that when municipalities were choosing the way of organising the provision of certain services they had, even if other legal acts, e.g. the Law on Local Self-Government, allowed the municipalities to organise the provision of services by authorising the enterprises established by municipalities to provide these services, in any case to take into consideration the requirements of Article 4 of the LC that prohibit to discriminate against or privilege individual enterprises or groups of enterprises by creating different competitive conditions. On the other hand, in

interpreting the right of municipalities to exercise the exception applicable to in-house transactions provided for in the Law on Public Procurement, the SACL emphasised that this exception should be applied strictly in accordance with the criteria formulated in the present Law and the case law of the EU Court of Justice. It is precisely the municipalities which have an obligation to prove that the transaction concluded by them is in conformity with the criteria concerning the control of subject (that it controls the subject concerned as its own service or structural division and is the only participant therein) and the activity of subject (the controlled subject receives at least 90 per cent of sales income from the activity designated to satisfy the needs or to perform the functions of the contracting authority). Unless it is established that the transaction satisfies the requirements for in-house transactions, such a transaction of the municipality may be found to be infringing the requirements of Article 4 of the LC.

#### **Concerning the performance of assumed commitments**

On 25 July 2011, the SACL passed the Judgement whereby it rejected the application of the CC to obligate the Vilnius City Municipality Administration to implement the CC Resolution No. 2S-19 of 20 September 2007 whereby the CC concluded that the Municipality Administration by renting premises for events from UAB *Universali arena* without any tender or other competitive procedure had infringed the requirements of Article 4 of the LC and was obligated to terminate this infringement. This was the first occasion when the CC, pursuant to point 4 of Part 1 of Article 19 of the LC, addressed the Court concerning the performance of the resolution of the CC. The SACL concluded that in the case of non-performance or improper performance of a Resolution of the CC which provides for commitments with a view to eliminating the infringement of Article 4 the same procedure should apply as the one applied in the case of investigation of an alleged infringement of the LC. The CC may bring before the Court an application requesting the Court to obligate the undertaking concerned to implement the Resolution of the CC only after it has conducted an investigation of all the relevant facts and circumstances concerning the non-performance of commitments. Besides, the SACL noted that when addressing the Court the CC should formulate the claim in such a manner that the satisfaction thereof would effectively and efficiently terminate the infringement of competition without creating unsubstantiated preconditions for further disputes or litigation concerning the (non)performance of the resolution of the CC, and therefore the claim of the CC should be sufficiently precise and clear.

#### **Concerning the discretion of the CC in the course of investigations**

By the Judgement of 14 July 2011 the SACL repeatedly examined the claim of AB *Orlen Lietuva* to compensate for the damage incurred due to the actions of the CC after the CC Resolution No. 2S-16 of 22 December 2005 passed in respect to this company was overruled by the Judgement of the SACL of 8 December 2008 after having acknowledged that the conclusions of the CC concerning the established infringement of the rules of the LC and the TFEU committed by AB *Orlen Lietuva* as a result of abusing its dominant position had been unsubstantiated, and the case was referred back to the CC for an additional investigation.

The SACL rejected the application of AB *Orlen Lietuva* on the grounds that the CC had not performed any unlawful actions regardless of the fact that the Resolution of the CC was overruled. The SACL emphasised that the CC exercised its discretion when conducting investigations, assessing combined matters of fact and law and carrying out the analysis thereof, e.g. by deciding on the evidence to be collected, distinguishing the significant evidence, deciding on the methods of analysis to be applied and the like. No one has the right to determine in advance how the CC should assess one or another piece of evidence. The unlawfulness of the actions of the CC may be proved having established a sufficiently manifest and serious violation of the limits of discretion that could entail the non-conformity of the actions (inaction) of the CC with the legal rules and legal principles, and also other circumstances depending on the complexity of the situation under investigation. Meanwhile, the fact that the conclusions of assessment presented in a Resolution of the CC fail to convince the court and the Resolution is overruled does not at all prove that the CC has acted unlawfully and may have caused damage to the company by such actions. The SACL noted that a different assessment of the lawfulness of actions of the CC would be incompatible with the purpose and functions of the CC and the protection of the public interest, because the risk that the institution would have to compensate for the damages specified by the company undergoing investigation in cases when a resolution of the CC is overruled due to the conducted assessment of evidence could have a deterrent effect on the performance of control over infringements of the LC.



## Enforcement of the Law on Advertising

On 3 January 2011, the SACL passed the Judgement in the administrative case concerning the CC Resolution No. 2S-19 of 10 September 2009. By virtue of this Resolution the advertising of UAB *Saulėgrąžų vaistinė* that had, *inter alia*, announced that a discount of up to 100 per cent was being applied to the patients' co-payments for reimbursed medicines was found to be misleading. In upholding the Resolution of the CC the SACL noted that if the advertisement specified that a certain group of goods was subject to discounts and no information on the exceptions to such a statement was given in the advertisement, an average consumer could assume that all the goods belonging to a certain group of goods were subject to discounts. Besides, the SACL dismissed the applicant's argument that a discount from 0 to 100 per cent could have been applied by noting that a 0 per cent discount meant that no discount at all was being applied. The SACL also concluded that the advertisements disseminated by different means of dissemination (e.g., advertisements displayed in posters or aired on the radio) may be assessed separately, and the complaint of the misled consumer filed to the CC evidences that the committed infringement may not be considered as minor.

## Legislative activities

### HARMONISATION OF LEGAL ACTS

Drafts of laws, Government Resolutions and other legal acts of institutions received for harmonisation	135
Comments to drafts laws, Government Resolutions and other legal acts	57
Comments to draft laws, Government Resolutions and other legal acts submitted at own initiative	11
Positions on EU legal acts <i>drafted and submitted</i> via the <i>LINESIS</i> system*	1
Positions agreed with other institutions via the <i>LINESIS</i> system	70

\* Information system on Lithuania's membership in the EU

 <p><b>Giedrė Jarmalytė</b> Acting Head of Division of Law and Competition Policy</p>	<p><i>"In 2011, the activity of the Competition Council was filled with active efforts to tackle the matters related to the safeguard of efficient competition both on the institutional and the legal regulation level, by directly participating in the preparation of the drafts of the key legal acts within the competence of enforcement of the Competition Council. The legal acts adopted in 2011 and the ones yet scheduled for adoption provide for combined measures to ensure the protection of efficient competition, both by bringing greater clarity for undertakings concerning the functioning principles and procedures of the Competition Council and by granting more flexibility to the institution itself with a view to allowing a more efficient use of the available resources."</i></p>
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## Development of national competition law

### Amendments to the LC and the Draft of new version of the Law

In 2011, the LC was amended and supplemented on two occasions with a view to introducing additional measures that should ensure a more efficient competition and a more effective protection of competition by fighting against the infringements of the LC and making it more difficult for undertakings and their managers to avoid liability.

The amendments to the LC that became effective on 3 May 2011 provide for a possibility to consider liable for the most serious infringements of the LC (conclusion of anti-competitive agreements and abuse of a dominant position) not only undertakings but also the



managers of undertakings that have personally contributed to the committed infringement. According to these amendments, for such actions the manager of the undertaking may be subject to a restriction of right, from 3 to 5 years, to hold office of a manager in a public or private legal entity, to be a member of the collegial supervisory or management body of a public or private legal entity. In addition to this restriction the person may also be fined up to LTL 50 000. When necessary, these sanctions upon the managers of undertakings would be imposed by VRAC at the request of the CC. In the opinion of the CC, the personal liability of the managers of undertakings will allow both ensuring a more efficient protection of effective competition and also deterring from committing infringements, as well as will encourage the persons to admit the already committed infringements since only the managers of undertakings who will themselves address the CC by confessing of the concluded anti-competitive agreement and providing the information thereon will have the possibility to be exempt from liability.

Another important amendment that became effective as of 3 May 2011 is the longer term of limitation of imposing the liability for the infringements of the LC. Instead of the formerly applicable 3 years a term of limitation of 5 years has been approved the run of which, contrary to the formerly applicable term, shall be suspended while the CC is conducting an investigation or the courts are examining cases concerning this investigation. This procedure of calculation of the term of limitation shall eliminate the possibilities for undertakings to avoid liability for their committed anti-competitive actions, especially when the infringements are not evident and disclosed right away (for instance, in case of the most dangerous secret agreements) and shall create the conditions for the CC to comprehensively investigate and assess all the facts and circumstances of the infringement, especially in the event of large-volume and complex cases demanding legal and economical knowledge.

As of 3 May 2011, the amendments to the LC became effective which, in view of the experience of the CC in imposing fines and the practice of the EC, provide that the fines for infringements of the LC shall be differentiated according to the value of sales of the undertaking's goods directly or indirectly associated with the infringement. This allows the CC to impose more individualised fines.

With a view to creating conditions for a more effective competition in the sector of household services, the amendments to the LC were drafted and became effective on 1 November 2011 that provide for a special procedure for evaluation of the dominant position of undertakings providing building administration and heat supply services. Unless proved otherwise, it shall be deemed that an undertaking engaged in the activity of building heating administrator and hot water system supervisor (exploiter) or the management activity of objects in common use holds a dominant position in the relevant market provided that it holds a market share of at least 30 per cent. The presumption of collective dominance of undertakings engaged in this activity is fixed at 55 per cent.

On 20 September 2011, a draft new version of the LC submitted by the President D. Grybauskaitė was registered in the Parliament. One of the main changes provided for in the draft new version of the LC is the possibility for CC to establish its activity priorities and place central focus on disclosing and investigating the most dangerous infringements of competition rules thus more effectively using the limited resources of the institution. The Government later also proposed to include in the Draft an amendment that would ease the burden on undertakings related to the monitoring of implementation of concentrations: i.e. to increase the limits of the total turnover from LTL 30 to 50 million in excess of which the undertakings intending to implement concentration must obtain an authorisation of the CC. For this purpose, it is also proposed to increase the limit of the presumed control specified in the LC that is of importance in the course of assessing concentration. Besides, with a view to encouraging the undertakings to admit having committed the most serious infringements of the LC and to increasing the disclosure of such infringements, it is proposed in the Draft to also exempt from fines the undertakings that have participated in the agreements on prices concluded between non-competitive undertakings, provided that they first address the CC by admitting to the infringement and submit the relevant information and evidence concerning the infringements committed together with these other undertakings.

The CC expects this new version of the LC to be adopted during the Parliament's spring session of 2012.

#### **Procedure for calculation of fines for infringements of the LC**

In implementing the amendments to the LC that became effective on 3 May 2011, a new procedure for determining the amount of fines imposed for infringements of the LC was drafted and approved by the Government Resolution No. 64 of 18 January 2012. Although this procedure does not change the maximal possible amount of the fine imposed by the CC, i.e. up to 10 per cent of the undertaking's total annual income, it provides for new principles of calculation of the amount of fine.

In accordance with the new procedure, when calculating the fine the CC will set the initial amount as a certain percentage – no more than 30 – off the income received in relation to the infringement and shall multiply this amount by the number of years that the infringement continued. In comparison, according to the former regulations, the initial amount of the fine was being calculated as a certain percentage of the undertaking's total income and increased by 10 per cent for each year of infringement. With a view to deter the undertakings from entering into prohibited agreements between competitors concerning the fixing of prices, the division of market or limitations on the quantities of production or sales, in the cases of these infringements the CC will be entitled to add to the calculated initial amount of fine an amount equal to 15-25 per cent off the value of sales. Besides, the new procedure entitles the CC to significantly increase the fines in those instances when an undertaking repeatedly commits an infringement for which it has already been sanctioned by the CC – the initial amount of fine shall be increased up to 100 per cent for each previous infringement. The new procedure also more clearly regulates the procedure for reducing the fines in the event when the undertakings cooperate with the CC, i.e. the fine upon undertakings may be reduced by up to 75 per cent of the amount of fine.

#### **Draft Law amending the Law on Advertising and criteria of minor infringements**

In view of the practice of enforcement of the LA, the CC on 25 May 2011 approved the Explanatory Notes on Minor Infringements in advertising cases. These Explanatory Notes provide more clarity on how the CC assesses advertising and what additional measures it takes in order to eliminate the possible infringements of the LA as promptly as possible without initiating a formal investigation procedure.

In 2011, the Ministry of Economy drafted and coordinated the draft Law amending the LA on which the CC submitted proposals taking into consideration its experience in the cases of misleading and prohibited comparative advertising. The main proposals of the CC concern the regulation of the procedure of investigations concerning such advertising in the LA because, in the opinion of the CC, the specific procedure outlined in the LC which is currently being applied in advertising cases does not fully satisfy the specific needs of advertising investigations. Therefore, it was proposed to establish a less complicated and more prompt investigation procedure by, *inter alia*, entitling the consumers to request to conduct an investigation concerning advertising. With a view to ensuring an efficient use of limited resources the CC also proposed to provide in the LA for a possibility to determine priorities of the activity of enforcement of the LA enabling the CC to focus on the more serious infringements of the LA.

#### **Amendments to the Railway Transport Code**

The regulation of the activity in a respective sector should usually be assigned to the regulator of that sector and not an institution of competition, however the Amendments to the Railway Transport Code that came into force in 2011 authorised the CC to perform new supervisory functions, i.e. to monitor the competition in the railway transport sector and to regulate the relations between the manager of public railway infrastructure and the railway companies (carriers). In performing these functions the CC should ensure that the State Railway Inspectorate abides by the requirements established by the relevant legal acts when approving the specific amount of levy for the use of public railway infrastructure and when setting the capacity of public railway infrastructure.

In accordance with the Law on the Reform in the Railway Transport Sector, these supervisory functions of the railway sector had already been assigned to the CC since 2010, but the scope of functions was not as extensive and they were assigned to the CC only for the transitional period until a specialised state enterprise to manage the public railway infrastructure was established. Nevertheless, the amendment to the Railway Transport Code that came into force in 2011 assigned these functions to the CC as permanent functions.

#### **Comments and proposals concerning the promotion of competition**

In February 2011, the CC submitted comments to the Ministry of Culture on the Draft Order of the Minister establishing the procedure for inspection of the print circulation of newspapers and magazines. The CC noted that the Draft insubstantially specified that the procedure would apply only to legal entities registered in Lithuania. This would mean that the procedure would not apply to legal entities established in other countries but operating in Lithuania via a permanent office (a branch office) or a subsidiary, placing the latter in a less regulated and more favourable legal environment than the Lithuanian legal entities providing the same services. Having taken into consideration this comment, the Ministry of Culture supplemented the Draft with a provision specifying that the Draft shall create obligations for all the legal entities registered in Lithuania and also for legal entities established in other countries but operating in Lithuania via a permanent office (a branch office) or a subsidiary.

In April 2011, the CC submitted a proposal to the Ministry of Energy and the Ministry of Economy on the improvement of competitive conditions in the fuel market in order to encourage the sellers of fuel to offer fuel at prices more favourable for consumers. The CC submitted the proposal having taken into consideration the Analysis of Fuel Prices carried out by the CC which aimed at identifying the factors that could have caused different fuel prices in Lithuania in comparison with its neighbouring countries Estonia, Latvia and Poland. In the opinion of the CC, the creation of better conditions for the import of petroleum and an increased competitive pressure on the single company producing fuel in Lithuania AB *Orlen Lietuva* could have the greatest effect on the decrease of fuel prices. The measure for increasing this competitive pressure could be the increase in the quantity of the minimum stocks that are allowed to be stored in foreign countries. The Government approved the position of the CC and submitted to the Parliament the amendments to the Lithuanian Law on State Stocks of Petroleum Products and Crude Oil allowing the storage of 100 per cent of the total State stocks in EU member states. The adoption of such amendments would give rise to an actual competition to AB *ORLEN Lietuva*, and this should result in a decrease in fuel prices.

In June 2011, the CC submitted comments on the amendments to the Law on Prices initiated by the members of the Parliament whereby it was intended to regulate the wholesale and retail prices of food products. The CC indicated that the measures concerning the restriction of mark-ups specified in the Draft Law were not appropriate and proportionate in order to achieve the decrease in prices of food products and could even have an adverse effect on consumers should they be applied imprudently and without having discussed all the other alternatives promoting competition. Having assessed the comments submitted by the institutions, the Economic Committee of the Parliament rejected the Draft Law.

In November 2011, the CC submitted comments to the Ministry of Finance on the new Draft Law on Insurance. The CC noted that the new provision proposed by the Draft Law whereby it was prohibited to an insurance broker company to offer benefits to the insurer, the beneficiary or the aggrieved third party for concluding an insurance contract could be incompatible with the obligation of administration entities to ensure the freedom of fair competition. Having taken into consideration the observation of the CC, the Ministry of Finance deleted the aforementioned provision.

### **Comments on State aid**

In August 2011, the CC analysed the Draft Law supplementing Article 15 of the Law on the Fundamentals of Free Economic Zones of the Republic of Lithuania submitted for coordination by the Ministry of Economy. The CC noted that if the draft laws envisaged changing the existing conditions of State aid schemes, these changes should be reported to the EC. The CC drew the attention of the Ministry of Economy to the fact that when granting State aid to the companies operating in free economic zones the *ex post* control of State aid in respect of each company should be ensured.

Besides, having examined the Draft Order of the Minister of Agriculture whereby it was intended to amend the regulations on granting State support for removal and disposal of animal by-products not intended for human consumption, the CC indicated to the Ministry of Agriculture that a notification on the amendment of these regulations should be submitted to the EC. The Ministry of Agriculture took into consideration the observations of the CC and notified the aforementioned regulations to the EC.

### **Participation in EU legislative activity**

The CC, via the information system on Lithuania's membership in the EU (LINESIS) continually takes part in the EU legislative activity: in 2011, the CC submitted its position on Chapter 8 "Competition Policy" of the document on Accession of Iceland to the EU considered at the meeting of *Coreper*, and within the scope of its competence approved total of 70 positions drafted by other Ministries to be discussed at the meetings of EU Council, its Working Groups and *Coreper*.

The CC continually provided information to the European Law Department under the Ministry of Justice concerning the necessity to adopt national implementing measures with regard to the legal acts published in the Official Journal of the EU.

## **State aid**

In 2011, the CC closely cooperated on state aid issues both with the Lithuanian institutions and the EC. During the reporting year 7 notifications on State aid and 8 Forms of summary information on State aid granted according to the exemption regulation, as well as the annual reports on State aid granted by the Lithuanian institutions were submitted to the EC (see Annexes 5, 6 and 7). In addition, the responses drafted by the relevant institutions to 6 surveys of the EC were submitted to the EC.

The CC together with other interested institutions comprehensively examined and submitted comments and proposals on certain draft legal acts of the EC: for instance, on the package of measures setting out the application of the EU state aid rules to the financing of services of general economic interest adopted in 2011.

In addition, the CC, as the coordinating authority in State aid related issues, submitted to the EC the information drafted by the responsible Lithuanian institutions concerning the complaints received and being examined by the EC (concerning a public service related to the electricity tax, concerning state aid granted to sectoral centres of practical training, and concerning real estate tax).

In 2011, the CC had been further supplementing the State Aid Register; from the outset of the Register operation (1 October 2005) to 31 December 2011 entries were made on 94 442 *de minimis* aid cases (including *de minimis* aid in agriculture and fisheries sectors) and on 272 state aid schemes and individual cases.

## **International Cooperation**

### **European Competition Network**

In cooperation with the European Competition Network (ECN) throughout the entire year the CC was providing information to the newsletters issued by the EC containing the most recent information on the activities of national competition authorities of all EU Member States in the field of application of Articles 101 and 102 of the TFEU, development of national competition law and its promotion, as well as judicial examination of competition cases in the national courts of the EU Member States and other relevant information.

As usual, within the ECN framework, the Competition Council was exchanging with the competition authorities of other EU Member States the informal information on the practice of application of competition rules in conducting investigations of alleged infringements of competition law or market investigations, thereby sharing the experiences and the practices already in place.

In 2011, the representatives of the CC took part in 3 out of 14 meetings of Advisory Committee on Restrictive Practices and Dominant Positions, 1 out of 2 ECN Plenary meetings, 4 meetings of ECN Working Groups on cartel investigations and cooperation in cartel investigations, 3 ECN subgroup meetings in the course of which competition matters in the sectors of food, banking and environment were discussed, 5 multilateral and state aid advisory committee meetings, 2 meetings of the heads of national competition authorities of EU Member States, and the 20<sup>th</sup> Anniversary Conference on Competition Law and Policy organised by the DG Competition and the International Bar Association.

### **Cooperation with different foreign organisations**

In developing the cooperation with other international organisations and foreign institutions, the CC, within its competence, was provided to these institutions information on the

activities, achievements and outcomes of work of the CC thereby introducing the trends of competition policy in Lithuania to the foreign interested parties.

The CC most actively cooperated with the following international organisations: the Organisation for Economic Cooperation and Development, the International Competition Network and the European Competition Authorities.

### **Organisation for Economic Cooperation and Development (OECD)**

Having evaluated the contribution of the CC in representing Lithuania in the activities of the OECD Competition Committee, its working groups and the Global Forum on Competition, the External Relations Committee of OECD by its decision of 9 December 2011 extended the observer status for Lithuania in the OECD Competition Committee for the period 2012-2013.

The meetings of the OECD Competition Committee take place three times a year. In these meetings the CC represents Lithuania as an observer, presents written submissions and its position on the relevant competition policy matters. In 2011 the following submissions and other information were presented to the OECD Competition Committee and its working groups:

- 1) the submission on Remedies in Merger Cases;
- 2) the submission on Excessive prices;
- 3) the submission on the Institutional and Procedural Aspects of the Relationship between Competition Authorities and Courts, and Update on Developments in Procedural Fairness and Transparency;
- 4) the responses to the Survey on Competitive Neutrality;
- 5) the Annual Report of the CC.

Besides, the CC made a submission on cross-border merger control to the OECD Global Forum on Competition that took place in February 2011.

In November 2011, a member of the CC participated and gave a presentation in the seminar on *Litigation of Competition Cases* that was organised by the OECD-GVH Regional Centre for Competition in Budapest.

### **International Competition Network**

The CC, as other competition authorities in the world, has been cooperating within the framework of the International Competition Network (ICN) for ten years and has been actively contributing 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 2011, in cooperation with the ICN Cartel Working Group, the CC participated in the preparation of a Special Project on Providing Information on Cartels and took part at the conference in Bruges. The CC submitted information for the preparation of the special project of the ICN Annual Conference on “Competition Enforcement and Consumer Welfare: Setting the Agenda”. On 17-20 May 2011, the 10<sup>th</sup> jubilee ICN Annual Conference took place in Hague, in the course of which the issues of promoting competition culture, effectiveness of institutions, cartels, mergers and unilateral effects were discussed and the guidelines of the main works for the second decade of existence of ICN were outlined. The Chairman of the CC moderated discussions in this Conference and made a statement at the ICN Conference Session on New Competition Authorities on the matters of strengthening the capacities of employees and institution, and the prioritisation of activities.

### **Network of European Competition Authorities**

The CC 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 the course of which the most relevant matters of competition law and policy are being discussed. On 5-6 July 2011, the 10<sup>th</sup> jubilee annual meeting of the heads of ECA took place in Warsaw that was organised by the Polish Office of Competition and Consumer Protection. In this Annual meeting, the Chairman of the CC took part in the discussions and presented the most recent trends of the Lithuanian competition law and policy and the envisaged future work.

### **Workshops and conferences**

In autumn 2011, the 8<sup>th</sup> Regional Annual Conference on Competition took place in Vilnius that was organised by the CC for the first time in cooperation with the Vilnius

University. During the Plenary Meeting of the Conference the following matters relevant for the enforcement of competition law and policy were discussed: setting enforcement priorities, personal liability of managers of undertakings, advocacy and competition compliance. Besides the representatives of the CC, the representatives of the Estonian, Latvian, Polish, Finnish, Swedish and British competition authorities as well as the Lithuanian attorneys-at-law practicing in the field of competition law gave speeches at the Conference. The audience of the Conference consisted of over 100 representatives of EU competition authorities, different state institutions of the Republic of Lithuania and business representatives.

On 27-28 May 2011, the 5<sup>th</sup> Conference of the Institute for Studies in Competition Law and Policy took place in Athens. In the course of this Conference the issues of relevance to the national competition authorities were discussed, i.e. abuse of a dominant position, horizontal cooperation agreements and exchange of information, enforcement of concentration control, etc. At this IMEDIPA Conference the Chairman of the CC gave a presentation on enforcement of competition law during the crisis period and took part in the roundtable discussions on the role of competition authorities and peculiarities of their activity.

On 30 May 2011, the event “European Competition Day” took place and the theme of the event was *Convergence in the European Competition Network*. This European Competition Day event was organised by the Hungarian Competition Authority during the Hungarian Presidency of the Council of the EU in the first semester of 2011. The event was attended not only by the heads of the EU competition authorities but also by the representatives of non-governmental organisations (academic and business society, lawyers, and journalists).

On 1-2 July 2011, the Academic Society of Competition Law ASCOLA together with King’s College London organised the 6<sup>th</sup> Conference on *New Competition Jurisdictions: Shaping Policies and Building Institutions* in London. The Chairman of the CC commented on the presentations of speakers at one Conference session dedicated to discussing the problems of international mergers.

On 6-9 September 2011, a Workshop and an Annual Conference organised by the Fordham Competition Law Institute (New York, USA) took place. The main goal of this Workshop organised by the Fordham Competition Law Institute for the fifth time was to analyse and discuss the issues related to strengthening the efficiency of activities of competition authorities. The Workshop also focused on such relevant issues as the effect of structural changes in institutions on the improvement of institutions’ activity, culture of labour relations between managers and subordinates, improving professional skills of employees and encouraging their interest in performance results, strengthening personal liability of the manager and his/her role as a leader, etc. In the course of discussions and working group meetings the heads of the competition authorities exchanged their experiences and discussed different problematic issues.

On 24-25 September 2011, the representatives of the CC took part in the European Competition and Consumer Day event organised by the Polish Competition Authority during the Polish Presidency of the Council of the EU in the second semester of 2011.

In November, the representatives of the CC took part in the workshop on the implementation of Regulation 1370/2007 on public passenger transport services by rail and by road organised by DG Mobility and Transport of the EC in Brussels.

### **Study visits and training**

As the Lithuanian Presidency of the Council of the EU in 2013 is approaching, the CC is involved in the preparatory works the main of which in 2011 were trainings of the CC 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”. The representatives of the CC participated in 3 trainings that took place in the Lithuanian Institute of Public Administration and the Training Centre DAINAVA for Public and Municipal Servants, and from 3 October to 12 November went on a study visit to the Permanent Representation of Lithuania to the EU in Brussels.

### **Assistance to other institutions**

On 23 February 2011, the implementation of the EU Twinning project “Strengthening the Enforcement of Competition and State Aid Legislation in Armenia” by the German Federal Ministry of Economics and Technology, as a senior partner, and the CC, as a junior partner, was started. This is the first EU Twinning Project that the CC has been awarded together with the

German partners. The objective of the Project is to contribute to enhancement of competitiveness of the Armenian economy and the development of the functioning market economy in this country by sharing successful practices of Germany and Lithuania. Within the framework of this project, the representatives of the CC in 2011 were providing expert services, conducting consultations, trainings and workshops to the Armenian competition authority on drafting and enforcing competition and state aid legislation. In implementing this project, in November 2011, five employees of the Armenian competition authority came on a study visit to the CC in the course of which they were offered a comprehensive presentation of the Lithuanian and EU competition law and its practical implementation in Lithuania, as well as of the relevant court judgments in competition cases.

The representatives of the CC also participated in TAIEX (the Technical Assistance and Information Exchange instrument managed by the Directorate-General Enlargement of the EC) events: 1) TAIEX expert mission which had the objective of introducing to the employees of the Turkish Prime Ministry Undersecretariat of Treasury the most important provisions of the Transparency Directive, the fundamental principles of management of state enterprises, the application of services of general economic interest and interpretation of State aid in the EU. The representative of the CC gave a presentation; 2) TAIEX workshop in Sarajevo on price related abuse of dominance in the course of which a representative of the CC gave a presentation on “EU legal precedents on unfair pricing and practical issues related unfair pricing cases in Lithuania”.

## **Competition culture and its promotion**

In its pursuit to ensure that the general public better understands the importance of competition and to promote competition culture to the largest possible extent the CC was using a range of different measures and tools. Promotion of competition culture is related to all the key aspects of the activity of the CC, therefore there is also a multitude of different measures of promotion available. In 2011, the CC was successfully using such important measures as cooperation with public administration institutions, businessmen and lawyers, the media, and it was also regularly giving consultations, educating and informing different interested persons.

### **Focus on public tenders**

With a view to achieve a better coordination of the actions of the CC and the Public Procurement Office and to resolve the problems arising in relation to the competence to examine cases related to the application and assessment of the respective Articles of the Law on Public Procurement, in June 2011, the representatives of these institutions arranged a meeting. In the course of the meeting, taking into consideration the most recent case law, it was agreed that the Public Procurement Office was competent to examine and evaluate the compliance of the agreements of contracting authorities concluded under Part 5 of Article 10 of the Law on Public Procurement that provides for an exception allowing to conclude in-house transactions with the criteria for in-house transactions provided in the aforementioned Article. Whereas the CC would examine cases subject to regulation by other laws of the Republic of Lithuania directly providing for a possibility for institutions to conclude agreements with the enterprises under their control without any competitive selection procedure when in such cases the Law on Public Procurement is not applicable.

In order to encourage the contracting authorities to actively monitor the suppliers submitting proposals and to notify the CC of their suspicious behaviour, in 2011 the CC published the checklist that should allow establishing the possible infringements of the LC in the course of public tenders. The CC also made available on its website the list of undertakings sanctioned for infringements of Article 5 of the LC that should enable the contracting authorities to easier implement the possibility to disqualify suppliers in case of professional misconduct provided for in point 4 of Part 2 of Article 33 of the Law on Public Procurement, i.e. a contracting authority may specify in the contract documents that a supplier submitting a proposal will be disqualified from the public tender if it has been sanctioned for the infringement of the requirements of Article 5 of the LC (such a supplier is deemed to be guilty of a “professional misconduct”).

### **Competition problems in the field of health protection**

In December 2011, the representatives of the CC had a meeting at the Ministry of Health. The meeting with the representatives of this Ministry and the National Health Insurance Fund was dedicated to discussing the relevant problematic issues that had been arising in the course of investigations conducted by the CC. The most frequent restrictions of competition arising as a result of the legal acts adopted in the health sector were also discussed. The representatives of the CC found the opinions and advice of the specialists participating at the meeting very useful since they will allow a better understanding of the specific aspects of health protection sector regulation when analysing and evaluating the possible cases of restriction of competition.

### **Cooperation with municipalities**

In 2011, the number of cases of successful cooperation with municipal institutions increased. The CC was investigating several decisions of municipalities that had allegedly restricted competition and had caused a negative reaction of the general public, but they were either amended or repealed as a result of the involvement of the CC and the benevolent attitude of municipalities. It is worth mentioning the cases of fruitful cooperation with the municipalities of Šiauliai, Klaipėda and Lazdijai District when the benevolent actions of the aforementioned municipalities allowed avoiding possible restrictions of competition. These examples demonstrate that competition problems may be resolved promptly and efficiently without initiating an investigation concerning the infringement of the LC.

### **Consultations to State aid providers**

In 2011, in the field of State aid the specialists of the CC were providing oral and written consultations to State aid providers. The representatives of the CC took part in 23 meetings with the specialists from other institutions in the course of which the issues related to the drafts of State support measures of the Ministries of Economy, Agriculture, Transport, Environment, Internal Affairs, and Culture, the State Tax Inspectorate, and Housing and Urban Development Agency were discussed. The specialists of the CC also participated in the committee meetings of the European Territorial Cooperation Programme in the course of which the issues related to State aid in preparing investment and other State support projects were discussed, as well as in the activity of the Working Group on Renewable Energy Resources and the Working Group on Film Funding. The specialists of State aid provided comments and participated in the Parliament Committee meetings dedicated to discussions on the draft laws drafted by the relevant institutions (e.g. the Draft Law on Physical Culture and Sport drafted by the Ministry of Education and Science).

Moreover, in 2011, the specialists of the CC organised two workshops for the representatives of the relevant institutions on “Aspects of State Aid Regulation in Lithuania”. During this Workshop the participants were presented with the information on the main provisions of the EU State aid, the State aid control procedures in Lithuania and the key principles of registering *de minimis* aid in the State Aid Register. In addition, the State aid specialists together with the lawyers of the Law firm LAWIN organised training on State aid issues for the employees of the Environmental Project Management Agency.

### **Raising awareness**

The primary task of improving the visibility of activity is to endeavour that the knowledge and awareness of competition rules is as deep as possible and that it leads to the formation of a more positive opinion of the general public on the importance of effective competition.

During the last quarter of 2011, a Plan of Implementation of Public Relations Measures designed to better promote the activity of the CC was drafted for the first time. Having taken into consideration the relevant competition problems in the different sectors supervised by public institutions or certain sectors of economic activity, this long-term Plan contains specific measures and their implementation methods, the responsible persons and the dates in order to have a clear perspective on where, how and when the relevant measures should be implemented. Certain envisaged measures had already been implemented.

### **Information for different groups of the general public**

#### *Business community*



With a view to promoting the competition culture in the business community more consistently and widely, the Collaboration Agreement between the CC and the Lithuanian Business Confederation *ICC Lithuania* was being implemented the key objective whereof is to cooperate more actively in resolving the problems of major relevance for business and to purposefully improve the education of the business community.

Having taken into consideration the information submitted by the business representatives, the CC identified the problems related to the regulation of services satisfying public interests and initiated an investigation.

The representatives of the CC were in contact with the Lithuanian Small and Medium-Sized Business Council and became familiar with the initiatives undertaken by the aforementioned Council with a view to ensure effective competition and to prevent actions that could cause damage to consumers.

Presentations on the risks of violation of the LC relevant for managers were given at the Vilnius Business Leaders Club session and the workshops of the training cycle on Business and Company Law. The slides of the presentations given at the aforementioned and other events – conferences and workshops – may be accessed on the website of the CC.

#### *Specialists of law*

The members and the specialists of the CC had been actively introducing the requirements of application of competition rules and the contents of the passed resolutions and court judgements to the specialists of law. The CC started to launch public consultations on the relevant draft legal acts on the website of the CC, with a view to enabling the specialists of law to become familiar with the drafts and to provide their comments and proposals that would be afterwards made publicly available. For instance, the Draft Explanatory Notes concerning minor infringements in competition cases submitted for consultation received considerable attention from the specialists of law. These public consultations allow achieving that the draft legal acts are prepared professionally taking into consideration the interests of the relevant stakeholders from the general public.

#### *Journalists*

When providing the information to the media, the CC endeavoured to emphasise specific contribution of the institution in resolving the issues within its competence. For that purpose the CC was using different public relations measures and methods. It should be noted that for a number of years already the information on the activities of the CC is being provided on the basis of the established business contacts with the media, without using any resources for commissioned promotion of information. Due to the relevance and quality of the information prepared by the CC, the media had been operatively distributing the information submitted by the CC to the general public without making any essential editing changes.

#### *Consumers*

In providing the information, particularly press releases, the CC was always emphasising the specific benefits provided to consumers by the decisions of the CC. Having conducted the situation analysis in the different markets, they were published in order to enable not only the specialists of the respective sector but also the consumers to become familiar with these documents.

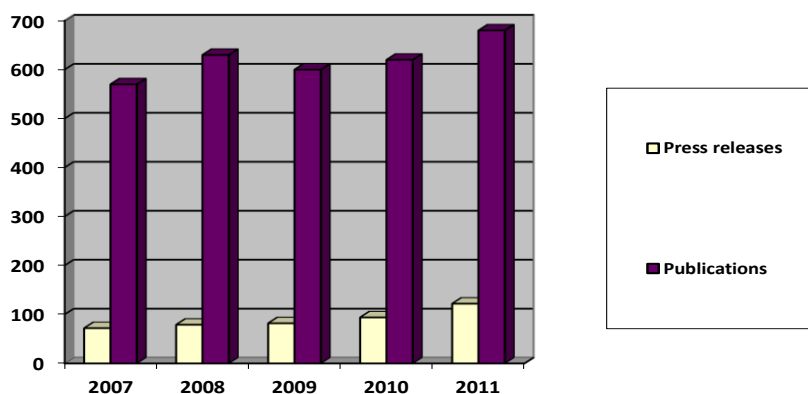
### **Scope of information provided in 2011**

Throughout the entire year the media representatives were expressing an active interest in the activity of the CC, and different type of information was being provided or certain aspects of activity of the CC were discussed in the media nearly every day.

- Total 120 press releases on different subjects in relation to the decisions and activities of the CC and the relevant court judgements were distributed throughout the year.
- According to the media monitoring data of *NewsPoint* project, in 2011 different aspects of the activity of the CC were covered in over 680 information notices and articles, also TV and radio broadcasts (this number does not include the publications on the same topic that were released in the different media).
- Four publications were drafted and released in the magazines *Vadovo pasaulis*, *Valstybė*, and the daily *Business News*.
- Two press conferences – in July and October took place. The press conference during which the impact assessment of the activity of the CC on consumers was presented received especially great media coverage.

■ In coordinating the information on the relevant matters, the CC cooperated with the press centres of the President's Office, the Government, as well as certain Ministries and institutions. A joint press release together with the Public Procurement Office was drafted.

#### VOLUMES OF PRESS RELEASES AND PUBLICATIONS



#### TV and radio broadcasts

In 2011, different TV and radio programmes were regularly covering the relevant activities of the CC. Total 53 interviews with specialists of the CC and their comments on various matters were broadcast. Specialists of the CC participated both at live TV programmes (*Lietuva tiesiogiai*, 24/7 (Lietuvos ryto TV), *Karštas vakaras* (BTV channel)) and in pre-recorded analytical programmes – *Pinigų karta*, *Žurnalisto tyrimas* (National TV channel LTV), as well as provided comments to TV information programmes. Specialists of the CC expressed their position on the relevant matters in different programmes at the Lithuanian National Radio and the News Radio, as well as at numerous occasions participated in direct radio forums on different issues of public importance (prices of food products, situation in the heat sector, impact of advertising on the choice of consumers, etc.)

#### Information on the Internet

One of the most important and most popular channels of information is the website of the CC the amount of information whereon is being constantly expanded and the content regularly updated. The website contains a variety of information – both most recent and relevant information and the information archived since 1999. In July 2011, the Information Society Development Committee carried out a quality assessment of the websites of state institutions. In this quality assessment, the evaluations of the website of the CC under certain points were among the higher ones, and constant efforts are placed to eliminate the specified shortcomings and to improve the form and contents of the website.

The inquiry section of the website became even more popular – in 2011 total 184 inquiries of different nature were received and replied to. The replies that could be found useful by other legal or natural persons are posted on the website. Nearly 40 per cent of the questions received contained specific information and facts that were forwarded to the relevant specialists for assessment. The possibility for undertakings and consumers to post inquiries on-line, to share problems and to promptly receive a qualified reply or advice undoubtedly positively contributed to the formation of the image of the CC as an open and accessible public institution.

## Administrative capacities

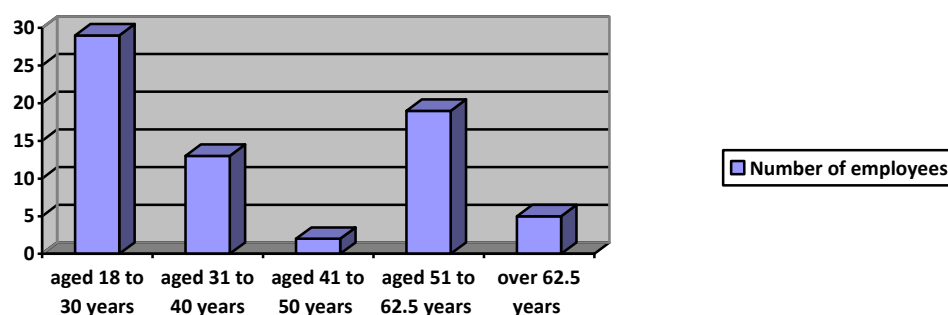


With a view to achieving better organisation of work and implementing the tasks defined in the Strategic Activity Plan the CC had been further improving its administrative structure. Quite a considerable number of young specialists having completed the studies of competition law and economics both in Lithuanian and foreign higher education institutions were hired as civil servants.

At the end of 2011, the CC was composed of Chairman of the CC Š. Keserauskas (as of 4 April) and 3 members of the CC – S. Cemnolonskis, E. Šatas (as of 23 August) and J. Šovienė.

At the end of 2011, the CC had total 68 employees, of which 4 civil officials, 50 civil servants, and 14 employees working under employment contracts. In 2011 four employees left the institution, and 10 new employees were hired.

### NUMBER OF EMPLOYEES ACCORDING TO AGE GROUPS



In 2011, with a view to ensuring a more comprehensive analysis of the conducted investigations the CC established an Economic Analysis Unit.

In 2011, LTL 3 493 000 was the amount of the appropriation of public funds from the State budget for the activity of the CC.

# Annexes

## Annex 1

### Results of implementation of the Competition Council Activity Programme for 2011

Evaluation criterion	Plan for 2011	Actual in 2011	Implementation %
1. Number of established infringements of the LC and other national laws within the competence of the CC	35	24	69
2. Number of legal acts harmonised with other institutions	50	68	136
3. Number of established infringements of TFEU	3	2	67
4. Number of notifications on State aid examined and submitted to the EC and the number of Forms of summary information on State aid granted according to the exemption regulation	15	15	100
5. Number of instances of employee participation in EU and other Member State institutions' working groups, conferences and different meetings	15	32	213

In 2011, total 105 decisions were taken in enforcing the requirements of the LC and the LA: in 24 instances infringements of the relevant laws were established; 2 investigations were 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; 18 investigations were terminated since no infringement was established, and in 34 instances the CC refused to initiate investigations in accordance with the relevant provisions of the LC. Total 27 investigations were initiated.

## Annex 2

### Enforcement of the Law on Competition

Concerning prohibited agreements (13)		
Established infringements (5):		
20-01-2011 No. 2S-2	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 production of orthopaedic technical articles and on the compliance with the requirements of Article 4 of the LC of the actions of the National Health Insurance Fund under the Ministry of Health: Association of Orthopaedic and Rehabilitation Service Providers UAB <i>Actualis</i> UAB <i>Idemus</i> UAB <i>Ortobatas</i> UAB <i>Ortopagalba</i> UAB <i>Ortopedijos centras</i> UAB <i>Ortopedijos klinika</i> UAB <i>Ortopedijos projektai</i> UAB <i>Ortopedijos technika</i> A. Astrausko firma „Pirmas žingsnis“ VšĮ Vilnius University Children's Hospital VšĮ <i>Vilties žiedas</i>	LTL 1000 LTL 900 LTL 248 000 LTL 56 600 LTL 53 400 LTL 226 700 LTL 193 500 LTL 166 900 LTL 1 644 500 LTL 341 700 LTL 5 300 LTL 11 800
12-05-2011	On the compliance with the requirements of Article 5 of the LC of the	

No. 2S-10	actions of undertakings engaged in the sale of metal and other products and equipment in the course of participation in public tenders:  UAB <i>Eksortus</i> UAB <i>Specialus montažas - NTP</i>	LTL 52 400 LTL 334 200
09-06-2011 No. 2S-13	On the compliance with the requirements of Article 5 of the LC of the actions of undertakings engaged in milk purchasing and processing activity:  UAB <i>Marijampolės pieno konservai</i> AB <i>Rokiškio sūris</i>	LTL 256 500 LTL 1 649 600
13-06-2011 No. 2S-14	On the compliance with the requirements of Article 5 of the LC of the actions of undertakings providing EU Structural Funds support and other project administration and related services in the course of participation in public tenders:  UAB <i>Eldra</i> UAB <i>Investicinių projektų konsultantai</i> UAB <i>Investicijų tiltas</i> UAB <i>Verslo logika</i> UAB <i>Zarkompa</i>	LTL 18 500 LTL 6 100 LTL 100 LTL 6 700 LTL 1 300
08-12-2011 No. 2S-25	On the compliance with the requirements of Article 5 of the LC and Article 101 of the TFEU of the actions of undertakings providing ship agency and other shipping services and of the association of these undertakings:  UAB <i>Afalita</i> UAB <i>Amber Bay</i> UAB <i>Arijus</i> Lithuanian and Latvian UAB <i>Astramara</i> UAB <i>Baltic Forwarding and Shipping</i> UAB <i>Baltijos pervežimai</i> UAB <i>Baltlanta</i> UAB <i>Baltnautic Shipping Ltd</i> UAB <i>BPA</i> UAB <i>Fertimara</i> UAB <i>Fregatų aptarnavimo agentūra</i> UAB <i>Green Terminal</i> UAB <i>Jungtinė ekspedicija</i> UAB <i>Jūrtransa</i> UAB <i>Sea Agency Forsa</i> UAB <i>Klaipėda Stevedoring Company Bega</i> UAB <i>Klaipėdos Translit</i> UAB <i>Lepūnas</i> UAB <i>Limarko</i> and UAB <i>Limarko Maritime Agency</i> UAB <i>Litma</i> UAB <i>MK laivyba</i> UAB <i>Nordis Shipping Service</i> UAB <i>Nurminen Maritime</i> UAB <i>Ocean Container Services</i> UAB <i>Passat</i> UAB <i>Prekybos namai Skelmė</i> UAB <i>Unitek</i> UAB <i>Vakarų laivų agentai</i> UAB <i>Uosto vartai</i> UAB <i>VPA logistics</i> UAB <i>Volfra – Klaipėda</i>	LTL 42 400 LTL 510 500 LTL 1 223 600 LTL 50 500 LTL 450 400 LTL 1 861 900 LTL 1 389 700 LTL 235 000 LTL 321 700 LTL 138 400 LTL 69 600 LTL 189 600 LTL 171 600 LTL 27 500 LTL 321 600 LTL 1 184 100 LTL 150 900 LTL 241 900 LTL 626 300 LTL 518 600 LTL 420 000 LTL 21 600 LTL 108 200 LTL 347 300 LTL 151 200 LTL 127 100 LTL 8 200 LTL 211 500 LTL 73 100 LTL 337 700 LTL 44 900

	UAB WM H.Muller&Co Lithuanian Shipbrokers and Agents Association	LTL 106 500 LTL 800
<b>Refusals to initiate investigations (1)</b>		
<b>Cases closed (7)</b>		
➤ <b>Concerning abuse of a dominant position (13)</b>		
<b>Refusals to initiate investigations (6)</b>		
<b>Cases closed (7)</b>		
➤ <b>Concerning legal acts passed by public administration entities (25)</b>		
<b>Established infringements (8):</b>		
20-01-2011 No. 2S-1	On the compliance with the requirements of Article 4 of the LC of the decisions of Vilnius City Municipality authorising UAB <i>Avarija</i> to provide mandatory services	
10-02-2011 No. 2S-4	On the compliance with the requirements of Article 4 of the LC of the decisions of Trakai District Municipality by authorising UAB <i>Trakų rajono komunalinių įmonių kombinas</i> to carry out the exploitation and development of public waste management system	
10-02-2011 No. 1S-32	On the suspension of investigation concerning the compliance with the requirements of Article 4 of the LC of the procedure for using the short telephone number in providing commercial information	
17-02-2011 No. 2S-5	On the compliance with the requirements of Article 4 of the LC of the Point 3.2 of the Order No. 7p-37 of 5 July 2007 and of the Point 1.1 of the Order No. 7p-44 of 16 July 2007 of the Minister of Justice of the Republic of Lithuania	
17-02-2011 No. 2S-6	On the compliance with the requirements of Article 4 of the Law on Competition of the Republic of Lithuania of the part of the Decision No. 1-1414 of 24 February 2010 of Tauragė District Municipality Council whereby funds from the municipality budget were assigned to SB Tauragė Sport Centre <i>Bastilija</i>	
26-05-2011 No. 2S-12	On the compliance with the requirements of Article 4 of the LC of the Decision of Vilnius City Municipality to authorise UAB <i>Clear Channel Lietuva</i> , UAB <i>Baltijos vaizdinė reklama</i> and UAB <i>JCDecaux Lietuva</i> to equip and use external advertising without any competitive procedure	
04-07-2011 No. 2S-18	On the compliance with the requirements of Article 4 of the LC of the decisions of Raseiniai District Municipality Council to organise free catering	
15-09-2011 No. 2S-20	Concerning the compliance of the Vilnius District Municipality Council decision No. T3-153 of 11 June 2010 with the requirements of Article 4 of the LC	
<b>Refusals to initiate investigations (12)</b>		
<b>Cases closed (5)</b>		
➤ <b>Concerning actions of unfair competition (8)</b>		
<b>Refusals to initiate investigations (8)</b>		

### Annex 3

#### Enforcement of the Law on Advertising

<b>Enforcement of the Law on Advertising</b>		
➤ <b>Concerning misleading and comparative advertising (18)</b>		
<b>Established infringements (11):</b>		
03-02-2011	Concerning the compliance of the advertising of <i>Mezon</i> Internet with the	

No. 2S-3	requirements of the LA AB Lithuanian Radio and Television Centre	LTL 10 000
24-02-2011 No. 2S-7	Concerning the compliance of advertising of energy saving devices with the requirements of the LA UAB <i>Energita</i>	LTL 5 000
17-03-2011 No. 2S-8	Concerning the compliance of advertising of the slimming method <i>Slimpach</i> with the requirements of the LA UAB <i>Greitojo pašto paslaugos</i>	LTL 10 000
31-03-2011 No. 2S-9	Concerning the compliance of advertising of the promotional offer at the shopping mall BIG Vilnius with the requirements of the LA UAB <i>Entum</i>	LTL 18 600
12-05-2011 No. 2S-11	Concerning the compliance of advertising of mobile internet <i>Vodafone Mobile Connect</i> with the requirements of the LA UAB <i>Bitė Lietuva</i>	LTL 20 000
23-06-2011 No. 2S-16	Concerning the compliance of advertising of GALA television with the requirements of the LA <i>TEO LT, AB</i>	Warning
04-07-2011 No. 2S-17	Concerning the compliance of advertising statements on the goods that have a different effect on health with the requirements of the LA UAB <i>Kristalė</i>	LTL 3 400
15-09-2011 No. 2S-21	Concerning the compliance of the actions of UAB <i>Varle</i> with the requirements of the LA UAB <i>Varle</i>	LTL 3 000
29-09-2011 No. 2S-22	Concerning the compliance of the advertising of UAB <i>Interselas</i> with the requirements of the LA UAB <i>Interselas</i>	LTL 5 000
06-10-2011 No. 2S-23	Concerning the compliance of the advertising of hygiene pads <i>Aloe</i> with the requirements of the LA UAB <i>A.R.S. studio</i>	LTL 500
20-10-2011 No. 2S-24	Concerning the compliance of the advertising of <i>IMK LT</i> , UAB with the requirements of the LA <i>IMK LT</i> , UAB	LTL 20 000
<b>Refusals to initiate investigations (6)</b>		
<b>Cases closed (1)</b>		

#### Annex 4

##### Concentration control

<b>Authorisations to implement concentration (49):</b>		
13-01-2011 No. 1S-3	Concerning the authorisation for UAB <i>Palink</i> to implement concentration by renting premises of commercial designation located at Ateities Str. 48 in Vilnius	
13-01-2011 No. 1S-4	Concerning the authorisation for UAB <i>Norfos mažmena</i> to implement concentration by renting premises of commercial designation located at Taikos Ave. 81 in Kaunas	

13-01-2011 No. 1S-5	Concerning the authorisation for Nerijus Numavičius to implement concentration by directly or indirectly acquiring up to 73 per cent of shares of <i>VP Grupė</i> , UAB; UAB <i>Vilniaus prekyba</i> ; UAB <i>NDX energija</i> ; <i>AKROPOLIS GROUP</i> , UAB; <i>GELEŽINIO VILKO PROJEKTAS</i> , UAB; <i>BIRULIŠKIŲ TURTAS</i> , UAB; <i>TAIKOS TURTAS</i> , UAB; <i>OZO TURTAS</i> , UAB; <i>AIDO TURTAS</i> , UAB; <i>NIKOLA MUSHANOV PROJEKTAS</i> , UAB; <i>AGILE INVESTMENT LIMITED</i> Vilnius office; UAB <i>M.M.M. projektai</i> ; UAB <i>Sandėlių sistemos</i> ; <i>AKSO</i> , UAB; <i>EQUIPARK LIMITED</i> Vilnius office; <i>FRANPARK Ltd.</i> Lithuanian office; and <i>Klarus Group Holdings OÜ</i> Vilnius office and by strengthening the control of the aforementioned companies	
13-01-2011 No. 1S-6	Concerning the authorisation for UAB <i>Lotos Baltija</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Meditus</i>	
27-01-2011 No. 1S-17	Concerning the authorisation for <i>ZPC Mieszko S.A.</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>TB Investicija</i>	
03-02-2011 No. 1S-19	Concerning the authorisation for UAB <i>Viginta</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Kabeliniai ryšių tinklai</i>	
03-02-2011 No. 1S-20	Concerning the authorisation for UAB <i>Init</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Vinita</i>	
24-02-2011 No. 1S-44	Concerning the authorisation for <i>KJK Fund SICAV-SIF</i> , <i>Amber Trust SCA SICAF-SIF</i> , <i>Firebird Avrora Fund, Ltd</i> and <i>Firebird Republics Fund Ltd</i> to implement concentration by acquiring up to 100 per cent of shares of AB <i>Snaigė</i>	
10-03-2011 No. 1S-50	Concerning the authorisation for <i>Central European Pharmaceutical Distribution N.V.</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Nacionalinė farmacijos grupė</i>	
10-03-2011 No. 1S-51	Concerning the authorisation for UAB <i>Ramundas</i> to implement concentration by acquiring up to 100 per cent of shares of UAB <i>Obelių lentpjūvė</i>	
31-03-2011 No. 1S-57	Concerning the authorisation for UAB <i>Luktarna</i> to implement concentration by acquiring the gas station located at Dariaus ir Girėno Str. 138, Tauragė	
07-04-2011 No. 1S-64	Concerning the authorisation for UAB <i>Verslo pradžia 1</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Kepalių bekonas</i>	
21-04-2011 No. 1S-69	Concerning the authorisation for <i>Eternit Management Holding GmbH</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Eternit Baltic</i>	
25-05-2011 No. 1S-95	Concerning the authorisation for <i>AS Skinest Grupp</i> to implement concentration by acquiring 50 per cent of shares of <i>OÜ Balti Realiseerimiskeskus</i> and together with <i>OÜ United Partners Investments</i> obtaining joint control over the aforementioned company	
02-06-2011 No. 1S-102	Concerning the authorisation for <i>Brenntag N.V.</i> to implement concentration by directly and indirectly acquiring 100 per cent of shares of <i>Brenntag Polska Sp. z.o.o.</i>	
09-06-2011 No. 1S-106	Concerning the authorisation for KŪB <i>Litcapital I</i> by acquiring up to 50 per cent of shares of UAB <i>Putokšnis</i> and obtaining joint control over the aforementioned company together with UAB <i>3 RILL</i> and Arvydas Stulpinas	
14-06-2011 No. 1S-113	Concerning the authorisation for UAB <i>Baltijos pastatų valdymas</i> to implement concentration by acquiring 34 per cent of shares of UAB <i>Marijampolės butų ūkis</i>	
14-06-2011 No. 1S-114	Concerning the authorisation for UAB <i>Neries investicijos</i> and UAB <i>ME investicija</i> to implement concentration by acquiring respectively 45.4 per cent and 54.6 per cent of shares of UAB <i>Mūsų rezervas</i> and obtaining joint control over the aforementioned company	
14-06-2011 No. 1S-116	Concerning the authorisation for UAB <i>Eurovolta</i> to implement concentration by acquiring 60 per cent of shares of UAB <i>Yglė</i> and	



	together with Vytautas Šniukšta obtaining joint control over the aforementioned company	
14-06-2011 No. 1S-118	Concerning the authorisation for <i>Danish Agro A.m.b.A.</i> to implement concentration by directly or indirectly acquiring 82 per cent of shares of <i>Baltic Agro Holding A/S</i> and at the same time indirectly obtaining control over <i>UAB Baltic Agro</i>	
23-06-2011 No. 1S-123	Concerning the authorisation for <i>UAB Palink</i> to implement concentration by renting the premises of commercial designation located at Sukilėlių Ave. 84 in Kaunas	
30-06-2011 No. 1S-127	Concerning the authorisation for <i>Roquette Freres S.A.</i> to implement concentration by acquiring up to 45 per cent of shares of <i>AB Amilina</i> and obtaining joint control over the aforementioned company together with <i>UAB Grūdainė</i> and <i>Danas Tvarijonavičius</i>	
04-07-2011 No. 1S-134	Concerning the authorisation for <i>UAB IRL Wind</i> to implement concentration by acquiring 100 per cent of shares of <i>UAB Vėjų spektras</i>	
21-07-2011 No. 1S-141	Concerning the authorisation for <i>AB City Service</i> to implement concentration by acquiring 100 per cent of shares of <i>UAB Būsto administravimo agentūra</i>	
21-07-2011 No. 1S-146	Concerning the authorisation for <i>Valent Pharmaceuticals International, Inc.</i> to implement concentration by acquiring up to 100 per cent of shares of <i>AB Sanitas</i>	
21-07-2011 No. 1S-147	Concerning the authorisation for <i>UAB Eco Holding</i> to implement concentration by acquiring 100 per cent of shares of <i>UAB A.S.A. Vilnius</i>	
21-07-2011 No. 1S-150	Concerning the authorisation for <i>UAB Ekonovus</i> to implement concentration by acquiring 100 per cent of shares of <i>UAB Švarus miestas</i> , <i>UAB Švaros diena</i> and of <i>UAB Dzūtra</i>	
21-07-2011 No. 1S-151	Concerning the authorisation for Vytautas Rauckis to implement concentration by directly or indirectly acquiring up to 100 per cent of shares of <i>UAB Kustodija</i>	
25-08-2011 No. 1S-162	Concerning the authorisation for <i>Robert Bosch GmbH</i> and <i>Daimler AG</i> to implement concentration by establishing a joint venture and obtaining joint control	
25-08-2011 No. 1S-163	Concerning the authorisation for <i>UAB Duonos centras</i> to implement concentration by acquiring 100 per cent of shares of <i>UAB Mentora ir Ko</i>	
25-08-2011 No. 1S-164	Concerning the authorisation for <i>UAB Duonos centras</i> to implement concentration by acquiring 100 per cent of shares of <i>UAB Molupis ir Ko</i>	
01-09-2011 No. 1S-171	Concerning the authorisation for <i>AB Invalda</i> to implement concentration by acquiring up to 100 per cent of shares of <i>AB Umega</i>	
01-09-2011 No. 1S-172	Concerning the authorisation to implement concentration by <i>UAB Dojus</i> acquiring 25.01 per cent, <i>Pranas Dailidė</i> – 14.97 per cent, <i>Donatas Dailidė</i> – 5 per cent, and <i>Justina Dailidaitė</i> – 5 per cent of shares of <i>UAB Ekonovus</i> and together with <i>UAB AVESKO recycling</i> obtaining joint control over the aforementioned company	
15-09-2011 No. 1S-180	Concerning the authorisation for <i>AB Invalda</i> to implement concentration by acquiring up to 100 per cent of shares of <i>AB Vernitas</i>	
15-09-2011 No. 1S-181	Concerning the authorisation for <i>UAB Saulėgrąžų vaistinė</i> to implement concentration by acquiring 67 per cent of shares of <i>UAB Thymus vaistinė</i>	
15-09-2011 No. 1S-182	Concerning the authorisation for <i>UAB Bitė Lietuva</i> to implement concentration by acquiring 100 per cent of shares of <i>UAB Eurocom</i>	
28-09-2011 No. 1S-194	Concerning the authorisation for <i>FR&amp;R INVEST, IGA S.A. Luxemburg</i> to implement concentration by acquiring up to 100 per cent of shares of the Company group <i>Alita, AB</i>	
06-10-2011 No. 1S-203	Concerning the authorisation for <i>Lithuania SME Fund, KŪB</i> to implement concentration by acquiring 91 per cent of shares of <i>UAB Impuls LTU</i>	
07-10-2011	Concerning the authorisation for <i>UAB Gintarinė vaistinė</i> to implement	

No. 1S-208	concentration by acquiring 100 per cent of shares of UAB <i>Saulėgrąžų vaistinė</i> and 100 per cent of shares of UAB <i>Thymus vaistinė</i>	
20-10-2011 No. 1S-209	Concerning the authorisation for UAB <i>Ektornet Land Lithuania</i> to implement concentration by acquiring a share of assets of UAB <i>Melesta</i>	
27-10-2011 No. 1S-216	Concerning the authorisation for AB <i>Kauno grūdai</i> to implement concentration by acquiring 83 per cent of shares of UAB <i>Šlaituva</i>	
05-11-2011 No. 1S-224	Concerning the authorisation for UAB <i>Cgates</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Mikrovisatos TV</i>	
17-11-2011 No. 1S-229	Concerning the authorisation for UAB <i>ATEA Baltic</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Elsis IT</i>	
22-11-2011 No. 1S-235	Concerning the authorisation for UAB <i>BAIP Grupė</i> to implement concentration by acquiring 100 per cent of shares of <i>Norway Registers Development AS</i> and at the same time indirectly acquiring 70.73 per cent of shares of UAB <i>NRD</i>	
08-12-2011 No. 1S-238	Concerning the authorisation for AB <i>Invalda</i> to implement concentration by indirectly acquiring 36.9 per cent of shares of UAB <i>Litagra</i>	
15-12-2011 No. 1S-243	Concerning the authorisation for <i>Unilever Finland Oy</i> to implement concentration by acquiring 100 per cent of shares of <i>Ingman Ice Cream Oy AB</i>	
22-12-2011 No. 1S-249	Concerning the authorisation for UAB <i>Abrevis</i> to implement concentration by acquiring 100 per cent of shares of UAB <i>Biseris</i>	
29-12-2011 No. 1S-253	Concerning the authorisation for <i>Lithuania SME Fund KŪB</i> to implement concentration by acquiring 45.95 per cent of shares of UAB <i>Labochema LT</i>	
30-12-2011 No. 1S-256	Concerning the authorisation for UAB <i>Danbalt International</i> and UAB <i>Armitana</i> to implement concentration by establishing a joint venture and obtaining joint control	
<b>Authorisations to perform individual actions of concentration (7):</b>		
06-01-2011 No.1S-2	Concerning the authorisation for <i>ZPC Mieszko S.A.</i> to perform individual actions of concentration by acquiring 100 per cent of shares of UAB <i>TB Investicija</i>	
21-04-2011 No.1S-72	Concerning the authorisation for UAB <i>Baltijos pastatų valdymas</i> to perform individual actions of concentration by acquiring 34 per cent of shares of UAB <i>Marijampolės butų ūkis</i>	
25-05-2011 No.1S-99	Concerning the authorisation for KŪB <i>Litcapital I</i> to perform individual actions of concentration by acquiring up to 50 per cent of shares of UAB <i>Putokšnis</i> and obtaining joint control over the aforementioned company together with UAB <i>3 RILL</i> and Arvydas Stulpinas	
02-06-2011 No.1S-103	Concerning the authorisation for UAB <i>Neries investicijos</i> and UAB <i>ME investicija</i> to perform individual actions of concentration by acquiring respectively 45.4 per cent and 54.6 per cent of shares of UAB <i>Mūsų rezervas</i> and obtaining joint control over the aforementioned company	
09-06-2011 No.1S-111	Concerning the authorisation for UAB <i>Eurovolta</i> to perform individual actions of concentration by acquiring 60 per cent of shares of UAB <i>Yglė</i> and together with Vytautas Šniukšta obtaining joint control over the aforementioned company	
21-07-2011 No.1S-142	Concerning the authorisation for UAB <i>Euronema</i> to perform individual actions of concentration by acquiring 100 per cent of shares of UAB <i>Mentora ir Ko</i>	
21-07-2011 No.1S-143	Concerning the authorisation for UAB <i>Euronema</i> to perform individual actions of concentration by acquiring 100 per cent of shares of UAB <i>Molupis ir Ko</i>	

## Total national State aid in Lithuania in 2010

Sector	Aid forms	A1	A2	B1	C1	C2	D1	Total (LTLm)	Total (MEUR)
1.1. Agriculture		53.85	211.30					265.15	76.79
1.2. Fisheries		0.97						0.97	0.28
<b>2. Industry/services</b>		<b>238.68</b>	<b>16.40</b>					<b>255.08</b>	<b>73.88</b>
<b>2.1. Horizontal aid</b>		<b>58.80</b>	<b>4.82</b>					<b>63.62</b>	<b>18.43</b>
2.1.1. Research, development and innovations		11.07						11.07	3.21
2.1.2. Environmental protection			4.82					4.82	1.40
2.1.3. Small and medium-sized enterprises		22.16						22.16	6.42
2.1.4. Trade									
2.1.5. Energy efficiency									
2.1.6. Investment		1.34						1.34	0.39
2.1.7. Employment programmes		24.19						24.19	7.01
2.1.8. Qualification improvement		0.04						0.04	0.01
2.1.9. Privatisation									
2.1.10. Rescue/ restructuring									
<b>2.2. Sectoral aid</b>		<b>3.59</b>						<b>3.59</b>	<b>1.04</b>
2.2.1. Steel industry									
2.2.2. Ship building									
2.2.3. Transport		3.59						3.59	1.04
2.2.4. Coal industry									
2.2.5. Synthetic fibre									
2.2.6. Other sectors									
<b>2.3. Regional aid</b>		<b>176.29</b>	<b>11.58</b>					<b>187.87</b>	<b>54.41</b>
<b>TOTAL:</b>		<b>293.50</b>	<b>227.70</b>					<b>521.20</b>	<b>150.95</b>

\* 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

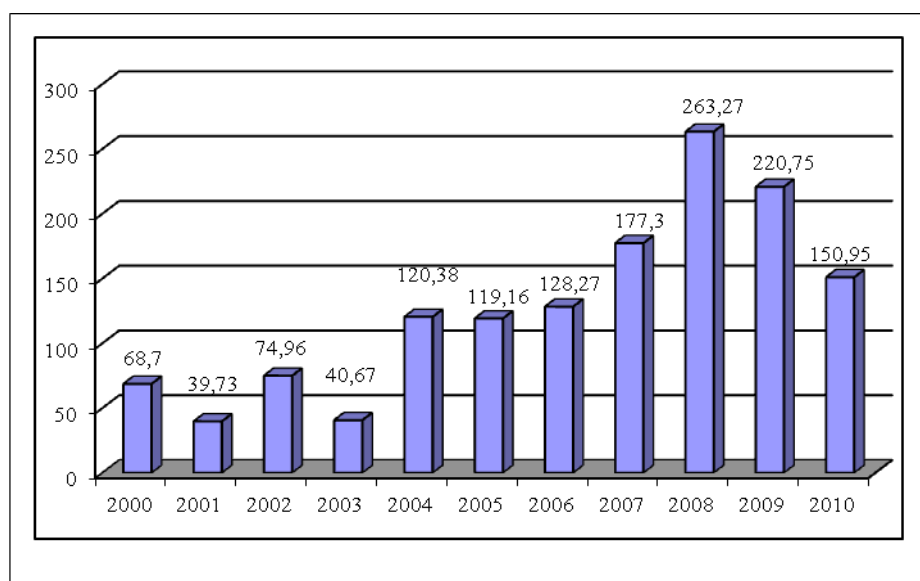
## Annex 6

### Total national State aid in Lithuania in 2000-2010

Indicators	Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
MEUR		68.70	39.73	74.96	40.67	120.38	119.16	128.27	177.29	263.27	220.75	150.95
EUR per employee		49.14	29.39	53.31	28.28	83.81	80.85	85.57	115.56	163.09	134.53	92.34
% of GDP (at current prices)		0.57	0.29	0.51	0.25	0.66	0.58	0.54	0.63	0.82	0.83	0.55
% of national budget expenditures		2.81	1.36	2.22	1.12	2.85	2.41	2.37	2.73	2.19	1.91	1.34
% of national budget deficit		66.50	13.21	23.50	12.42	55.73	71.77	119.28	61.15	25.32	9.07	7.78
Average annual population (m)		3.50	3.48	3.47	3.45	3.43	3.41	3.39	3.37	3.35	3.34	3.29

## Annex 7

### TOTAL NATIONAL STATE AID IN LITHUANIA IN 2000-2010 (MEUR)



## Decisions of the European Commission on State Aid Notifications in 2011

Notification registration date by the European Commission	Title	Sector	Purpose	Duration of the aid scheme	Decision of the Commission	Decision date
15-07-2010	N 316/2010 Switchover to digital TV broadcasting	No specific sectors	Aid of a social nature	Until 29-01-2013	Positive	24-01-2011
20-10-2010	N 478/2010 Restructuring Scheme for SMEs	All sectors	Enterprise rescue and restructuring	Until 01-07-2013	Positive	17-02-2011
04-01-2011	SA.32188 (2011/N) Extension of the Lithuanian Bank Support Scheme	Financial and insurance activity	Remedy for a serious disturbance in the economy	Until 30-06-2011	Positive	21-01-2011
15-02-2011	SA.32575 (2011/N) Temporary Framework for State aid measures (prolongation of the aid scheme N 272/2009)	No specific sectors	Remedy for a serious disturbance in the economy	Until 31-12-2011	Positive	23-02-2011
30-05-2011	SA.33094 (2011/N) Amendment to the Scheme N 197/2008 – Regional aid for the energy sector	Energy	Regional aid	Until 31-12-2012	Positive	04-08-2011
06-06-2011	SA.33135 (2011/N) Prolongation of the Lithuanian Bank Support Scheme until end 2011	Financial and insurance activity	Remedy for a serious disturbance in the economy	Until 31-12-2012	Positive	27-06-2011
03-11-2011	SA.33854(2011/N) Short-term export credit insurance	No specific sectors	Short-term export credit insurance	Until 31-12-2012	Positive	07-12-2011

## Judicial Representation in 2011: 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
<b>Application of Article 4 of the LC – anti-competitive decisions of public administration entities</b>	1. Vilnius City Municipality v. Competition Council (concerning infringement) 2. Vilnius District Municipality v. Competition Council (concerning infringement) 3. Ministry of Justice v. Competition Council (concerning infringement)	1. Kaunas City Municipality and UAB <i>Kauno švara</i> v. Competition Council (concerning infringement) 2. Trakai District Municipality and UAB <i>Trakų rajono komunalinių įmonių kombinatas</i> v. Competition Council (concerning infringement) 3. Vilnius City Municipality v. Competition Council (concerning infringement) 4. General Prosecutor's Office v. Competition Council (concerning refusal to initiate investigation) 5. Klaipėda County Businessmen Association v. Competition Council (concerning refusal to initiate investigation) 6. Klaipėda City Municipality, Palanga City Municipality and Klaipėda, Šiauliai and Telšiai Regional waste management centres v. Competition Council (concerning infringement)	1. UAB <i>Halsas</i> v. Competition Council (concerning termination of investigation) – Resolution neither repealed nor amended 2. UAB <i>Trakų paslaugos</i> v. Competition Council (concerning repeal of Resolution) – Resolution neither repealed nor amended 3. Vilnius City Municipality (UAB <i>Grinda</i> ) v. Competition Council (concerning infringement) – Resolution repealed 4. Elektrėnai Municipality v. Competition Council (concerning repeal of Resolution) – Resolution repealed 5. UAB <i>JCDecaux Lietuva</i> v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 6. Vilnius City Municipality (UAB <i>Vilniaus vystymo kompanija</i> ) v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 7. UAB <i>Urbico</i> v. Competition Council (concerning refusal to initiate investigation) – Resolution neither repealed nor amended 8. National Health Insurance Fund under the Ministry of Health v. Competition Council (concerning supplementing of investigation) – Resolution neither repealed nor amended	<b>17</b>
<b>Application of Article 5 (Art. 101 of the TFEU) – anti-competitive agreements</b>	1. UAB <i>Eksortus</i> and UAB <i>Specialus montažas-NTP</i> v. Competition Council (concerning infringement) 2. BAUB <i>Optinių laikmenų prekybos perspektyvos</i> v. Competition Council (concerning infringement) 3. AB <i>Rokiškio sūris</i> and	1. AB <i>Autoūkis</i> v. Competition Council (concerning infringement) 2. UAB <i>Autodina</i> v. Competition Council (concerning infringement) 3. UAB <i>Moller Auto</i> v. Competition Council (concerning infringement) 4. AB <i>Lietuvos draudimas</i> and UAB <i>DK PZU Lietuva</i> v.	1. Communication agencies' association KOMAA et al. v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 2. UAB <i>Concept events &amp; media</i> , UAB <i>Anoniminių darboholikų klubas</i> and VŠĮ <i>Pirmoji kava</i> v. Competition Council (concerning	<b>14</b>

	UAB <i>Marijampolės pieno konservai</i> v. Competition Council (concerning repeal of Resolution)	Competition Council (concerning infringement (Art. 101 of the TFEU was also applied)) 5. BĮ UAB <i>Interatlas</i> v. Competition Council (concerning infringement) 6. UAB <i>Puse plus Kaunas</i> v. Competition Council (concerning infringement)	infringement) – Resolution neither repealed nor amended 3. Lithuanian Cynological Society v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 4. UAB <i>Forum Cinemas Home Entertainment</i> et al. v. Competition Council (concerning infringement) – Resolution amended by reducing the fines 5. UAB <i>Prof-T</i> v. Competition Council (concerning infringement) – Resolution amended by reducing the fine	
<b>Application of Art. 4 and 5 of the LC (Art. 101 of the TFEU)</b>		1. Association of Orthopaedic and Rehabilitation Services, its members and the National Health Insurance Fund under the Ministry of Health v. Competition Council (concerning infringement (Art. 101 of the TFEU was also applied))		<b>1</b>
<b>Application of Art. 9 of the LC (Art. 102 of the TFEU)– abuse of a dominant position</b>	1. <i>TEO LT</i> , AB v. Competition Council (concerning termination of investigation) 2. Lithuanian Cable Television Association and Lithuanian Telecommunications Operators Association v. Competition Council (concerning termination of investigation)	1. Lithuanian Cable Television Association v. Competition Council (concerning termination of investigation) 2. UAB <i>Vilniaus energija</i> v. Competition Council (concerning infringement) 3. AB <i>ORLEN Lietuva</i> v. Competition Council (concerning infringement (Art. 102 of the TFEU was also applied))		<b>5</b>
<b>Concentration control</b>	1. <i>Plass Investment Limited</i> v. Competition Council (concerning issuing of authorisation)	1. AB <i>City Service</i> v. Competition Council (concerning infringement)	1. UAB <i>Klaipėdos jūrų krovinių kompanija</i> v. Competition Council (concerning issuing of authorisation) – Resolution repealed	<b>3</b>
<b>Application of Art. 16 of the LC– unfair competition</b>	1. UAB <i>Senojo bokšto klinika</i> v. Competition Council (concerning refusal to initiate investigation)	1. <i>Viasat AS</i> v. Competition Council (concerning infringement)	1. UAB <i>Rygveda</i> , UAB <i>Marsatas</i> and UAB <i>BALTICUM TV</i> v. Competition Council (concerning refusal to initiate investigation) – Resolution neither repealed nor amended 2. <i>Viasat AS</i> v. Competition Council (concerning supplementing of investigation) – Resolution neither repealed nor amended	<b>4</b>
<b>Application of Art. 5 and 6 of the LA– misleading and prohibited comparative advertising</b>	1. UAB <i>Interselas</i> v. Competition Council (concerning infringement) 2. <i>IMK LT</i> , UAB v. Competition Council (concerning infringement)	1. UAB <i>Omnitel</i> v. Competition Council (concerning infringement)	1. UAB <i>Omnitel</i> v. Competition Council (concerning initiation of investigation) – Resolution neither repealed nor amended 2. UAB <i>Omnitel</i> v. Competition Council	<b>13</b>

			(concerning infringement) – Resolution partly amended and fine reduced 3. UAB <i>Stova</i> v. Competition Council (concerning infringement) – Resolution amended by reducing the fine 4. UAB <i>Saulėgrąžų vaistinė</i> v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 5. UAB <i>Entum</i> v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 6. AB <i>Lietuvos dujos</i> v. Competition Council (concerning termination of investigation) – Resolution neither repealed nor amended 7. <i>Air Baltic Corporation AS</i> v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 8. UAB <i>Interneto partneris</i> v. Competition Council (concerning infringement) – Resolution neither repealed nor amended 9. <i>TEO LT</i> , AB v. Competition Council (concerning repeal of resolution) – Resolution neither repealed nor amended 10. UAB <i>Žemės vystymo fondas</i> and UAB <i>Žemės vystymo fondas 18</i> v. Competition Council (concerning infringement) – Resolution neither repealed nor amended	
<b>Total:</b>	<b>12</b>	<b>19</b>	<b>26</b>	<b>57</b>

Cases in which resolutions of the Competition Council were upheld - 19

Cases in which resolutions of the Competition Council were partly amended - 4

Cases in which resolutions of the Competition Council were repealed - 3



## Participation of the Competition Council in other administrative and civil cases in 2011

Administrative cases	Civil cases
<p>1. AB <i>ORLEN Lietuva</i> v. the Republic of Lithuania, represented by the Competition Council (concerning indemnification of damages) – complaint dismissed</p> <p>2. AB <i>Kelmės pieninė</i>, AB <i>Modest</i>, AB <i>Pieno žvaigždės</i>, AB <i>Vilkyškių pieninė</i> v. the Republic of Lithuania, represented by the Competition Council (concerning indemnification of damages) – complaint dismissed</p> <p>3. UAB <i>Infomedia</i> v. Communications Regulatory Authority (Competition Council as the third interested party)</p> <p>4. Competition Council v. Vilnius City Municipality (concerning the order obligating to implement the resolution of the Competition Council) – application of the Competition Council rejected</p>	<p>1. BAB <i>flyLAL - Lithuanian Airlines</i> v. <i>Air Baltic Corporation AS</i> and Riga Airport (concerning indemnification of damages) (Competition Council as the institution submitting conclusions)</p> <p>2. AB <i>Gubernija</i> v. UAB <i>Kalnapilio-Tauro grupė</i>, AB <i>Kauno alus</i> and AB <i>Volfas Engelman</i> (concerning indemnification of damages) (Competition Council as the institution providing conclusions)</p> <p>3. AB <i>Specializuotas transportas</i> v. Šiauliai District Municipality Council (Competition Council as the third interested party)</p> <p>4. UAB <i>Miesto skalbykla</i> v. UAB <i>Šiaulių skalbykla</i> (concerning unfair competition) (Competition Council as the third interested party)</p>
<b>Total cases examined – 8</b>	