

ANNUAL REPORT  
2006



COMPETITION COUNCIL  
OF THE REPUBLIC OF LITHUANIA

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# FOREWORD



Valdas Adamkus, the President of the Republic of Lithuania, and Rimantas Stanikūnas, the Chairman of the Competition Council

Picture by Dž. Barysaitė

Strengthening of competition leads to improvement of people's welfare – this could in brief represent the key objective of the Competition Council of the Republic of Lithuania. The Annual Report 2006 represents in most general terms an overview of the Competition Council's activities in pursuing this objective through the enforcement of the national competition policy and the oversight of the European Union rules.

Within the competence and the tasks assigned to it to protect the freedom of fair competition the Competition Council continued in its efforts to monitor the enforcement of the provisions of the Law on Competition and accruing its experience in the direct application of Articles 81 and 82 of the Treaty establishing the European Community. Consistent cooperation within the European Competition Network facilitated the institution in an efficient exchange of information and a successful completion of complex and large-scale investigations. We primarily focused our efforts upon disclosing cartel agreements as such agreements are particularly detrimental to consumers of both individual countries, and the single EU market. In order to more efficiently detect and clear up cartel agreements among competitors in 2006 the Cartel Division was established. The specialists working in the Cartel Division have been targeting their efforts to ensure early detection of prohibited agreements and their prevention. Despite considerable difficulties in detecting cartels, and identifying related direct and indirect evidence, in 2006 the specialists of the Competition Council successfully

completed two investigations of such prohibited agreements, and progressed with several others previously launched.

Every year, in view of the further development of competition, the Competition Council is being assigned new tasks and meeting new challenges: the enlarged markets and the enhanced activity of economic entities urged a more efficient and flexible application of the rules of competition law and further improvement in the quality of investigations. Only competitive and facilitating business environment may be beneficial to both businessmen and consumers, and meet the interests of both sides. Therefore, seeking to implement the competition policy and further strengthen competition culture the Competition Council was exercising not only the powers conferred to it to detect the infringements and impose sanctions, but also was employing a range of measures instrumental in the assessment of the competition environment and in the simulations of the situation in individual markets. The long-term market research, analysis of draft legal acts, development of cooperation with foreign competition authorities, and explanatory work effectively facilitated the Competition Council in pursuing its fundamental goals.

The Annual Report 2006 represents a comprehensive summary of the activity of the Competition Council covering its achievements in enforcing EC guidelines and regulations, supervising the implementation of the provisions of the Law on Competition and the Law on Advertising, coordinating State aid, defending its resolutions in courts,

and developing international and public relations among other things.

Publicity of our activity enables us to operate with confidence and independently. The Competition Council on a regular basis informed the public of decisions and resolutions passed thereby and the high qualification of the authority specialists enabled to ensure that even large-scale investigations are being conducted and completed within the established timeframe and up to the required quality. All resolutions of the Competition Council passed on a collegial basis having heard the explanations and arguments of the interested parties what ensures the overall objectivity and the unbiased character of the decision making process.

Judicial rulings contributed to gain experience in qualifying the infringements of the law and imposing the appropriate sanctions. Judicial practice yielded tangibly beneficial results in terms of a more efficient implementation of competition policy, and efforts to eradicate unfair competition.

In 2007, the Competition Council will further continue the enforcement of competition policy while applying the Law on Competition and its forthcoming amendments and the requirements of the EU law in the pursuit of its fundamental objective to stimulate the development of the national economy and benefit the Lithuanian consumers.

**Rimantas Stanikūnas**

Chairman of the Competition Council



Session of the Competition Council (on the left): Jonas Rasimavičius, Sigitas Cemnolonskis, Rimantas Stanikūnas, Vytautas Kavaliauskas

Picture by BFL

## HIGHLIGHTS OF 2006

### JANUARY

**January 5** The Competition Council passed the Resolution whereby AB Lietuvos paštas was recognised having infringed the requirements of Article 9 of the Law on Competition by its actions whereby it established discriminatory tariffs upon undertaking operating under identical terms as another undertaking thus. A fine of LTL 80,000 was imposed upon AB Lietuvos paštas for abuse of its dominant position.

### JUNE

**June 22** A fine of LTL 45,634 imposed upon undertakings for the prohibited agreement concluded when participating in the consulting service tender for obtaining the support from the EU structural funds.

### SEPTEMBER

**September 7** Authorisation granted to implement the concentration by establishing UAB Jungtinis tiekimas – logistics-construction materials distribution centre joining the small and medium-sized traders in construction materials.

**September 13** The Competition Council hosted the Third Baltic Countries Competition Conference in Vilnius.

**September 21** Authorisation granted to UAB Kautra to implement concentration by acquiring the 100 percent holding in UAB Tolimojo keleivinio transporto kompanija (TOKS).

### FEBRUARY

**February 8** Rimantas Stanikūnas, Chairman of the Competition Council participated in the Sixth Global Forum on Competition hosted by the Organisation for Economic Co-operation and Development (OECD) in Paris.

**February 13** Seeking to more efficiently and expediently perform the investigations of prohibited agreements between competitors – cartel investigations, and perform other investigation-related functions a new Cartel Division was established within the administration of the Competition Council.

### JULY

**July 7** Rimantas Stanikūnas, Chairman of the Competition Council, the only representative from the Eastern and Central European competition authorities participated in the closing discussion of the Sixth Annual Trans-Atlantic Antitrust Dialogue hosted by the British Institute of International and Comparative Law.

### OCTOBER

**October 5** A fine of LTL 3,110,000 imposed upon AB TEO LT for the infringement of Article 9 of the Law on Competition. The Company has not in essence contested the evidence of abuse of the dominant position and acknowledged to have committed an infringement.

**October 26** Having detected the cartel agreement in the wholesale paper market the Competition Council concluded that the companies participating in the cartel infringed not only the provisions of the Law on Competition, but also the requirements of Article 81 of the EC Treaty. The total amount of the fines imposed upon the companies for the prohibited agreement is in excess of LTL 680,000.

### MAY

**May 3** Rimantas Stanikūnas, Chairman of the Competition Council participated in the Fifth Annual ICN conference.

**May 8** The Supreme Administrative Court of Lithuania passed the final and unappealable ruling upholding Resolution of 3 February 2005 of the Competition Council on the prohibited agreement between undertakings operating in the taxi market in Vilnius.

### AUGUST

**August 1** The Competition Council started using its new logo registered in the State Patent Bureau of the Republic of Lithuania.

### NOVEMBER

**November 22** The Government of the Republic of Lithuania passed the Resolution approving the regional aid map of the Republic of Lithuania. The map was developed in accordance with the provisions of the EC Treaty providing for a possibility to grant certain State aid.

**November 30** The Competition Council initiated an investigation concerning the actions of *Rautakirja Oy* potentially circumventing the conditions and obligations attached to the concentration authorisation seeking to avoid the creation or strengthening of a dominant position in connection to the authorisation for the Company to acquire the Vilnius agency UAB Lietuvos spauda.

## GENERAL ACTIVITY OVERVIEW

The statistical data on the scope of the tasks and activities performed by the Competition Council (hereinafter – CC) in 2006 and the average duration of the performance thereof are presented in the Tables below:

Total resolutions by the CC in 2006	131
Of which:	
Concerning completed investigations	72
Of which:	
-ex officio investigations	4
-upon complaints	68
Refused investigations	16
Extended investigations	26
Terminated investigations	8
Other resolutions	9
<b>Positions on the EU legal acts submitted via the LINESIS system* of the Government of the Republic of Lithuania</b>	<b>8</b>
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\* Information system on Lithuania's membership in the EU

Average duration of investigations completed in 2006	Months
Concerning infringements of the Law on Competition	7
Of which:	
- prohibited agreements	9
- abuse of a dominant position	7
- infringement of the requirements of Article 4	5
Concentration control	19 weekdays
Infringements of the Law on Advertising	5
State aid notification approvals with the aid providers	1

The activity of the CC related to the enforcement of the Law on Competition (hereinafter – LC) is clearly demonstrated by the number of the resolutions taken in this respect and illustrated by the Table below.

### Resolutions under the requirements of the LC

Year	2000	2001	2002	2003	2004	2005	2006
Resolutions	69	73	70	73	79	81	85

# LAW ENFORCEMENT AND SUPERVISION



## 1. Prohibited agreements

### *Application of the EC competition rules*

### *Surveillance of the LC*

Continuing the trend of the previous years the CC has been focusing its attention and efforts to the prevention of horizontal (cartel) agreements under Article 5 of the LC and the cartel agreements under Article 81 of the Treaty establishing the European Community (hereinafter - the EC Treaty) in all markets of the Lithuanian economic activities. In the course of the year 2006, the CC conducted 7 investigations in total and imposed fines totalling LTL 726,514. During the year the investigations of prohibited agreements in paper market, the market for consulting services in relation to the EU structural funds, audit, energy equipment exploitation and maintenance were fulfilled. Upon the proof of the infringements in two cases fines were imposed, three investigations were extended to 2007, and in two cases the CC refused to initiate the investigations under Article 5 of the LC.

### *Application of the EC competition rules*

#### **CARTEL AGREEMENT IN THE PAPER MARKET**

The investigation of actions of undertakings trading in paper was commenced in 2004, ex officio by the CC upon suspicion of a possible cartel agreement in the wholesale paper market. Having suspected, in the course of the investigation, that the actions of the companies operating in the relevant markets could have affected trade between the EU Member States – Lithuania, Latvia and Estonia, the CC decided to supplement the investigation by provisions of Article 81 of the EC Treaty which prohibit

agreements and concerted actions between undertakings in the single market that may affect trade between Member States.

In relation to this investigation the CC notified the European Commission (hereinafter – the Commission) of the application of the EC Treaty competition provisions in Lithuania. Appropriate notifications were submitted to the competition authorities of Latvia and Estonia with whom the CC maintained close cooperation relations and was exchanging information. Certain actions within the investigation were performed in the territory of Latvia, domicile of the association of the paper-trading companies.

The investigation covered the period from 1999 to 2004. At that time, due to the prevailing conditions in the Lithuanian paper market the companies concerned faced virtually no competitive pressure from the part of competitors operating outside the boundaries of the Republic of Lithuania. Therefore, the principal competitors within the domestic market, namely, Antalis Lietuva, Libra Vitalis, Lukas, MAP Lietuva, Papyrus Distribution and Schneidersöhne Baltija, holding up to 94-97 % of the market in wholesale trade of chalky and office paper could exercise considerable influence therein. The investigation established sufficient number of facts and evidence proving that the companies had been regularly exchanging information of confidential nature on the market shares held in the wholesale markets for chalky and office paper. This enabled them to obtain knowledge of and monitor the behaviour of their competitors and thus forecast the strategy employed by the competitors in

the markets concerned that undoubtedly could weaken competition therein. While each holding medium to small shares of the relative market were not sufficient for an individual company to exercise any market power, the concerted actions provided an instrument of control of the competition in the markets concerned. Furthermore, companies Antalis Lietuva, Libra Vitalis, Lukas, MAP Lietuva Papyrus Distribution and Schneidersöhne Baltija, jointly holding major shares in the chalky and office paper markets and coordinating their actions for an extensive period of time could create barriers for any new companies to enter the Lithuanian market thus considerably diminishing their possibilities to compete on fair grounds.

Having considered the findings of the completed investigation, the CC passed the resolution whereby recognising that UAB Antalis Lietuva, UAB Libra Vitalis, UAB Lukas, UAB MAP Lietuva, UAB Schneidersöhne Baltija, the latter also representing UAB Papyrus Distribution, had committed actions infringing the requirements of Article 5 of the LC and of Article 81 of the EC Treaty. The companies concerned were obliged to cease the actions constituting such infringements. Having considered the severity and the duration of the cartel, the prohibited agreement, as well as the fact that the companies had been acting in a concerted manner simultaneously the CC resolved to impose the following fines: LTL 66,840 upon UAB Antalis Lietuva, LTL 194,850 upon UAB Libra Vitalis, LTL 22,730 upon UAB Lukas, LTL 161,130 upon UAB MAP Lietuva, and LTL 235,330 upon UAB Schneidersöhne Baltija (including the LTL 55,880 fine to be

imposed upon UAB Papyrus Distribution since these two companies had merged). The total of the fines imposed to all infringing companies – LTL 680,880.

After the accession of Lithuania to the European Union and with the subsequent application of the EU competition rules this has been the second case in practice of the CC that the authority recognised actions of undertakings to constitute an infringement of the requirements not only of the LC but also those of the EC Treaty.

### *Surveillance of the LC*

#### **CARTEL AGREEMENT IN THE CONSULTANCY FOR THE EU STRUCTURAL FUNDS MARKET**

The investigation concerning an alleged prohibited agreement by undertakings participating in the public procurement concerning the developing of the projects supported by the EU structural funds was initiated in response to the request lodged by the public institution Lithuanian business support agency (LBSA). LBSA is an institution responsible for the administration of the projects funded by the EU structural support and implemented under the measures of the Single Programming Document (hereinafter – SPD).

The UAB Eurointegracijos projektai, PI Perspektyvių inovacijų agentūra and UAB MAG Solutions were tendering for the consultancy services projects to be funded from the EU structural funds under measure 1.2 of the SPD “Ensuring of Energy Supply Stability, Accessibility and Increased Efficiency”. Based on the evidence obtained in the course of the investigation a conclusion was drawn up that these undertakings have concluded an agreement prohibited by the LC through involving in concerted actions. The undertakings submitted agreed tender bids having in advance agreed upon the anticipated tender winner.

As a result of the submission of coordinated bids by the competing undertakings, UAB Eurointegracijos projektai was awarded a number of tenders and thus acquired a leader’s position in the market concerned; meanwhile other undertakings, in particular PI Perspektyvių inovacijų agentūra were participating in the tenders with a single purpose to create an impression of competition and to show that there were more than one company competing for the tender through offering different prices.

Having assessed the findings of the completed investigation the CC resolved that the otherwise competing UAB Eurointegracijos projektai, PI Perspektyvių inovacijų agentūra and UAB MAG Solutions

when placing their bids were acting not independently but were rather concerting their actions and thus infringing the LC. The undertakings were fined LTL 45,634. This resolution of the CC was subsequently appealed to the Court.

#### **INVESTIGATION IN THE MARKET FOR THE INSTALLATION OF HEATING UNITS**

The LBSA lodged a request to initiate an investigation concerning the restricting actions of undertakings participating in the public procurement tender for the replacement of heating units. The procurement was organised in the energy sector under the project funded from the EU structural resources under measures 1.2 of the SPD. The LBSA notified the CC that several undertakings might have agreed and submitted coordinated bids for the tender concerned.

The officials of the CC inspected the undertakings involved and obtained the evidence of contacts and communications that had taken place between the tenderers immediately preceding the tender – they have been exchanging the information about the bid prices and technical characteristics of the tender object. The investigation concerning a possible agreement between the competitors to submit the coordinated bids for the tender is still in progress.

#### **INVESTIGATION IN THE MARKET OF OPERATION AND MAINTENANCE OF ENERGY EQUIPMENT**

The investigation with a purpose to disclose possible prohibited agreements between the undertakings who in 2005 - 2006 participated in public procurement tenders announced by the Maintenance Service of educational institutions of Klaipėda municipality was initiated upon the request of the Public Procurement Office under the Government of the Republic of Lithuania.

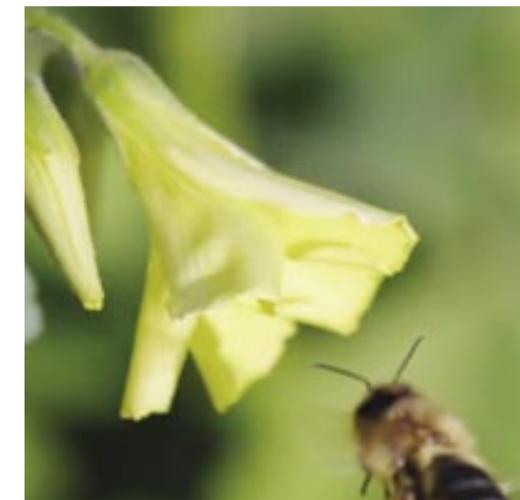
The investigation primarily involved the analysis of undertakings operating in the relevant market of energy equipment operation and maintenance. The findings of the investigation prompted a suspicion that several undertakings could have in advance agreed the terms of the tender bids and the allocation of public procurement objects according to the nature of the buyers’ activity in the tenders for the operation and maintenance of energy equipment. The investigation is still in progress.

#### **INVESTIGATION IN THE AUDIT SERVICE MARKET**

The investigation concerning the compliance of the actions of undertakings

operating in the Lithuanian market for audit services with the requirements of Article 5 of the LC was renewed on 24 April 2006, upon the receipt of appeals from a number of undertakings and in view of the newly disclosed circumstances.

The analysis of the material seized and obtained during the investigation concluded that an initiative group set up in the Lithuanian Chamber of Auditors had developed the minimal rates for the audit of the funds of the EU structural support, also the minimum time consumption and the minimum hourly rates. This might potentially restrict competition in the market of audit services and affect the decisions of companies concerning rates. The investigation continues.



## 2. Abuse of a dominant position

In 2006, the CC carried out nine investigations concerning possible abuse of a dominant position. In two cases the findings of the investigations established infringements, and fines totalling LTL 3,091,000 were imposed. In one case the decision will be passed in 2007, two investigations are still continued and in two cases the investigations were terminated. Also in two cases, following a preliminary analysis, the CC refused to initiate an investigation.

### ACTIONS OF AB LIETUVOS PAŠTAS

In 2006, the CC completed the investigation concerning the compliance of actions by the Lithuanian post office AB Lietuvos paštas with the requirements of Article 9 of the LC. The investigation was initiated upon a request of UAB Biznio mašinų kompanija to examine whether actions of AB Lietuvos paštas by establishing dissimilar delivery service rates constituted the abuse of a dominant position.

The investigation established that apart from AB Lietuvos paštas, invoice printing, folding and enveloping services can be provided by several other companies operating the necessary equipment. However, such companies must provide another, very closely related service, - the delivery of invoices to the customers at a triple price in cases where the weight of the mail parcel fall within the limit reserved for AB Lietuvos paštas. The prices of universal services are approved by the Resolution of the Government of the Republic of Lithuania; and the Director of AB Lietuvos paštas approves the specific rates for major customers. Therefore, the only way for such companies to participate in the tender and compete with AB Lietuvos paštas was to purchase the service of the delivery of mail of established weight from AB Lietuvos paštas which was able to provide such services at lower rates.

Companies participating in the tender launched by UAB Vilniaus energija could submit rates consisting of two parts: the rates for printing, folding and enveloping of invoices to be performed by the tendering companies themselves and the rate for the delivery of the parcel offered to the tendering companies by AB Lietuvos Paštas.

AB Lietuvos paštas, having offered the price for the printing, folding and enveloping of mail similar to that of its competitors, offered a 1,5 times lower delivery rate. AB Lietuvos paštas was able to offer a rate more attractive than that of its competitors being aware of the rates that could be offered by the other two tendering companies those being parties to the agreement on the universal post services concluded with AB Lietuvos paštas.

Thus AB Lietuvos paštas could acquire a significant advantage by virtue of its ability to offer much more attractive rates than those offered by other tenderers subject to the bidding agreement with AB Lietuvos paštas on the provision of mailing services.

The CC concluded that by such actions AB Lietuvos paštas was abusing its dominant position in the market for the reserved post services and was seeking to strengthen its position in the post services market while foreclosing in respect of its competitors another closely related market, - that of printing, folding and enveloping of invoices. For this infringement AB Lietuvos paštas was fined LTL 80,000.

\* \* \*

The investigation concerning the compliance of actions of the Lithuanian post office AB Lietuvos paštas with the requirements of Article 9 of the LC was initiated on the basis of requests received from utility companies UAB Vilniaus vandenys, AB Rytų skirstomieji tinklai, AB Lietuvos dujos and UAB Auštaitijos vandenys. The applicant claimed that following the establishment of a fixed commission fee for each payment collected from residents as of 1 January 2006, AB Lietuvos paštas was offering to conclude new contracts and refusing to conclude such contracts in individual country post offices, therefore it was allegedly abusing its dominant position. The investigation is still in process.

### ACTIONS OF AB LIETUVOS TELEKOMAS

In 2006, the CC completed the investigation concerning actions of AB Lietuvos telekomas allegedly constituting the abuse of the dominant position held by the company in Internet services market. The investigation was initiated upon the

request of UAB MicroLink Lietuva, UAB Baltnetos komunikacijos, UAB Tele 2, UAB Penki kontinentai, UAB Elneta, and SE Infostruktūra.

In the conclusions of the investigation that covered the period of 2002–2004 and 1Q 2005 the Competition Council established that during the period surveyed actions of AB Lietuvos telekomas (currently AB TEO LT) in the relevant markets resulted in the imposition of unfair prices referred to as „price squeezing“. One of the major objects of the investigation was the provision of the ADSL (the digital subscriber line that allows more bandwidth downstream, - from the network to the customer site - than upstream) Internet access service to the final users.

The services were provided on the basis of the wholesale AB Lietuvos telekomas ADSL Internet access framework. The comparison of the prices for services provided by undertakings operating in the market revealed that in the retail market AB Lietuvos telekomas was rendering certain ADSL internet access services to its final users (households and business customers) at the prices that would be lower than the prices offered to other customers in the wholesale market. Such actions are to be treated as abuse of a dominant position by using „price squeezing“. The CC assessed such actions of AB Lietuvos telekomas as abuse of a dominant position in the relevant wholesale ADSL Internet access market. Such actions restricted the possibilities for other companies to compete over prices when providing services in the retail market to the final consumers.

The Resolution obligated AB TEO LT to terminate the actions constituting an infringement of the LC and adjust the terms for the provision of the ADSL access so that the direct or indirect imposition of unfair prices or other terms for the purchase of the service are eliminated. For the infringement of the LC the Company was fined LTL 3,011,000.

### ACTIONS OF UAB VILNIAUS ENERGIJA

At the close of 2006, the CC completed a large-scale investigation concerning the compliance of actions of UAB Vilniaus energija with the requirements of Article

9 of the LC. The investigation was started on the initiative of PI Teleradijo kompanija Hansa. The purpose of the investigation was to establish a possible abuse of a dominant position by UAB Vilniaus energija in the market for the lease of the communication tunnels (underground collectors and technical corridors) in Vilnius.

It was established that in the city of Vilnius UAB Vilniaus energija is a sole entity leasing the tunnels designed for laying and operating of municipal engineering communications, the lessees do not have access to any other alternative tunnels to lay their communication facilities. Thus UAB Vilniaus energija avoids any direct competition in the market for the lease of communication tunnels (upstream); therefore, under Article 3(11) of the LC it holds a dominant position in this market. While dominating in the market UAB Vilniaus energija was in a position to raise the barriers to entry into certain service markets for other market participants, for example for PI Teleradijo kompanija Hansa, a potential participant of the downstream Internet access market. Also, in respect of participants of the same downstream Internet access market UAB Vilniaus energija was in a position to establish dissimilar payment terms, i.e. different prices for the lease of an equivalent product, thus infringing the requirements of Article 9 of the LC.

The CC will pass its final decision in this matter in 2007.

### ACTIONS OF AB LIETUVOS DUJOS

In July 2006, the CC started an investigation concerning the compliance of actions of AB Lietuvos dujos with the requirements of Article 9 of the LC. In 2005, the CC had refused to initiate an investigation in response to the applications by UAB Akmenės energija and UAB Ukmergės energija on the basis that the examination of the facts indicated in the application falls beyond the competence of the CC. On 16 June 2006, the Supreme Administrative Court of Lithuania overturned Resolution No. 1S-72 of 23 June 2005 of the CC, and returned the application of UAB Akmenės

energija to the CC for reexamination. Within the scope of the investigation still in progress the CC is examining the market of the supply of gas to free consumers and the terms related to the conclusion of the natural gas purchase-sale contracts for a possible infringement of Article 9 of the LC.

### ACTIONS OF THE LITHUANIAN STATE HISTORY ARCHIVE

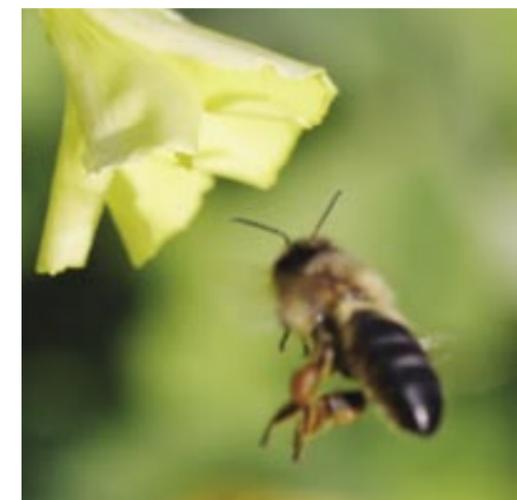
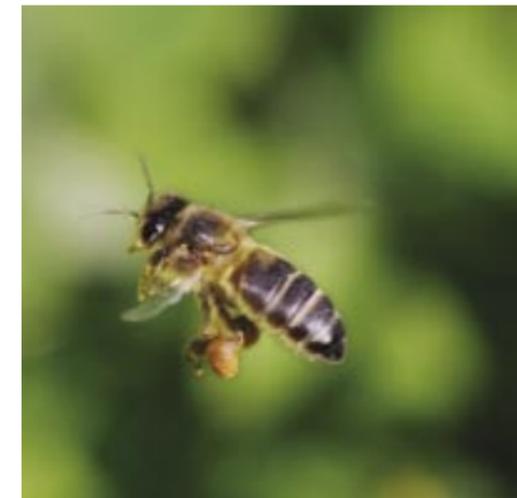
The investigation concerning the compliance of the actions of the Lithuanian State History Archive (LSHA) in restricting the possibilities of undertakings to perform genealogical research with the requirements of Article 9 of the LC was initiated upon a receipt of the application of UAB Generosus dominus. The applicant claimed that the LSHA had refused to release larger volumes of documents to UAB Generosus dominus for performing the genealogical research and thus restricted the possibilities of the applicant to conduct such research. The LSHA, however, was unrestrictedly using such archives not only for the purpose of research works, but also for the investigations performed on commercial basis; therefore, such actions of LSHA could have possibly infringed the requirements of Article 9 of the LC.

While the investigation was in progress a decision was passed whereby LSHA refused to further provide the service of the complex genealogical. Upon the termination of the commercial activities by LSHA (thus it no longer being a participant in the relevant market) the basis for the investigation was removed, i.e. a suspicion that LSHA fails to ensure to other undertakings the conditions equivalent to those available to itself, i.e. to obtain the documents necessary for performing the genealogical research. For that reason based on the resolution of the CC the investigation was terminated.

### ACTIONS OF VILNIUS INTERNATIONAL AIRPORT

On 19 January 2006, the CC launched an investigation requested by UAB Baltic Ground Services concerning the compliance of actions of the State enterprise Vilnius International Airport with the provisions

of Article 9 of the LC. The investigation was performed seeking to clarify whether SE Vilnius International Airport abuses its dominant position by granting privileges or creating discriminatory conditions to individual undertakings that are providing ground services on the site of the airport. The investigation did not produce any evidence of the abuse of the dominance by SE Vilnius International Airport in the market for the provision of ground services. Furthermore, having considered the claim by Baltic Ground Services Vilnius International Airport decided to satisfy the requests of the applicant and provide all services prescribed in the concluded agreement between the companies. Therefore, the investigation was terminated.



### 3. Concentration control

#### OVERVIEW OF THE NOTIFICATIONS RECEIVED

During 2006, the CC received total 61 notifications applying for authorisations to implement the concentration of market structures. In 59 instances, the CC by its resolutions, authorised the intended concentrations; among these there were 4 concentration notifications received at the end of 2005, in respect of 5 notifications the examination will be continued in 2007. On a single occasion the CC decided to impose interim measures seeking to maintain the existing competitive situation in the market and prevent any significant competitive harm to other undertakings or public interests or any appearance of irreparable consequences. On six occasions, seeking to more expediently authorise applications of the undertaking to implement the concentration and having concluded that the intended deal will not result in a creation or strengthening of a dominant position, on the basis of Article 12(3) of the LC, by its appropriate resolutions the CC authorised the implementation of individual actions of concentration pending the final decision. In 2006, the competition authority received two complaints concerning the restriction of competition through the implemented concentration and an inappropriate fulfilment of the conditions and obligations defined in the relevant resolution of the CC. In one case the CC reasonably refused to start the investigation, and in respect of the second complaint an investigation was launched seeking to determine a possible infringement of concentration terms and related obligations imposed upon Rautakirja Oy by Resolution No. 1S-121 of 27 October 2005 of the CC, and the compliance of the actions of Rautakirja Oy (and the undertakings controlled thereby) with the requirements of Article 9 of the LC.

Part of the undertakings, having consulted the specialists of the CC prior to submitting the notifications refused their intentions to implement the concentrations. On 36 occasions the undertakings or institutions were submitted written responses, in addition to regular verbal consultations provided by the CC.

The CC has been making every effort to examine the concentration notifications within the shortest time limits. In 2006,

the average duration of investigations was 19 business days. The CC endeavoured to ensure that the decisions passed thereby are objective, well grounded and adequately substantiated, and this is clearly demonstrated by the fact that in the period from 1996 to 2007, i.e. for 11 years not a single decision of the CC had been modified by the court; although, on five occasions the resolutions of the CC concerning the authorisation for concentration were appealed to the court.

#### AUTHORISATIONS TO FOREIGN ENTITIES

In 2006, there were fewer authorisations to perform concentration granted to foreign entities as compared to the previous years (15, as compared to 22 in 2005, and 15 in 2004). In as many as nine cases concentration was performed among entities registered in foreign States which were also operating in the Lithuanian commodity markets, and the concentration deals resulted in a certain increase in the concentration in the Lithuanian markets. In eight cases the concentrations executed in foreign States were assessed as horizontal concentrations, in six cases foreign entities acquired the entities registered in Lithuania.

#### AUTHORISATIONS TO LITHUANIAN ENTITIES

Concentration among the Lithuanian-registered undertakings was performed in 44 cases, of which on 7 occasions the authorisations were issued to undertakings controlled by foreign capital, and in 9 cases – to undertakings controlled by joint domestic and foreign capital. There was an obvious increase in the degree of concentration among entities operating in the same markets. In as many as 34 cases concentration was assessed as horizontal. This included the following cases: 13 cases

in the market for the construction of residential and commercial objects and the development of real estate; 11 cases – in trade sector including the retail trade in medicines and medicinal preparations, in 6 cases – in the industry sector (food industry), in 3 cases concentration was implemented in the transport and service sector, one case was recorded in each of the information technologies and press publication sector. In 8 cases the concentration was assessed as conglomerate and in two cases the CC authorised the incorporation of new entities.

#### DEVELOPMENT OF CONCENTRATION CASES

The data of the Table show that for the several years the development of concentration notifications remain nearly unchanged; although, starting from 2006 there has been a notable acceleration of concentration processes in the markets for the construction of residential and commercial objects and the real estate development.

The data presented in the Table show that in the last five years 21 authorisation was granted subject to conditions and obligations which accounts for 7.7 % of all authorisations during the relevant period.

In 2006, undertakings paid the total of LTL 246,500 in stamp duty for the examination of concentration notifications.

#### ENFORCEMENT OF THE RESOLUTIONS OF THE CC

Having granted to undertakings the concentration authorisation subject to certain conditions and obligations established in order to avoid the creation or strengthening of a dominant position, the CC was further monitoring the implementation by the undertakings of the

obligations imposed and, in the meantime, analysing the effect of the decisions upon the competitive situation in the market.

Late in 2005, acting in accordance with the provisions of the LC, the CC authorised the concentration to be implemented by Elion Ettevõtte AS, one of the largest telecommunications and information technologies service provider in Estonia by acquiring a 100 % holding in Microlink AS under the obligation to AB Lietuvos telekomas to sell UAB Microlink Lietuva. The latter company was disposed of prior to the established term and late in 2006 UAB Microlink Lietuva offered to the market a fixed telecommunications service „Metro Tel“ thus entering into competition with TEO LT, AB (former AB Lietuvos telekomas).

In October 2005, in order to avoid the creation or strengthening of a dominant position, the Finnish company Rautakirja Oy was granted an authorisation to perform concentration by acquiring 100% of shares of Vilnius agency UAB Lietuvos spauda subject to certain conditions and obligations. Some of the obligations were fulfilled within the established time limits (selection and approval of an independent observer, removal of provisions restricting competition from total of 26 contracts, etc.). Audit company, having analysed the contracts with the suppliers and the retailers concluded by UAB Impress Teva and Vilnius agency UAB Lietuvos spauda, identified that on 26 occasions the contracts contained restricting provisions:

- an exclusive right to sell the publications to designated buyers;
- commitment by the publisher not to sell the publications neither directly nor indirectly to other buyers;
- possibility of the publisher to sell the publications only to the distributor for resale in designated resale points;
- commitment by the publisher not to sell the publications to the sale point directly and not to grant such right to the other parties;
- obligations imposed by UAB Impress Teva upon retailers and other buyers not to supply the publications to any points of sale other than agreed.

At the close of 2006, responding to the complaints from publishers and competitors concerning a possible non-compliance with the obligations and conditions the CC initiated an investigation seeking to detect a possible infringement. Simultaneously, the CC resolved to impose the interim measures in order to maintain the competitive situation in the market and prevent any significant competitive harm or irreparable consequences upon other undertakings.

#### CONCENTRATION IN THE PASSENGER CARRIAGE MARKET

Having examined the application filed by UAB Kautra to implement the concentration by acquiring a 100 % holding of UAB Tolimojo keleivinio transporto kompanija (TOKS), the CC resolved to authorise the concentration in accordance with the submitted notification.

The concentration in this particular case was assessed as a horizontal concentration in the relevant market of passenger carriage by busses on scheduled local, long-distance and international routes. Having thoroughly assessed the situation in the relevant markets a conclusion was drawn up that the intended concentration would not result in creation or strengthening of dominance or any significant lessening of competition in the markets concerned. The decision was passed having considered that in Lithuania passenger carriage by busses on scheduled local, long-distance and international routes is regulated by public authorities – the Ministry of Communications and the State Price and Energy Control Commission, and the international carriage in the territory of EU is governed in accordance with the relevant regulations of the European Council and the rules approved by the Ministry of Communications of the Republic of Lithuania.

#### CONCENTRATION PROCESSES: CHANGES AND CHALLENGES



**Aleksandras Jakiūnas**  
Head of the Concentration Division

*The analysis of the concentration processes clearly demonstrated that in the course of the year 2006 the concentration processes were most active in the construction and the real estate development, retail trade in medicines and medicinal preparations, building materials, food industry sectors. Similarly to the previous years the supermarkets have been expanding their operations by opening new modern trade centres and attracting foreign investment. However, certain concern was caused by virtually uncontrolled expansion on contractual basis by the supermarkets operating in local markets. This is a method whereby a company grants to a number of selected entities a trade mark and the entities in return undertake to purchase from the latter company up to 50-80 % of their products, or the expansion through franchising in such markets as retail trade in fuels, retail trade in medicines, or construction materials.*

*Concentration processes were equally observable in the market for mass media by acquiring the publications of competing entities.*

*Although the degree of concentration in the construction and services, real estate development markets was not high, the developments in these markets during the previous years undoubtedly contributed to the growth the real estate prices in Lithuania.*

Years	2002	2003	2004	2005	2006
Notifications received	52	54	56	64	61
Authorisations granted	48	52	54	59	59
Of which authorisations to foreign entities	15	10	15	22	15
Authorisations subject to conditions and obligations	5	6	5	4	1

## 4. Actions of public and local authorities restricting competition

### PROVISIONS OF THE ORDERS OF THE COMMISSAR GENERAL OF THE LITHUANIAN POLICE

Within the period reviewed the CC completed the investigation related to the provisions of the Commissar General of the Lithuanian Police whereby the police security divisions were authorised to provide services, on commercial basis, of the property security to natural and legal persons. The Order was examined in terms of its compliance with the provisions of Article 4 of the LC. The investigation was commenced upon receipt of a complaint from UAB Falck Security and there being grounds to assume that the rights and powers inherent to the police granted to selected security departments of the Lithuanian Police including the right to use special measures may possibly secure to such divisions certain privileges in comparison to other undertakings operating in the market for security services.

During the investigation it was established that the protection of persons and property by the police security divisions are the functions not inherent to the police forces and not governed neither by the laws ruling the activities of police, nor by the Law on Personal and Property Security. Such activities of the police forces are governed exclusively by the Orders of the Commissar General. When competing in the relevant market with the other security firms police divisions clearly have more powers (equal to the powers of other officers) such as: the right to use special police vehicles, enter the residential and non-residential premises or territories owned by natural and legal persons at any time of the day, halt and enter any vehicles, etc., while the security firms are not authorised such powers. After considering an affect of such authorisations to the price and quality of the service, a conclusion was arrived that different competition conditions had been created for the undertakings operating in the market. Such differences in the conditions are not caused by requirements of the laws of the Republic of Lithuania.

On 15 January 2006, the CC passed a resolution recognising the provisions of the Order of the Commissar General contradicting Article 4 of the LC, and obligated the Department of Police to amend the Order accordingly.

### DECISIONS OF THE MOH AND THE STATE PATIENTS' FUND

On the basis of an application filed by UAB Baltic Orthoservice an investigation was conducted concerning the decisions passed by the Ministry of Health (MoH) and the State Patients' Fund restricting competition in the relevant market for the production and marketing of orthopaedic devices. It was established that the procedure for compensations of the provision of the public by orthopaedic devices approved by the MoH and the requirements to the entities seeking to conclude contracts concerning the provision of the public with the orthopaedic devices approved by the State Patients' Fund created different competition conditions for the undertakings operating in the market concerned. Some privileged conditions were granted to the part of the entities in the market since they were regularly allocated a fixed amount of funds, thus within a certain time period for which the funds had been allocated companies could successfully operate in the market being assured of the part of income. In the meantime, entities novice to the market or newly entering the market concerned had encountered significant obstacles being not able to develop their activities under the same conditions as they were not granted any allocations from the Mandatory Health Insurance Fund, and thus eventually, they were deprived of a possibility to successfully compete in the market. The unequal competition conditions to different entities caused a situation where the services of the entities reimbursed for the acquired orthopaedic devices turned significantly more attractive to the consumers. The conclusion by the CC was that the decisions concerned contradicted Article 4 of the LC.

### ORDER OF THE MINISTER OF THE INTERIOR

The investigation concerning a possible infringement of Article 4 of the LC was initiated upon receipt of an application by AB Lietuvos telekomas, UAB Omnitel and UAB Bitè GSM claiming that the Order of 14 May 2004 of the Minister of the Interior assigned the functions of the operator of the secure public data transmission network (hereinafter – the secure network) to the State enterprise Infostruktūra.

According to the applicants the Order granted SE Infostruktūra an exclusive right to provide the Secure network services – data transmission, telecommunications and other services to all public and local authorities in Lithuania, entities and enterprises, thus creating the different competition conditions for the undertakings competing in the relevant market.

The CC concluded that the secure network is a facility whose operation is regulated by legal acts of the Republic of Lithuania, it performs specific predefined functions and the users of the secure network are exclusively the public authorities of the Republic of Lithuania. This network is the sole network connected to the IDA networks for the electronic data exchange between the EC administrations; therefore, it may not be substituted by any other data transmission networks. The investigation revealed certain characteristics uniquely inherent to this network and, having assessed other important factors and circumstances, a conclusion was drawn up that the services provided via the secure network do not represent the service freely available in the open market. The network has been designed for specific services rather than the performance of commercial-economic activities. In the view of the peculiarity of the relevant market there are no and may not be any competing undertakings; therefore, there may not be any competition differences in such markets. On the basis of these findings the CC decided to terminate the investigation.

### DECISIONS OF MUNICIPALITIES:

#### VILNIUS CITY

On the basis of the application filed by UAB Versenta the CC conducted an investigation concerning the decisions of the Council of the Municipality of Vilnius assuming the purchase of services from specific undertakings operating in the relevant markets, namely UAB Marela and UAB Rubicon Eventus, which could possibly result in a privileged position of the latter undertakings in respect of others operating in the same relevant market. In the course of the investigation the Council of the Municipality of Vilnius passed a decision invalidating the previous decisions thereof

that had triggered the investigation by the CC; therefore, the investigation proceedings were terminated.

Later the CC received from UAB Versenta some additional information with a request to conduct an in-depth investigation of actions of the Municipality of Vilnius in procuring services from UAB Rubicon Eventus. The applicant claimed that even following the annulment of the decision of the Council of the Municipality of Vilnius, the institutions of the Vilnius Municipality continued to pass decisions whereby it created a privileged position for UAB Rubicon Eventus and was discriminating other undertakings. The CC in this respect stated that the actions of the Vilnius Municipality in concluding the lease agreements with UAB Rubicon Eventus and the failure to provide this information to the CC should be considered as important evidence that could have possibly affected the decision of the CC; therefore, the previously terminated investigation was renewed. The investigation is still on the way.

The CC received an application from PI Naujosios viešosios vadybos fondas requesting to investigate and assess the compliance of Resolution of 13 October 2004 of the Council of the Vilnius Municipality with the requirements of Article 4 of the LC. The investigation was launched in July 2006 there being the grounds to suspect that by obligating the Director of the Urban Development Department of the Administration of the Municipality to conclude the agreement with PI Vilniaus planas concerning the drafting of the Master plan of the Vilnius Municipality until the year 2015, the Vilnius Municipality could have possibly created a privileged position for PI Vilniaus planas in respect of other undertakings which were equally able to take this assignment.

The CC was lodged an application of UAB ON kompiuteriai to examine and assess the actions of the Vilnius Municipality whereby the latter refused to issue a permission to the company to install and maintain the outdoor advertising billboards on viaducts in the city of Vilnius. Having permitted UAB JCDcaux Unicom and UAB ETN Baltic to engage in this activity the Vilnius Municipality could have created dissimilar competition conditions in respect of undertakings operating in the relevant market.

The investigation then launched by the CC required a thorough examination of legal acts governing the area, a series of documents and contracts, and it was concluded that the

actions of the Vilnius Municipality did not constitute an infringement of Article 4 of the LC. The investigation was on that basis terminated.

Another investigation was launched on the request of the Public Procurement Office under the Government of the Republic of Lithuania who requested an examination of a possible infringement of the requirements of competition regulations and discriminatory treatment of other undertakings caused by decisions of the Vilnius Municipality. The decisions contested concerned the authorisation by the Municipality to UAB Vilniaus kapitalinė statyba to perform the technical supervision of structures and the functions of the construction manager in respect of structures and engineering networks financed from the resources of the Vilnius Municipality and other public funds. The applicant claimed that the construction objects commissioned by the Vilnius Municipality in which the functions of the construction manager is performed by UAB Vilniaus kapitalinė statyba caused a conflict situation on the grounds that the Vilnius Municipality procured the technical supervision services from UAB Vilniaus kapitalinė statyba without having announced any tender.

In the course of the investigation the CC established that the decisions of the Vilnius Municipality whereby UAB Vilniaus kapitalinė statyba was authorised to perform the functions of the construction manager and the technical supervisor, did not grant any privileges to UAB Vilniaus kapitalinė statyba and did not discriminate other individual undertakings or their groups; therefore, the investigation was terminated.

#### KAUNAS CITY

UAB Dzūtra engaged in the mixed household waste management appealed, as contradicting Article 4 of the LC, the refusal of the Kaunas Municipality to conclude a contract with the applicant concerning the management of mixed household waste and decision of the Council of the Municipality of Kaunas passed in 2002 on the basis of the Rules of waste management in the city of Kaunas. The investigation established that the decision contested granted exclusive rights to another undertaking, UAB Kauno švara to provide the services of mixed household waste management in Kaunas, thus creating dissimilar competition conditions for other undertakings operating in the relevant market. The CC ruled that the actions of the Kaunas Municipality had to be assessed as an infringement of Article 4 of the LC, and obligated the Kaunas Municipality

to amend the decision bringing it into compliance with the provisions of the LC.

#### PALANGA CITY

The applicant, the representative of the Government in the County of Klaipėda, in the course of performing the function of supervision of legality of actions of municipal authorities, applied to the CC with a request to investigate the situation related to the allocation by the Council of the Palanga Municipality, without announcing a tender, of permits to engage in trading (or the provision of services) in certain public sites designated by the Council of the Palanga Municipality. By issuing permits to selected undertakings the Palanga Municipality could create the dissimilar competition conditions for selected undertakings in comparison to other undertakings operating in the relevant market. On 28 April 2004, the Council of the Municipality of Palanga passed a decision "On the local duty for the issuance of permits to trade (provide services) in public place designated by the Council of the Palanga Municipality". The CC concluded that actions of the Council of the Palanga Municipality in allocating to certain persons, without announcing any tender, sites listed in the annex of the regulations approved by the latter decision constituted an infringement of Article 4 of the LC. The CC obligated the Palanga Municipality to amend the infringing decision to ensure its compliance with the LC.



## 5. Market overview

### NATURAL GAS: LIBERALISATION PROSPECTS

For several years already the Law on Natural Gas has been an object of heated public discussions basically due to its provisions containing the market liberalisation proposals. Among legislators there has been some indecisiveness regarding the adoption of the Law due to the disagreement as to the expediency of gas price regulation for consumers. In December 2006, the problem attracted the attention of the Commission. The gas market opening is supposed to be beneficial to consumers enabling them to choose, from a number of suppliers the one offering more affordable prices at beneficial terms. Lithuania, however, being forced to purchase the total gas supplies from a sole supplier, the monopolist Gasprom is virtually deprived of any right of choice. Therefore, the market has been facing difficulties in developing competition, which could result in lower gas prices; this is clearly reflected in investigations conducted by the CC. The investigation in relation to a possible abuse of a dominant position by AB Lietuvos dujos in the natural gas market when concluding agreements with free gas consumers is expected to facilitate a thorough assessment of the situation in the market and help find responses to questions related to the peculiarities of the operation of this market. In the course of the investigation the suppliers' pricing in respect of the consumers, the profitability of natural gas supply and possible developments of final price for consumers will be also assessed.

### OIL EXTRACTION AND PRODUCTS

Lithuanian oil extraction market has changed during the year 2006 following the merge of the two major operators in the market. The CC authorised the implementation of the concentration by AB Geonafta by acquiring up to 100 % of shares of UAB Genčių nafta in accordance with the submitted notification.

UAB Lietuva Statoil trading in oil products was authorised to implement the concentration in accordance with the submitted notification by acquiring part of the assets of UAB Okseta – the oil product terminal.

### RAW TIMBER SUPPLY MARKET

The CC under the assignment given by the Prime Minister and the Committee on Economics of the Seimas of the RL initiated an investigation in the market of raw timber intended for the heat supply enterprises. The purpose of the investigation was to examine a probable price cartel agreement between the raw timber suppliers. The analysis of the data obtained from 42 forestry enterprises showed that in terms of heat generation capacity the retail and wholesale prices of firewood were different within the same relevant market.

Having performed the raw timber supply market investigation and analysed the prices of raw timber intended for the heat suppliers, the CC established that in view of the price differences and the fluctuation trends in the market concerned the agreement is hardly presumptive. Based on the conclusion the CC decided to further analyse and supervise the actions of the undertakings operating therein.

### PAYMENT CARD MARKET: COMPETITION IS STRENGTHENING

In 2006 based on the experience of the Commission and other European competition authorities the CC carried out a survey in the bank payment card market of Lithuania. The object of this market investigation was the so-called POS (point-of-sale) system that covers the consumer settlement using the payment cards and the relations arising between the banks and the sellers, between the banks, also between the banks and the cardholders. The objective of the survey was to find out how and what kind of services provided different entities operating in the payment card market. The findings of the survey established that banks on the said market do not exercise market power, and competition between banks is strengthening.

The survey of the consumer mobility in the retail banking services showed that Lithuanian consumers are sufficiently conscious in selecting the service provider and that there are no major obstacles to shift the bank.

The legal regulation of the operations of the Lithuanian banks has been brought into

line with the relevant provisions of the EU law and developed taking into account the experience accumulated in other countries. As a result, the entry into market by the banks is restricted only by the requirements necessary to ensure the financial viability, reliability and stability of the new market player and its future customers. No specific restrictions are provided for the entry into the market by subdivisions of foreign banks.

This survey helped to understand the behaviour of the consumers using of retail banking services and the factors affecting their choice of services provider.

### TRADING NETWORKS: STATUS AND CHALLENGES



**Vytautas Gliėbus**  
Head of the Consumer Goods Division

*Under the mandate of Resolution No. 17-4961 of 7 July 2003 of the Government of the Republic of Lithuania obligating the CC to periodically estimate the share in the market held by major trading networks in order to be able, where necessary, take appropriate actions and measures, the CC analysed the*

*data and other materials related to retail trade in food products. The analysis showed that the major trading networks held 6.5 % shops trading in food products; the area of the network shops exceeded 47 % of total area of such shops, and the turnover of goods generated per 1 sq. m is at times twice or even higher than the one of the shops not part of the network. The network-managed shops and trading centres are operating throughout the entire territory of Lithuania, only five municipalities are an exception with not a single shop belonging to the network, and five municipalities have one shop of the kind each. The largest number of trading networks shops operates in major cities – Vilnius, Kaunas and Klaipėda. The analysis assessed the retail trading differences between specialised stand-alone stores (of mixed goods), also belonging to individual minor networks, unions or systems and major trading networks. The network stores are distinguished by their ability to offer a large assortment of goods (30,000-40,000 items) that makes the network stores one-stop shops with long opening hours, a standard of services, range of ancillary services, etc., that the specialised stores and stores of mixed goods cannot offer to their customers. Seeking to establish whether or not the major trading networks are using their advantage in bargaining of supplies the CC interviewed Lithuanian producers operating in nine fields of activities. The findings not revealed a single case of producers cooperating exclusively with a single major trading network – all producers maintain business relations with nearly all networks to whom they sell from 6 to 85 % of their products; furthermore, producers favourably assess the export possibilities specifically expanded following the EU accession making the producers not dependant on a single sale channel. Producers did not provide any specific facts of any pressure from the part of the trading networks. The final data of the investigation performed will be summarised in the course of 2007.*

## 6. Legislation and promotion of competition culture

During 2006, the CC actively participated in the legislative processes. The CC prepared a draft law on the Amendment of the LC, 16 draft laws and 60 other draft legal acts were examined and assessed from the point of view of competition.

### THE DRAFT LAW ON AMENDMENTS OF THE LC

Late in 2006, the CC drafted the Law on Amendments of the LC and submitted it for consideration to a number of relevant ministries. The draft law contained the following major changes and novelties:

- having regard to the provisions of Council Regulation (EC) No. 1/2003 and the powers vested to the Commission the draft law proposes to empower the CC officials to seal any business premises and books and records for the period and to the extent necessary for the inspection, and subject to the court warrant conduct inspections not only in the business premises used by the undertaking but also in the private homes of the employees of the undertaking. The draft law also includes a proposal to extend the scope of sanctions at the disposal of the CC, while authorising the CC to apply structural measures upon undertakings for prohibited agreement and abuse of a dominant position (obligations to sell an undertaking or part thereof; assets of an undertaking or part thereof, shares or part thereof, to reorganise an undertaking);

- having considered the Ruling of 28 July 2006 of the Supreme Administrative Court of Lithuania establishing that the right of the CC to pass confidential decision may be only provided in the law, the draft law proposed to introduce the provisions authorising the CC not to publish its resolutions in cases where the publication of the resolution may prejudice the course of the investigation conducted by the CC. In such case the resolution of the CC could be deemed confidential until the threat to the course of the investigation expires.

### COMMENTS TO DRAFT LAWS

Conclusions in respect to the Draft Law on the Amendment of Article 9 of the Law on Immovable Property Tax were submitted to the Board of the Seimas of the Republic of Lithuania. The draft law proposed to

supplement Article 9(2) of the Law on Immovable Property Tax with a new item 2 wherein the immovable property used as hotels is excluded from other immovable property for commercial use, establishing that the immovable property used for hotels is valued on the basis of the value-in-use method applying mass valuation of the immovable property (such law being enacted, owners of hotels could enjoy a lower immovable property tax). In the opinion of the CC, in the absence of a clear and uniform definition of the immovable property used for hotels difficulties may arise in separating the hotel activities (accommodation services) from other activities that the same entity may be engaged in the same premises (for example, the catering services) and addressing the issue of evaluation of such immovable property (that is also used for other than accommodation purposes). Such uncertainty in respect of the concept of the immovable property used for hotel purposes could have a consequence of different competition conditions for undertakings operating in the relevant market (for example, the value of the immovable property used by restaurants operating in hotels would be established according to the value-in-use method, while a comparative value method could be used in case of valuation of other immovable property used for the provision of catering services).

\* \* \*

The CC submitted its comments concerning the draft Law amending Chapter 4 of the Appendix to the Law on the Basics of National Security. The provision of Part 2 of Section 2 of Chapter 4 "Economic policy" of the Appendix to the Law on the Basics of National Security reads: "A single investor shall be prohibited from dominating in one or several economic sectors of strategic importance to national security". In the opinion of the CC such provision of the law is not sufficiently clear (it is not clear how to define dominance in an economic sector rather than a relevant market), and hardly enforceable in practice as no measures have been provided for to be taken in the event an undertaking, e.g., due to its successful commercial activity infringes this prohibition, becomes dominant (the LC does not prohibit holding of a dominant position, it only prohibits its abuse).

## 7. Coordination of State aid

### LEGISLATION IN STATE AID AREA

The measures enforced by the Commission according to the Roadmap for State Aid Reform 2005-2009 directly affected the activities of the CC in coordinating the State aid issues between the Commission and the Republic of Lithuania. Acting as a coordinating institution as provided for in Article 48(3) of the LC the CC closely cooperated with the authorities of the Commission and of the Republic of Lithuania, in a timely and dutiful manner submitting comments and proposals in respect of draft legal acts prepared by the Commission. Within the reporting period the CC in cooperation with the ministries and other authorities of the Republic of Lithuania comprehensively assessed a number of draft legal acts and submitted comments and proposals concerning the following draft legal acts:

- Commission Regulation (EC) on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No. 70/2001;
- Commission Regulation (EC) on the application of Articles 87 and 88 of the Treaty to de minimis aid;
- Commission Regulation (EC) on the application of Articles 87 and 88 of the Treaty to national regional investment aid;
- Community Framework for State aid for Research and Development and Innovation;
- Guidelines for Community State aid in the agriculture and forestry sector 2007-2013;
- Commission Communication on the guidelines on national regional aid for 2007-2013;
- Commission Communication on the setting of reference interest rates.

During the reporting period in cooperation with other institutions acting within their respective competence the CC assessed:

Draft Commission Regulation on the application of Articles 87 and 88 of the Treaty to de minimis State aid in the fisheries sector;

Draft EC Regulation amending Council

Regulation (EC) No. 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid;

Draft Community guidelines on State aid and promotion of venture capital investment in small and medium-sized enterprises.

Having regard to the changes in the EU legislation and the legal acts recently adopted by the Commission during the reporting period the CC worked out drafts of four national legal acts.

Seeking to ensure that the provisions of Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings (as last amended by Commission Directive 2005/81/EC of 28 November 2005) are adequately transposed into the national legislation the CC prepared the draft Law on the amendment of Article 8 and the Annex to the Law on Local Self-Government;

The CC prepared a draft on the Amendment of Resolution No. 1136 of 6 September 2004 of the Government of the Republic of Lithuania "On the approval of the Rules for the performance of expertise of State aid projects, submission of conclusions and recommendations to State aid providers, and submission of State aid notifications and other information to the European Commission and other institutions concerned" which was adopted by the Government of the Republic of Lithuania on 25 August 2006 (Official Gazette, 2006, No. 92-3636).

In accordance with the Decision of the Commission information on State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest must be in an appropriate manner accumulated. Since State aid granted in Lithuania is an object of the State aid Register (hereinafter – the Register) the information on State aid in the form of public service compensation granted under Commission Decision 2005/842/EC to certain undertakings entrusted with the operation of services of general economic interest must be also accumulated in the Register. In this connection the CC

prepared the draft on the amendment of Resolution No. 35 of 19 January 2005 of the Government of the Republic of Lithuania "On the establishment of the Register of granted State aid, approval of the Regulations and the date of the beginning of operations of the Register" which was adopted by the Government of the Republic of Lithuania on 25 August 2006 (Official Gazette, 2006, No. 92-3638).

In accordance with item 97 of the Guidelines on national regional aid for 2007 - 2013 (hereinafter – the Guidelines) adopted by the Commission (OJ 2006 C 54, p. 13) decisions by which Commission adopts the regional maps for each Member State should be construed as forming an integral part of the guidelines and as having binding force only on condition that they have been accepted by Member States. Having regard to this provision the CC prepared the draft Resolution of the Government of the Republic of Lithuania "On the approval of the regional aid map of the Republic of Lithuania". By Resolution No. 1176 of 24 November 2006 (Official Gazette, 2006, No. 130-4905) the Government approved the regional aid map for the Republic of Lithuania.

Seeking to ensure that State aid projects comply with the EU State aid rules the CC verbally and in writing provided consultations and explanations (both in relation to the preparation of State aid notifications as well as other cases) to State aid providers. The CC submitted comments and proposals in respect of draft legal acts prepared by the Ministries of Agriculture, Economy, Finance, Communications, Interior, and the Ministry of Social Security and Labour. During 2006, in total 59 draft legal acts were assessed.

### SUBMISSION OF NOTIFICATIONS TO THE COMMISSION

In performing its functions of the institution coordinating the issues of State aid the CC closely cooperated with State aid providers in drafting State aid notifications to the Commission and providing the information on State aid. Within the reporting period State aid providers submitted five notifications to the Commission, of which three, the largest number, were submitted by the Ministry of

Agriculture. During 2006, the Commission passed favourable decisions in respect of 14 State aid notifications. At the close of 2006, eight cases of State aid were still pending decision by the Commission. The Table below contains the data on the notifications on State aid submitted to the Commission in 2006.

Decisions of the Commission of 2006 concerning the compatibility of State aid with the EC Treaty are presented in "Statistics" chapter of the Report.

### REGIONAL AID MAP OF THE REPUBLIC OF LITHUANIA

Seeking to ensure the succession of the Lithuanian regional policy and the structural funding programs beyond 2006, and acting in accordance with Article 87(3)(a) of the Treaty the Government of the RL adopted the Resolution "On the approval of the regional aid map of the Republic of Lithuania". The notification of the Lithuanian regional aid map was submitted to the Commission. The map was worked out in accordance with the provisions of the Treaty providing for a possibility to provide certain State aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. The Guidelines also define regions whose GDP is lower than 75 % of the Community average. Based on these principles the entire territory of the Republic of Lithuania qualifies for regional investment aid.

The Regional aid map of the Republic of Lithuania is an extremely important tool in the implementation of the Lithuanian regional policy within the framework of the new common EC support system. The purposive State aid to promote investment would help Lithuania address social and economic disparities between the regions and within regions and would facilitate the stable and sustainable development of the State.

According to the approved Regional aid map the maximum regional aid intensity in Lithuania is limited to 50 % of gross grant equivalent, and in case of aid to small-sized and micro-enterprises the maximum regional aid intensity may be increased by 20 percentage points, and in case of medium-sized enterprises – by 10 percentage points. In case of large investment projects the maximum regional aid intensity is adjusted in accordance with item 67 of the Guidelines. Based on the information submitted by Lithuania the Commission decided to consider the Regional aid map of Lithuania for 2007–2013 compatible with the EC Treaty as it complies with the conditions established in the Guidelines.

<b>State aid notifications submitted to the Commission</b>	<b>5</b>
Of which:	
Notifications on State aid under schemes	5
<b>Notifications on State aid approved by the Commission (including those submitted in 2005 and finally decided in 2006):</b>	<b>14*</b>
Of which:	
Notifications on State aid under schemes	13*)
Notifications on individual State aid to enterprises	1
<b>Cases under consideration of the Commission</b>	<b>8</b>

\*) Including the notification on support measure No. 140/2006, not considered as State aid under Article 87(1) of the EC Treaty.

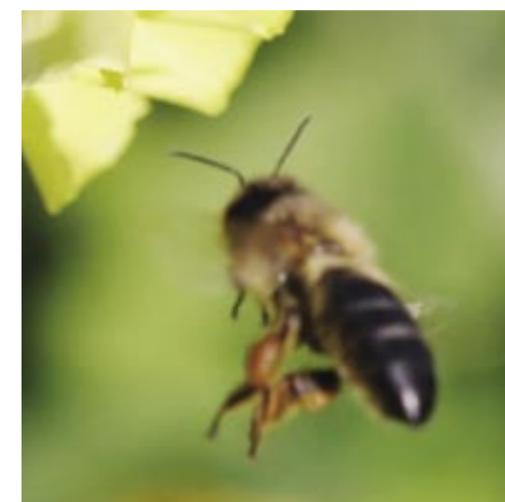
The Lithuanian regional aid map shall remain valid from 1 January 2007 until 31 December 2013.

### PERFORMANCE OF OTHER FUNCTIONS

The State aid Register further was cumulated and improved, and, on the basis of the data accumulated therein, the annual report submitted to the Commission. According to the data available in 2005 the total State aid granted amounted to LTL 411.45 m (EUR 119.16 m).

In 2005, the national State aid accounted for 0.58% of the national GDP (at current prices). For the purpose of comparison – the EU-25 average in 2005 was 0.59 %, EU-15 average – 0.57 %, and the average of the ten new Member States was 0.93 %. The average national State aid per working person was LTL 279.84 (EUR 81.04). The tables and graphs presented in the "Statistics" chapter show that in 2005, the volume of granted State aid was slightly lower than in 2004. It is important to note that reports for 2004 and 2005 included total State aid granted to agriculture and fisheries sectors. The State aid reports of 2000-2003, however, showed only the aid granted from the funds of the Rural Development and special programs. The data presented clearly show that having excluded aid to the agricultural and fisheries sectors, in 2004 and 2005 the volumes of granted State aid were lower than in 2003. Adjusted for accounting peculiarities the data available show that the total State aid decreased from LTL 254.03 m (EUR 68.27 m) (in 2000) to LTL 88.59 m (EUR 25.66 m) (in 2005).

In 2005, State aid to the manufacturing and service sector amounted to LTL 88.59 m (EUR 25.66 m). During the reporting period within the manufacturing and service sectors aid was granted to SMEs, R&D, and innovations, environmental protection, employment programs, trade and restructuring of enterprises. The data on the breakdown of State aid by principal sectors are presented in the "Statistics" chapter of the present Report.



During 2006, while enforcing the Law on Advertising (hereinafter – LA) the CC examined 22 cases related to the use of misleading and comparative advertising. In five cases the CC concluded infringements of the LA, in eight cases the CC decided to refuse to initiate investigations and on three occasions the investigations were closed due to insufficient evidence of the infringement, six investigations are still in progress. Having examined the propositions of the advertising statements published in media due to the insignificant character of possible infringements preventive measures were applied – upon being issued written warnings 11 advertising providers ceased the use of misleading advertising. In the view of possible use of misleading and prohibited comparative advertising 82 complainants were consulted and explained in writing on the requirements of the LA and their application in practise, explained the procedure of submission of the data necessary to start an investigation and the liability for the failure to fulfil the requirements of the Law.

#### CONCERNING THE TERMS FOR THE PURCHASE OF COMPUTERS

The CC ex officio conducted an investigation concerning the advertising campaign initiated by AB Lietuvos Telekomas. The ads claimed that having installed the Internet service “Takas IDO” a computer will cost only LTL 1, paying for the Internet installation as a lump sum or in instalments. The buyer, as claimed, subject to income declaration will be entitled to a refund of up to 33 % of the value of the computer. The investigation established that the consumer having paid for the computer under hire-purchase terms could not be entitled to the tax refund, since part of the instalments will be paid only in 2007 and 2008. However, according to Article 2 of the Law on the Supplement of the Law on Income Tax of Individuals of 15 June 2004, a resident who in the course of three years acquires one PC with software and (or) installs the Internet access facilities with the necessary equipment, is entitled to the refunds of the respective amounts only provided the full value of the computer and equipment has been paid by 31 December 2006. The advertiser was recognized as having used incorrect advertising statements that

## 8. Enforcement of the Law on Advertising

could mislead the consumer as regards the computer purchase terms – this might affect the consumers’ decisions and actions in installing the Internet access. For the use of misleading advertising the company was fined LTL 16,500.

#### CONCERNING DVD ACQUISITION PROPOSALS

The CC, ex officio, conducted an investigation concerning the compliance of advertising statements of UAB Acme with the requirements of the LA. While advertising the DVD with the film „Racing Stripes“ the company was offering a free ticket to a movie „Valiant“ without mentioning, however, the attached additional conditions, i.e., the purchase of an additional ticket; the advertising statement did not provide any information on the place and time of the movie. Thus they were recognised to constitute a misleading advertising and the advertising provider was fined LTL 15,000.

#### CONCERNING THE ADVERTISING OF THE TRADING NETWORK

UAB Palink complained concerning the advertising statement “Maxima - pigiausias prekybos tinklas Lietuvoje” (“Maxima – the cheapest trading network in Lithuania”) disseminated in the media by the giant trading network UAB VP Market. In that connection the CC obtained information that the prices of certain goods in Iki trading network were lower than those offered by VP Market. In the course of the investigation having assessed the prices submitted by UAB Palink and UAB VP Market the CC established that at the time of the ad announcement the prices of certain goods in the „Maxima“ trading network were higher than in other stores. UAB VP Market in connection with the investigation failed to produce any evidence that the average prices of the company were in general lower than in other local trading networks. Since price is one of the main criteria for consumers when selecting goods or services, the advertising statement in question could make the consumer expect that at any store of the Maxima network he may acquire any item at the price lower than in any other store not belonging to the Maxima network. The CC recognised the

advertising published by UAB VP Market misleading and fined the company LTL 19,500.

#### CONCERNING AIR TICKET SALE TERMS

Based on the application filed by UAB Interneto partneris an investigation was conducted in respect of the compliance of UAB Baltic Clipper with the requirements of the LA. The findings of the investigation showed that on TV and website channels UAB Baltic Clipper claimed that to purchase air tickets by internet is the cheapest, fastest and most convenient way. In the course of the investigation the company failed to produce any evidence to substantiate the correctness of the advertising statements. UAB Interneto partneris produced evidence that at the time of the advertising tickets for certain flights offered by the advertising producer were even more expensive than those of the competitors. The thorough assessment of the advertising claims allowed a conclusion that concepts like “fastest”, “cheapest”, “most convenient” were of general nature assessed by each consumer in an individual manner therefore unlikely to be able to affect the economic behaviour of consumers, and thus giving no grounds to be recognised as misleading. However, the advertising statements published in the company’s Internet website and by TV channels “avia.lt Rezervuokite pigiausias lėktuvo bilietus”, “avia.lt Aviabilietai internetu: Pigiausia”, “avia.lt Pigiausia<...>”, “avia. It Pigiausi lėktuvų bilietai” (“avia.lt. Book the cheapest air tickets. Avia.lt. Air tickets on line, Avia.lt. The cheapest airfares, etc.) suggested that when purchasing via the Internet channels the consumers will get the lowest price. In view of the fierce competition in the air ticket market and considering the peculiarity and a very dynamic character of the market, collecting and analysing the abundant information on the air prices by various companies is quite a challenging task for consumers. Therefore such advertising claims have a significant potential of affecting the economic behaviour of consumers and misleading them. The CC recognised such statements to constitute a misleading advertising and obligated UAB Baltic Clipper to cease the use of such misleading advertising claims. In addition the company was subjected to an administrative sanction – a warning.

## 9. Judicial practice

#### COURT RULINGS – A VALUABLE CONTRIBUTION TO EXPERTISE



Valentin Gavrilov  
Head of the Legal Division

*Court rulings and the practice in judicial matters formed on the basis thereof is a huge and valuable contribution to the professional competence and expertise of the institution in its assignment to establish the infringements of the law and impose adequate sanctions. The judicial practice has been tangibly beneficial in terms of the efficient enforcement of the competition policy, and eradicating the manifestations of unfair competition as well as consolidating the legal basis for the functioning of the national competition authority.*

*During 2006 the courts resolved twelve cases regarding the validity of the resolutions passed by the CC. Courts overruled two resolutions adopted by the CC, however in both cases the court did not pass the final decision and obligated the CC to perform some additional investigations. In three cases the court took into account the requests of the applicants and partially reduced the fines imposed upon them by the CC. In two more cases the applicants withdrew their appeals. In all other cases the courts upheld the findings of the CC.*

*On 28 July 2006, the Supreme Administrative Court of Lithuania, by its ruling, acknowledged that the provisions of the Rules of Procedure of the CC authorising the institution to pass confidential decisions contradicted*

*the LC. The Court stated that based on the general principle established in the national legislation the entire information related to a person including the materials of any administrative proceedings is public, therefore passing of confidential decisions in all cases may be treated only as an exception to the general principle, which in all cases must be justified by the requirements of the law. Passing of any confidential decision by the CC irrespective of the duration of the confidential status may result in serious legal consequences to the persons to whom such decisions are related. The Court established that the provisions of the Rules of Procedure of the CC cannot be treated as elaborating the administrative procedures established by law since neither the LC, nor any other legal acts provide for a possibility for the CC to pass confidential decisions. Such power of the CC could in any case be provided only as a provision of the law. This explanation produced by the Court urged the CC to transpose the provision into the draft Law amending the Law on Competition.*

#### CONCERNING THE LAW OF SELF-GOVERNMENT AUTHORITIES

On 18 October 2006, the Supreme Administrative Court of Lithuania concluded that self-government authorities as legal subjects of limited immunity are not authorised to directly appeal the CC resolutions to court. According to the court ruling, in case where the CC passes a resolution contesting the legality of a legal act or any other decision of a self-government authority (i.e., compliance with Article 4 of the LC), the self-government authority concerned acquires the discretionary right to obey the resolution or refuse to obey it, and in the latter case the CC could exercise its privilege to appeal the infringing decision of the municipal authority to the Regional Administrative Court. Claiming that in this particular case the provisions of the LC were inadequately interpreted and that the ruling contradicted the jurisprudence developed by the Supreme Administrative Court of Lithuania in comparative cases the CC filed a request with the Court to renew the proceedings of the case.

#### CONCERNING THE FINE IMPOSITION PROCEDURE

In its ruling of 11 May 2006, the Supreme Administrative Court of Lithuania pronounced on the procedure of the imposition of fines exercised by the CC. The Court concluded that the CC was relating the amount of the fine with the percentage share of the aggregate income of an undertaking for the previous year.

Therefore, when establishing the amount of the fine in respect of each individual undertakings, first the percentage amount of the fine should be established considering the severity and the duration of the infringement for all undertakings, which then is adjusted individually for the aggravating and alleviating circumstances, and the criteria established in Resolution of the Government of the Republic of Lithuania of 6 December 2004 “On the Rule for the establishment of fines for infringing the Law on Competition of the Republic of Lithuania”. The main factors when assessing the severity of an infringement are the character of the infringement and the area of the geographic market affected thereby.

#### CONCERNING THE PROVISIONS OF THE ORDER

In January 2006, the CC passed the Resolution concerning the terms of the Order of the Commissar General of the Lithuanian Police. The Resolution rules that the rights and supplementary powers inherent to policy forces granted by the Order to the police security divisions result in privileges in comparison with other undertakings operating in the security service market, which adversely affects the competition conditions in the free market and contradicts the requirements of Article 4(2) of the LC. The Vilnius Regional Administrative Court by its ruling of 21 September 2006 satisfied the appeal filed by the Police Department under the Ministry of the Interior and decided to overrule the CC’s Resolution. The Court’s position was that the Police Department is not a state authority performing the tasks assigned to it related to the regulation of the economic activity in the Republic of Lithuania, therefore the validity of the Order of the Commissar General of the Police Department could not be assessed under Article 4(2) of the LC. Furthermore, the Court ruled that the lifeguard and property safeguard commercial activities performed by the Security divisions of the Public police could not be considered as the economic activity within the meaning of the LC, since such activity has not been provided for in the Law on Police Activities or in any other laws. The CC objected the ruling of the Court and filed an appeal in this case.

#### CONCERNING THE RIGHT TO TERMINATE AN INVESTIGATION

In its ruling of 10 February 2006 concerning the Resolution of 16 December 2004 of the CC “On the compliance of actions of UAB Švyturys-Utenos alus with the requirements of Article 9 of the Law on Competition” the Supreme Administrative Court of Lithuania expressed its views concerning the right of the CC to terminate the investigation where the actions did not result in the significant

## 10. Other activities

damage to the interests protected by the laws, and the undertaking suspected in the infringement of the law voluntarily ceases the actions and submits to the CC a commitment in writing not to perform such actions (Article 30(2)(2) of the LC). The Court stated that the Law did not require, in cases the proceedings are closed on the basis concerned, to establish the presence of an infringement of the competition law. In such cases the CC is under no obligation to seek to establish the dominance of the undertaking or perform any investigation to establish the share of the market held thereby. Provided the undertaking lodges with the CC proposals acceptable to the CC that are appropriate and sufficient, when fulfilled, to eliminate a suspicion that the undertaking is infringing the competition law, any further actions by the CC would not be any more efficient in terms of their outcome therefore such actions are not justified. The production of any material damage to the interests protected by the law is an evaluative condition and its presence shall be established on a case-by-case basis all the case-related circumstances taken into account.

In this case the Court also noted that both the EC jurisprudence and the EU legal documents hold a different interpretation of the rights of an undertaking charged with competition infringements to familiarise itself with the confidential material of the investigation, and such rights vested to other individuals to the proceeding, as well as to the complainant. In competition cases complainants do not have the same rights or guarantees available to the parties in respect of whom the investigation is being conducted. For that reason complainants are deprived of a possibility to familiarise themselves with business secrets or any other confidential material, which is provided to the CC for the purpose of the investigation. The CC is bound by the obligation to safeguard the confidential corporate information conferred to it; therefore, under no circumstances confidential information of another undertaking may be provided to the complainant. Especially unacceptable outcome of any different treatment would be if undertakings could attempt to file complaint to the CC in respect of the competition infringements committed by other undertaking for a sole purpose to acquire access to the business secrets of such undertaking.

During 2006, the CC received a number of inquiries from Lithuanian and foreign undertakings requesting an explanation whether the actions specified in the applications comply with the provisions of the LC. Selected responses of the CC to such inquiries are presented below.

### CONCERNING THE BROADCASTING TRANSMISSION MARKET

The CC presented the Directorate General for Competition of the Commission its position concerning the possibilities of undertakings to develop and (or) supply the electronic communications networks or provide the publicly accessible electronic communications services in Lithuania. The Law on Information of Public and the Law on Electronic Communications of the RL regulate the provision of such services. It was established that any undertaking is qualified to appeal to the appropriate authorities for licenses or permits to provide the broadcasting or transmission services and participate in the tenders for the operation of radio frequencies. Also, in this respect the CC expressed its opinion concerning the licenses available to the broadcasters that provide with various possibilities to establish or operate proprietary electronic communications networks.

### CONCERNING THE ACTIVITIES OF REGIONAL WASTE MANAGEMENT CENTRES

The CC received a request from the Lithuanian Communal Services and Waste Management Association to assess the possibility of the regional waste management centres to engage in economic activity. The State strategic waste management plan approved by Resolution No. 519 of 12 April 2002 of the Government of the RL recommends the municipalities to develop the regional waste management systems that will become operational in the implementation of the functions of municipalities defined in the Law on Waste Management – to organise and arrange the communal waste management systems. On that basis, the right to organise the communal waste management systems vested by the Law on Waste Management to municipalities is being delegated to the

regional waste management systems. In the opinion of the CC, the organisation of the waste management system as an administrative practice must be distinguished from waste management, economic activity that must be pursued in methods not restricting competition. Undertakings seeking to engage in the waste management activities must be provided with possibilities to compete among themselves.

### CONCERNING THE AUTHORISATIONS TO ADMINISTER THE STATE LOANS AND GUARANTEES

In 2006, the CC received a letter from the National Association of Bankruptcy Administrators whereby the competition authority was requested to assess the compliance of Resolution No. 811 of 12 July 2000 of the Government of the RL “Concerning the loans and State guarantees transferred by the Ministry of Finance for administration to AB Turto bankas,” and the related Orders of the Ministry of Finance with the LC and the EU competition law.

The activities of the public company AB Turto bankas are provided with in the Law on Public Debt of the RL. In cases where, for the purpose of fulfilling the requirements of the laws of the Republic of Lithuania, difference in the competition conditions in relevant markets cannot be avoided, no infringement of Article 4 of the LC shall be established.

Resolution No. 811 of the Government of the Republic of Lithuania does not fall within the scope of Articles 81 and 82 of the EC Treaty that prohibit cartel agreements between undertakings and abuse of a dominant position and are applied in cases of possible restriction of trade between Member States.

### CONCERNING THE TERMS OF THE STATE-OWNED LAND LEASE

The CC received an application from UAB Šiaulių mugė to examine whether the new procedure for the evaluation of land has a potential to create different competition conditions, since when applying different calculation methods the lease rates can differ up to eight times.

It was established that the differences challenged by the applicant had resulted from the application of the legal acts equally and without any reservations enforceable upon all undertakings; therefore, this does not fall within the scope of Article 4 of the LC. However, the CC drew the attention of the public or local authorities to the arrangement under which the State-owned land lease fee payable by undertakings under the earlier (concluded before 1 January 2003) and the later contracts differ up to eight times. The authorities should refer to the right vested to them under the Law on Land of the RL to revise the contracts concluded before 1 January 2003, and, where feasible, align the terms for the payment of the fees concerned for all undertakings.

### CONCERNING THE REQUIREMENTS TO THE EU SUPPORT TO RURAL TOURISM

The CC received an inquiry from a natural person concerning the compliance of the terms of measures under the Draft Rural Development Program 2007-2013 with the requirements of the LC. The draft measures provided with a number of requirements applicable for obtaining support under the measure “Development of the rural tourism services” – to be residing in the rural area for not less than two years, and perform the economic/commercial/professional activities in rural settlements. The applicant claimed that such requirements potentially restrict competition in the rural tourism services market. The CC established that the draft measures of the Rural Development Program have been developed and the requirements to the eligible applicants have been drawn up in accordance with the relevant national and EU legal acts governing the areas of agricultural and rural development, as well as rural tourism, and the requirements established are in line with the concept of the provision of support from the European Agricultural Fund for Rural Development, namely, that support is granted exclusively to persons residing in rural areas seeking to promote the employment in rural areas, increase their income, development of entrepreneurship and shifting from the traditional agricultural activities to non-agricultural types of business.

### CONCERNING THE INQUIRY OF THE LITHUANIAN ASSOCIATION OF GRAIN PROCESSORS

The Lithuanian Association of Grain Processors was inquiring whether the decision to apply fines of identical amount to grain purchasing entities, computing the fines as a percentage of the value of grain sold would not infringe the provisions of the LC.

Such decision could be assessed as an agreement within the meaning of the LC; however, in this case an important consideration would be the consequences of such decision, namely, the impact upon competition in the relevant market, where it would or could restrict competition between undertakings engaged in the purchase of grain. Having examined and assessed the legal acts and the provisions of the contracts the CC concluded that the intended decision is not advisable from the LC point of view.

### SAFEGUARDING THE CONSUMER RIGHTS

Similarly to previous years the officers of the CC had been active participants in the activities of different working groups addressing a range of issues related to the consumer rights. Worthy of mention are the following:

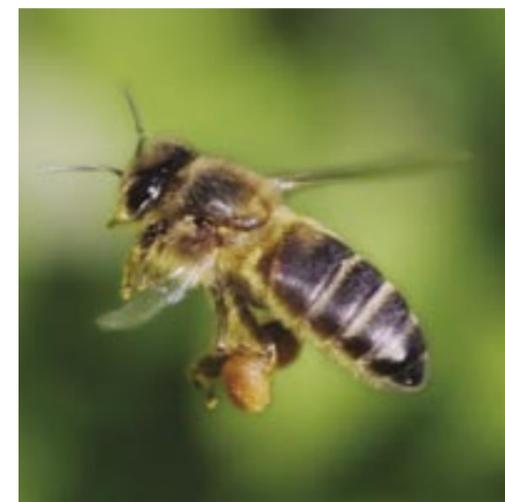
- Working group set up by the State Consumer Rights Protection Authority under the Ministry of Justice on the transposition into the national law of the Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market and partially amending Council Directive 84/450/EC, European Parliament and Council Directives 97/7/EC and 2002/65/EC and Council Regulation (EC) No. 2006/2004;
- Commission set up by the State Consumer Rights Protection Authority under the Ministry of Justice in the area of consumer protection in construction materials, service and advertising sectors;
- Working group set up by the State Consumer Rights Protection Authority under the Ministry of Justice tasked to develop the National Consumer Rights

Protection Strategy 2007-2010;

- Standing Commission under the Ministry of Justice authorising the use of the official name and heraldry of the Republic of Lithuania in the names and trade marks of undertakings.

### ENFORCEMENT OF THE LAW ON PRICES

Within the scope of its competence, the CC had been performing its duty assigned to it by the Law on Prices to monitor and provide comments concerning the application and validity of the legal acts on pricing. The CC was also exerting the oversight of the Resolution of the Government of the Republic of Lithuania in the in area of pricing policy. Considerable attention was devoted to the monitoring the compliance with the procedure for pricing of monopoly goods and services provided by institutions established by Ministries and the Government of the Republic of Lithuania and State enterprises and public institutions assigned to them. In 2006, the CC approved 43 prices for services of monopoly character and two procedures for the establishment of prices and tariffs. Among most important and complicated areas in this respect was the services provided by the SE Centre of Registers and their prices. The CC had received and approved two draft Resolutions of the Government on the services provided by the Centre of Registers.



# INTERNATIONAL RELATIONS



## 1. European competition activities

### CONTRIBUTION TO THE EU LEGISLATIVE ACTIVITIES



**Viktorija Aleksienė**  
Head of the Competition Policy and Foreign Relations Division

Since the very accession of Lithuania into the EU, the CC has been a regular and active participant in the EU legislative process. Similarly to previous years, the competition authority has submitted to the Government a number of positions coordinated and approved by Ministries and other interested institutions on relevant competition-related legal acts and other documents;

within the limits of its competence the CC was providing its opinion on legislation drafted by other Ministries. During the year 2006 the CC developed and submitted to the Government total eight positions, of which four were developed in relation to the new EU legal documents, i.e.: Proposal for a Council Regulation repealing Regulation (EEC) No 4056/86 laying down detailed rules for the application of Articles 85 and 86 to maritime transport, and amending Regulation (EC) No 1/2003 as regards the extension of its scope to include cabotage and international tramp services; Damages actions for breach of the EC antitrust rules – Green paper; European Commission proposal for a Directive of the European Parliament and of the Council concerning misleading and comparative advertising (codified version); Proposal for a Regulation of the European Parliament and of the Council applying rules of competition to transport by rail, road and inland waterway (codified version). Two positions were tabled for the documents examined at the COREPER II meetings, namely “Accession negotiation with Croatia – outcome of screening on Chapter 8: Competition Policy” and “Accession negotiation with Turkey – outcome of screening on Chapter 8: Competition Policy”, in addition to two positions for COREPER I meetings. The CC approved eighteen positions drafted by other Ministries.

In the course of 2006, the CC was further cooperating with the Chancellor's Office of the Government of the RL by submitting information concerning the national implementing measures of the Chapter “Competition policy” in respect of the new legislation published in the Official Journal of the EU and the reports on the implementation of such measures. On a regular basis data were submitted to the electronic notification database concerning the implementation of directives assigned to the competence of the CC.

### PARTICIPATION IN THE COMMITTEES AND WORKING GROUPS

For the purpose of ensuring the direct application of Articles 81 and 82 of the Treaty and the implementation of the provisions of Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the representatives of the CC were further participating in the working groups and advisory committees set up specifically for the implementation of this regulation.

Specialists of the CC, during the year 2006, participated in five meetings of the Advisory Committee on restrictive practices and dominant positions intended to examine individual competition cases and draft legal acts, and two meetings of Advisory Committee on Concentrations, seven meetings of the Advisory Committee on State Aid.

## 2. International cooperation

Participation in the ECN working groups has been an area of special focus of the CC. In this context the specialists of the CC participated in the four meetings of the ECN working group (WG) “Leniency”, two meetings of ECN WG Sanctions and ne bis in idem, and two meetings of the ECN WG “Cooperation”, as well as two WG meetings of the chief economists of the ECN.

Further, the CC specialists were among the participants of three ECN plenary sessions the agenda of which, among other issues, included the discussion of the draft documents of the Commission:

- Discussion Paper on Written Procedure Consultation of Antitrust Advisory Committee);
- ECN Model Leniency programme;
- Amendments to the Commission's 2002 Leniency Notice;
- Sanctions and ne bis in idem.

The specialists of the CC also participated in the sub-groups “Banks and Finance”, “Maritime transport”, “Professional services”, “Energy” hosted by the ECN, as well as other events hosted by the Commission and national competition authorities.

Continuing the tradition of the previous years the Chairman of the CC was invited to the annual meeting of Directors General for Competition held on 29 September in Brussels, that discussed the ECN Model Leniency Programme, issues related to the possibilities and means of private enforcement of the competition law, the recent research in the energy and financial services sectors, as well as other relevant issues on the enforcement of the competition law and the promotion of competition.

In February, a representative of the CC, as an appointed member of the WG on the abuse of dominance, participated in the public presentation of the investigation in the energy sector in Brussels, and in the 4th European Forensic IT Meeting in May in Helsinki, and the Public Hearing on the application of Article 82 held in Brussels in June.

On six occasions representatives of the CC were among the participants of the expert meetings on State aid held in Brussels.

### OECD

In 2006, having observers' status the representatives of the CC were among the participants of the meetings of the OECD Competition Committee and its Working Parties. The highlight of February was the Global Forum on Competition, which placed a special focus on issues related to the investigation and proof of cartel agreements and the related sanctions.

In an attempt to ensure the efficient and productive participation in the working parties of the OECD Competition Committee the CC submitted the following contributions:

1. For discussions in the working groups of the OECD Competition Committee – “Efficiency of payment cards and competition”, “Competition and regulation in retail banking”, “Private remedies: passing on defence; indirect purchaser standing; definition of damages”, “Techniques and evidently issues in proving dominance/ monopoly power”.

2. For the Global Forum on Competition – “Prosecuting cartels without direct evidence of agreement”.

Seeking to contribute to the successful activities of OECD Competition Committee in the course of 2006, the CC was providing the relevant information, proposals and assessments on the organisation of the activities of the working parties, drafting of materials and the use thereof as well as other important issues. The CC prepared

the CC Activity Report 2005 which included a summary of the most important cases related to the abuse of a dominant position and prohibited agreements, as well as the overview of the practices of Lithuanian courts.

In March, two representatives of the CC participated in the annual seminar hosted by the OECD in Vienna.

### UNCTAD

Upon the request of the United Nations Conference on Trade and Development (UNCTAD) the CC submitted the information on issues related to competition law and policy highlighting the significance and relevance of the technical assistance granted to the CC and by the experts of the CC to other countries; the information also included a description of the development of the LC and a summary of sampled specific investigation cases.

### TECHNICAL ASSISTANCE

The CC continued its assignment within the technical assistance training program administered by the USA Federal Trade Commission (FTC) and intended to render assistance to the Azerbaijan public authorities in charge of the enforcement of competition law. Under this program two experts from the CC participated in two one-week seminars at which they provided training to their Azerbaijani colleagues.



The 3rd Baltic States Competition Conference in Vilnius



Participants of the 3rd Baltic States Competition Conference in Vilnius

#### SEMINARS, CONFERENCES

In 2006, for the first time in its history the CC hosted the Third Baltic States competition conference whose invitees represented the competition authorities of Estonia, Latvia, Finland, Poland and Island. The most important issues on the agenda were related to the practical implementation of Articles 81 and 82 of the Treaty and the challenges encountered in this respect by national competition authorities, changes in the concentration control within the States represented at the Conference, their practice and expertise in addition to other relevant issues related to the enforcement of the competition law.

As part of the development of cooperation with competition and other authorities of other States and international organisations the representatives of the CC were invited

to a number of international seminars and conferences on the competition law and policy issues, the list whereof included:

- The 5th Annual Conference of the ICN in Cape Town,
- ECA Annual Meeting – Nica,
- The 6th Annual Trans-Atlantic Antitrust Dialogue in London,
- The seminar “Pros and Cons of Information Sharing” in Stockholm,
- 4th Annual ACE conference – Frankfurt,
- Conference on professional services hosted by the Commission and the Finnish competition authority,
- The Energy Day 2006 hosted by the Commission.



Conference in Vilnius – working group meeting

#### ICN

As part of the International Competition Network (ICN) the CC submitted an updated information on the concentration control regulations and the enforcement thereof in Lithuania (Merger notification and procedures template).

#### PROVISION OF INFORMATION TO VARIOUS SOURCES

Responding to the requests of various authorities and institutions of other Member States in 2006 the CC provided the necessary information and explanations on the issues related to the enforcement of the competition law and policy. Worthy of mention among such sources were the European Institute of Public Administration, publishing house Bellamy & Child, and others.

## PUBLIC RELATIONS



In 2006, in a wide range of forms the CC was further developing its public relations. Among major actions in this area were the public advance notices on the agenda of meetings of the CC, press releases, regular relations with the information agencies and press services, analytical articles in the national media. The targeted and consistent publication of information to a large extent contributed to the further formation of the positive public opinion about the CC, as a public authority known for its integrity in dealing with the issues assigned to its competence, the independence and transparency inherent to its operations. The contents of publications, as well as the assessment of the press representatives and comments of undertakings in mass media were to the largest extent contributors to the formation of this positive public opinion of the CC.

To strengthen the public relations the CC specialists and experts referred to the experience acquired and accumulated while participating in the specialised conferences and seminars, cooperating with the press services of the Government and the Ministries, also analysing the ECN guidelines on the awareness and public relations development issues.

#### PROVISION OF INFORMATION

During 2006, via the information agencies BNS and ELTA, the portal of the daily “Verslo žinios” (“Business News”) the CC published 160 notices and items of analytical information related to the decisions and resolutions passed by the CC, the initiated investigations, concentration notifications

filed by undertakings, the contents of the advertising notices. Despite fewer press releases as compared to the previous years the scope of publications on competition issues is expanding, publications on the activities of the CC have become more frequent in regional press. Suffice it to mention the Klaipėda dailies („Klaipėda“ and „Vakarų ekspresas“) that published over 60 publications on the activities of the CC.

Year	Press releases	Publications
2006	70	548
2005	77	483
2004	75	466
2003	64	420

For the purpose of the preparation of information on some most relevant issues the CC was cooperating with the Press Service of the Government of the Republic of Lithuania, the Public Relations Divisions of the Ministries of Economy and Justice, and the National Consumer Rights Protection Authority.

The specialists of the CC prepared several large-volume articles dedicated to individual areas of activities of the CC. Three analytical articles were published in the magazine “Marketingas” (“Marketing”), the June issue of the publication “Mokesčiai ir apskaita” (“Taxes and Accounting”) was designed as a public presentation of the activities of the national competition authority. On a quarterly basis, the daily “Verslo žinios” (“Business News”) published articles on the enforcement of the competition law.

Journalists of the Latvian daily “Diena” were regularly updating their readers on issues examined by the CC and relevant also to the Latvian business community. In December, the CC was visited by the journalists of this daily and discussed the relations between the Lithuanian and Latvian milk suppliers, purchasers and producers. Based on the information thus collected the journalists published a series of articles analysing the competition issues in the milk market of the

neighbouring countries.

The CC actively used the possibilities to expediently disseminate information through the Internet portals, for that purpose cooperating with the journalists of the Internet portals “Delfi” and “Alfa Lt”.

#### TV AND RADIO RELEASES

On more than one occasion the TV and radio channels were used to present information on the topical issues of the CC activities. The Chairman, specialists and the Press Officer of the CC were regularly invited as guests of TV channels and radio stations. Several broadcasts of “Žurnalisto tyrimas” (“Journalist investigation” (the National TV) were analysing the most relevant issues of the competition policy, namely

the situation in the post market, relations between the mini-buses and scheduled bus service in Klaipėda, abuse of the dominant position by TEO LT, etc. Over 20 interviews with the specialists of the CC were released over the program „Ryto garsai” of the First Lithuanian radio channel, in its Business section. On several occasions the specialists were invited as participants of the live show of the program „Litas prie lito” (“Litas to litas”) where they provided responses and comments to live inquiries from the radio audience. The “News” radio channel was most frequently covering the most important and relevant issues related to the CC activities.

### STRENGTHENING THE CC IMAGE

The year 2006 was also the year of coming into birth of the new logo of the CC. The Lithuanian State Patent Bureau registered the application of the CC to register the logo. The logo represents a figure composed of numerous squares with the name of the institution on the right side. The arrangement of the squares in the logo symbolises the essence of competition – only adhering to the principles and requirements of fair competition and jointly overcoming the emerging obstacles may the undertakings strengthen their positions in the market and continue their successful operations therein.



The previous logo of the Competition Council was registered back in 1995, as a logo of the then State Competition and Consumer Rights Protection Service under the Government of the Republic of Lithuania. Thus the logo has become morally obsolete due to the change of both the name of the authority, as well as the functions assigned to it. The new CC logo was selected from a huge number of proposals based on the common agreement that it best represents the obligations of the national competition authority – to protect and ensure the freedom of fair competition.

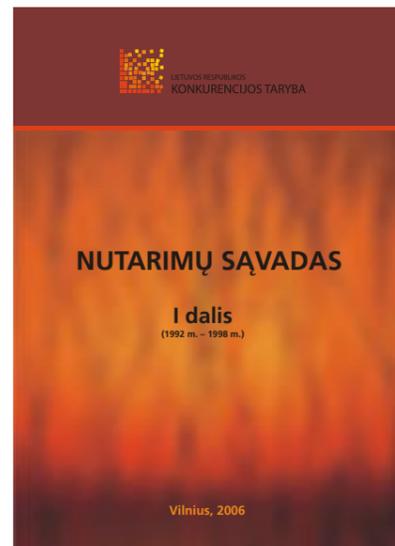
The new logo has already been successfully introduced to the public and become an inseparable part of the image of the institution – it is displayed in the Internet website of the Competition Council, its interior, official correspondence letters and publications.

In an attempt to strengthen and improve the image of the CC and seeking to ensure the full publicity of its activities, the authority compiled and published the Collection of

the Resolutions of the CC in two volumes – Part I (1992-1998) and Part II (1999-2005). The publications turned to be useful to the wide public and those interested in the development of the competition law and policy in Lithuania, and the experience accumulated in the enforcement of the provisions of competition legislation.

The CC Internet website was further improved and expanded – today it contains not only a range of information on the activities of the CC, the texts of the Resolutions of the CC, received concentration notifications – it also expediently uploads the Commission's documents on competition issues and State aid problems relevant to national undertakings. Seeking to develop cooperation with the European competition authorities and provide the most urgent information on the activities of the CC to the lawyers, economists and businessmen of other States a larger scale of information is being provided in English.

The internal communication within the CC will be largely facilitated by the internal website of the CC that was thoroughly updated in 2006. This internal communication channel will help the specialists more expediently locate the necessary information, exchange it with their colleagues, store and accumulate all the materials necessary in a single place, to ensure an efficient communication when addressing a range of problems and strengthening of interpersonal relations.



# ADMINISTRATIVE CAPACITIES



Being an independent public authority the Competition Council has been, within the limits of its competence, enforcing the national and the EU competition policy. All Resolutions are passed on the collegial basis having heard the explanations and arguments of all interested parties, thus ensuring the objectivity and the unbiased character of the decisions. The CC has been an active player in dealing with a range of economic problems relevant and related to the supervision of competition faced by the Government, the Ministries and other public authorities. The CC is an institution funded from the State budget; however, in its own turn it makes a considerable contribution to the State budget through collecting the fines imposed upon the undertakings and fees for the examination of the concentration notifications. In 2006, the allocations to the institution from the State budget amounted in total to LTL 3.6 m.

Acting in accordance with the 2005 - 2007 Strategic operational plan approved by the Government of the RL, the CC has been making further efforts in ensuring the high qualification of the specialists working in the institution, enabling them to expediently and professionally conduct large-scale investigations, perform the legal expertise of documents, provide consultations to economic entities. The resources and appropriations were used in accordance with the measures of the Strategic plan and designed to ensure the continuity and efficiency of the CC activities, and the further improvement of the customer servicing.

Seeking to conduct investigations within the shortest time limits and improve their quality a number of changes were introduced in the organisational structure of the institution. Having regarded to

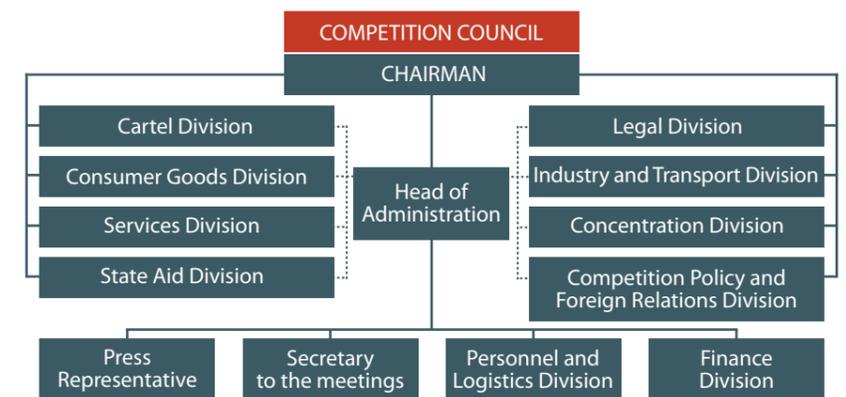
the recommendations provided by the Commission, measures were envisaged to improve the efficiency of cartel investigations and their prevention. For that purpose the Cartel Division was established in the CC in the beginning of the year, and the former Transport and Information analysis Division was expanded to start operating as the Industry and Transport Division. These readjustments introduced some major changes in the organisational structure of the CC (see the Diagram).

### QUALIFICATION OF EMPLOYEES

During 2006, the turnover of employees was comparatively low; nevertheless, several competitions were announced to recruit the new employees to the public service. The new specialists joined the staff of the Legal, Services, Competition Policy and Foreign Relations, Industry and Transport Divisions. At the close of the year the staff of the CC comprised 63 employees, of which 46 were public officials and 17 employees on contractual basis. Most of the employees were University

graduates in law or economics, many of them attended professional development courses and acquired additional certified qualifications. The Administration of the CC provided all conditions for its specialists to further improve their foreign language skills (language courses attended by 19 employees), also organised all kinds of workshops and seminars in which the CC specialists involved in the work of the EC Directorate General for Competition briefed their colleagues on the issues considered within the workshops of the Commission's Directorate General for Competition or conferences abroad.

In 2006, the Administration of the CC was further working to improve the working conditions for its employees. Based on the results of professional certifications, a number of specialists were promoted by assigning to them higher categories or classes, and thus motivating them for further career attainments and partly addressing the issue of remuneration in the civil service which still remains a burning issue for the high qualification specialists employed in public sector.



# STATISTICS

## ENFORCEMENT OF THE LAW ON COMPETITION (2006)

	Decisions reached	New cases opened
Total number of cases	84	75
Prohibited agreements	5	3
Abuse of a dominant position	6	8
Concentration	60	61
Restrictive actions of public and local authorities	10	3
Unfair competition	3	

### PROHIBITED AGREEMENTS

	Horizontal agreements	Vertical agreements
New cases opened	2	1
New investigations ex officio		
New complaints	2	1
Decisions reached	4	1
Complaints rejected	2	1
Prohibitions with fines	2	

### ABUSE OF A DOMINANT POSITION

New cases opened	8
New investigations ex officio	
New complaints	8
Decisions reached	6
Complaints rejected	4
Prohibitions with fines	2

### CONCENTRATION

Decisions reached	60
Approvals	59
Conditional approvals	1

## DECISIONS REACHED AND FINES IMPOSED BY THE COMPETITION COUNCIL IN 2006

### ENFORCEMENT OF THE LAW ON COMPETITION

#### Concerning regulations passed by public and local authorities (10)

##### Established infringements (4):

12-01-2006 No. 2S-2	Concerning the compliance with Article 4(2) of the LC of the provisions of the Order of the Commissar General of the Lithuanian Police authorising the police services to provide commercial services of security of natural and legal persons on contractual basis	
19-01-2006 No. 2S-3	Concerning the compliance with the requirements of Article 4 of the LC of the actions of the Kaunas Municipality refusing to conclude an agreement with UAB Džūtra concerning the communal (household) waste management in Kaunas city	
30-03-2006 No. 2S-6	Concerning the compliance with the requirements of Article 4 of the LC of the provisional description of the supply of residents with orthopaedic equipment approved by Order No. V-1 of 6 January 2004 of the Minister of Health and the decisions of the State Patents' Fund under the Ministry of Health on the appropriation of the funds of the Mandatory Health Insurance Fund to enterprises supplying to residents the orthopaedic equipment	
07-09-2006 No. 2S-11	Concerning the compliance with the requirements of Article 4(2) of the LC of the provisions approved by Decision No. 101 of 28 April 2004 of the Palanga Municipality "On the local duty for the issuance of permits to trade (provide services) in public places designated by the Council of the Palanga Municipality"	

##### Refusals to initiate investigations (3)

##### Cases closed (3)

#### Concerning prohibited agreements (5)

##### Established infringements (2):

22-06-2006 No. 2S-9	Concerning the compliance with the requirements of Article 5 of the LC of actions of the undertakings operating in the market for consulting for obtaining the EU structural support : UAB Eurointegracijos projektai PI Perspektyvių inovacijų agentūra UAB MAG SOLUTIONS	LTL 41,676 LTL 2,958 LTL 1,000
26-10-2006 No. 2S-13	Concerning the compliance with the requirements of Article 5 of the LC and Article 81 of the EC Treaty of actions of the undertakings operating in the paper market: UAB Antalis Lietuva UAB Libra Vitalis UAB Lukas UAB MAP Lietuva UAB Schneidersöhne Baltija	LTL66,840 LTL194,850 LTL 22,730 LTL 161,130 LTL 235,330

##### Refusals to initiate investigations (3)

#### Concerning abuse of a dominant position (6)

##### Established infringements (2):

05-01-2006 No. 2S-01	Concerning the compliance with the requirements of Article 9 of the LC of actions of AB Lietuvos paštas	LTL 80,000
05-10-2006 No. 2S-12	Concerning the compliance with the requirements of Article 9 of the LC of actions of TEO LT, AB	LTL 3,011,000

##### Refusals to initiate investigations (2)

##### Cases closed (2)

#### Concerning concentration control (66)

##### Permission to implement concentration (59):

12-01-2006 No. 1S-2	UAB Kelesta to implement concentration by acquiring up to 100% shares of AB Kauno tiltai	
12-01-2006 No. 1S-3	UAB Vilkyškių pieninė to implement concentration by acquiring up to 100% shares of UAB Modest	
19-01-2006 No. 1S-5	Krosnopan Holdings Ltd. to implement concentration through a subsidiary Aureja Ltd. by acquiring up to 87% of shares of A/S Bolderaja	
02-02-2006 No.1S-11	UAB Šviesa to implement concentration by acquiring a holding in UAB J. Masiulio knygynas and the right to use the premises of UAB J. Masiulio knygynas	

15-02-2006 No. 1S-16	V. Tomkus to implement concentration by acquiring up to 100% of shares of AB Gubernija	
02-03-2006 No. 1S-22	Amber Trust II SCA to implement concentration by acquiring 29.6% of shares of AB Sanitas	
09-03-2006 No. 1S-23	A. Pažemeckas to implement concentration by acquiring up to 100% of shares of AB Žemaitijos pienas	
09-03-2006 No. 1S-24	Pharmacy UAB Gintarinė grupė to implement concentration by acquiring 100% of shares of UAB Saurimeda	
16-03-2006 No. 1S-28	UAB Dahlgera to implement concentration by acquiring the business of UAB Statgera ir partneriai	
16-03-2006 No. 1S-29	UAB MG Baltic Investment to implement concentration by acquiring up to 100% of shares of UAB Mitnija	
23-03-2006 No. 1S-30	UAB Rubicon Group to implement concentration by strengthening the control of UAB Livesta serviso centras, UAB Katra and UAB Axis industries	
30-03-2006 No. 1S-32	AB Lietuvos telekomas to implement concentration by acquiring up to 100% of shares of UAB Baltic Data Center	
06-04-2006 No. 1S-35	Askembla Growth Fund KB and Jens Schröder to implement concentration by acquiring 26.1% of shares of Sportland International Group AS	
18-05-2006 No. 1S-51	UAB Hermis Capital to implement concentration by acquiring up to 100% of shares of AB Vilniaus Vingis	
18-05-2006 No. 1S-52	Northrop Grumman Deutschland GmbH, EADS Deutschland GmbH, Galileo Avionica S.p.A., General Dynamics Canada Ltd., INDRA SISTEMAS Sociedad Anonima and Thales Systems Aéroportés to implement concentration by establishing a company Alliance Ground Surveillance Industries GmbH	
25-05-2006 No. 1S-54	UAB Grūdainė to implement concentration by acquiring up to 35% of shares of AB Malsena	
25-05-2006 No. 1S-55	UAB Rivona to implement concentration by acquiring 50% of shares of UAB Norfos vaistinė and acquiring a joint control of UAB Norfos vaistinė together with UAB Esterita	
25-05-2006 No. 1S-56	Shibsted Baltics AS to implement concentration by acquiring 50,98% of shares of UAB Ekstra žinios	
01-06-2006 No. 1S-58	Shopinvest NV to implement concentration by acquiring up to 100% of shares of SCF NV	
15-06-2006 No. 1S-60	AB Invalda to implement concentration by acquiring up to 100% of shares of AB Pozityvios investicijos and Alvydas Banys, Dailius Juozapas Mišeikis, Vytautas Bučas and Darius Šulnys by acquiring joint control of AB Invalda	
15-06-2006 No. 1S-61	UAB City Plaza to implement concentration by acquiring up to 100% of shares of VAB Drobė	
29-06-2006 No. 1S-68	NamPac Acquisition Oy to implement concentration by acquiring 100% of shares of Tamro Medlab Oy	
29-06-2006 No. 1S-69	UAB DFDS Transport to implement concentration by acquiring up to 100% of shares of UAB Frans Maas Lietuva	
29-06-2006 No. 1S-70	UAB Hermis Capital to implement concentration by acquiring up to 100% of shares of UAB Meditus	
05-07-2006 No. 1S-73	UAB Finansų spektro investicija and UAB Transimeksa to implement concentration by acquiring, respectively, 33.61 % and 39.9 % of shares of AB Specializuotas transportas and acquiring a joint control	
05-07-2006 No. 1S-74	Philips Latvia SIA, OSRAM GmbH, GE Hungary Rt., BLV Licht-u Vakuumtechnik GmbH and Ekogaisma SIA to implement concentration by establishing PI Ekošviesa	

13-07-2006 No. 1S-75	UAB Klaipėdos mėsa to implement concentration by acquiring 50% of shares of UAB Agaras and jointly with P. Vainoras and L. Vainorienė acquiring joint control, UAB Agaras to implement concentration by acquiring 100% of shares of UAB Vilkė	
13-07-2006 No. 1S-76	UAB Lietuvos rytas to implement concentration by acquiring 34% of shares of UAB 15 minučių and jointly with Shibsted Baltics AS acquiring a joint control over UAB 15 minučių	
13-07-2006 No. 1S-77	UAB Natanga and UAB Grimeda to implement concentration through a merge and acquiring by J. Lebrikas and R. Griškėtas in equal parts shares of the company and acquiring a joint control	
13-07-2006 No. 1S-78	Codan A/S to implement concentration by acquiring up to 100% of shares of AB Lietuvos draudimas	
24-08-2006 No. 1S-85	UAB Vilniaus senamiesčio vaistinė to implement concentration by acquiring 100% of shares of UAB Medinsta	
24-08-2006 No. 1S-86	Northrop Grumman Deutschland GmbH, Dutch Space B.V., EADS Deutschland GmbH, Galileo Avionica S.p.A., INDRA SISTEMAS Sociedad Anonima and Thales Systems Aéroportés by establishing a jointly controlled company TCAR Industries GmbH	
31-08-2006 No. 1S-90	UAB Eika and AB Ogmios centras to implement concentration by incorporating in equal shares UAB Eika-Ogmios centras	
31-08-2006 No. 1S-91	AB Vilsota to implement concentration by acquiring 50% of shares of UAB Park Residence and jointly with UAB Middle Europe Investments Baltija acquiring a joint control over UAB Park Residence	
07-09-2006 No. 1S-93	UAB Mabilta to implement concentration by acquiring up to 100% of shares of AB Kasyba	
07-09-2006 No. 1S-94	UAB Naras, UAB Mažeikių varduva, UAB Iris, UAB Bikuvos prekyba, UAB ERRA ir KO, UAB Serfas, company of J. Gabriūnienė Stetiškių ūkis and UAB Juojos investicinė grupė to implement concentration by establishing joint company UAB Jungtinis tiekimas	
21-09-2006 N. 1S-100	UAB Kautra to implement concentration by acquiring 100% of shares of UAB Tolimojo keleivinio transporto kompanija	
21-09-2006 No. 1S-101	UAB Eika and UAB Ranga Group to implement concentration by acquiring in equal shares the 100% shares of UAB „Statyba ir architektūra“ and acquiring a joint control	
21-09-2006 No. 1S-102	UAB Hermis Capital and UAB Ranga Group to implement concentration by acquiring shares of UAB HC ir R-IV projektai and acquiring a joint control of UAB HC ir R-IV projektai in equal shares.	
21-09-2006 No. 1S-103	UAB Hermis Capital to implement concentration by acquiring 50% of shares of SIA Investiciju uzmumams and jointly with UAB Ranga group acquiring a joint control over SIA Investiciju uzmumams	
28-09-2006 No. 1S-106	UAB Palink to implement concentration by acquiring a share of the assets and rights in UAB Kauno saulėtekis	
12-10-2006 No. 1S-111	AB Invalda to implement concentration by acquiring 50% of shares of SIA Industrial and logistics centre Lapegles and jointly with UAB MG Valda acquiring a joint control over SIA Industrial and logistics centre Lapegles	
12-10-2006 No. 1S-112	UAB MG Valda to implement concentration by acquiring 50% of shares of UAB Megarenta and jointly with UAB Ormina acquiring a joint control over UAB Megarenta	
12-10-2006 No. 1S-113	UAB MG Valda to implement concentration by acquiring 50% of shares of SIA AMMO and jointly with AB Invalda acquiring a joint control over SIA AMMO	
12-10-2006 No. 1S-114	UAB MG Valda to implement concentration by acquiring 50% of shares of UAB DOMMO Nerija and jointly with AB Invalda acquiring a joint control over UAB DOMMO Nerija	
12-10-2006 No. 1S-115	Lithuanian-German UAB Fudo, Gintaras Aleknavičius and Narvydas Sakalauskas to implement concentration by acquiring up to 100% of shares of AB Kauno šaldytuvai and acquiring a joint control over AB Kauno šaldytuvai	
12-10-2006 No. 1S-116	UAB Lietuva Statoil to implement concentration by acquiring a share of the assets of UAB Okseta (oil products terminal)	
12-10-2006 No. 1S-117	Celanese Corporation to implement concentration by acquiring the business of Acetate Products Ltd.	

02-11-2006 No. 1S-120	AB Geonafta to implement concentration by acquiring up to 100% of shares of UAB Genčių nafta	
09-11-2006 No. 1S-122	UAB Elektromarktas to implement concentration by acquiring 100% of shares of UAB Buteka	
16-11-2006 No. 1S-123	Linstow AS to implement concentration by acquiring 100% of shares of UAB Baltijos parkai	
07-12-2006 No. 1S-131	Cersanit S.A. to implement concentration by acquiring 100% of shares of Opoczno S.A.	
07-12-2006 No. 1S-132	UAB MG Valda to implement concentration by acquiring 100% of shares of UAB Timidus	
14-12-2006 No. 1S-138	B  UAB Sanitex and UAB ŽIA Valda to implement concentration by acquiring 50% of shares of UAB LAL Development and acquiring a joint control over UAB LAL Development	
14-12-2006 No. 1S-139	Stanistāl A/S to implement concentration by acquiring 100% of shares of UAB Hidruva	
21-12-2006 No. 1S-143	Lithuanian-USA company UAB Sanitex and UAB Gamarenta to implement concentration by establishing UAB Sanitex-Ogmios in equal shares	
28-12-2006 No. 1S-144	Amber Trust II SCA and FIREBIRD AVRORA FUND to implement concentration by acquiring 38.35 % of shares of UAB Meditus	
28-12-2006 No. 1S-145	UAB Aura Estate to implement concentration by acquiring up to 100% of shares of AB Lėvuo	
28-12-2006 No. 1S-146	UAB Realtus and AB Ogmios centras to implement concentration by establishing company UAB Novigo in equal shares	
<b>Permissions to perform individual actions of concentration (6):</b>		
15-02-2006 No. 1S-15	Amber Trust II SCA by acquiring 29,6% of shares of AB Sanitas	
23-02-2006 No. 1S-20	Pharmacy UAB Gintarinė grupė by acquiring 100% of shares of UAB Saurimeda	
11-05-2006 No. 1S-50	Northrop Grumman Deutschland GmbH, EADS Deutschland GmbH, Galileo Avionica S.p.A., General Dynamics Canada Ltd., INDRA SYSTEMAS Sociedad Anonima and Thales Systems Aéroportés by establishing a company Alliance Ground Surveillance Industries GmbH	
29-06-2006 No. 1S-67	UAB Vilniaus senamiesčio vaistinė by acquiring 100% of shares of UAB Medinsta	
31-08-2006 No. 1S-89	UAB Mabilta by acquiring up to 100% of shares of AB Kasyba	
14-09-2006 No. 1S-97	UAB Palink by acquiring a share of the assets and rights of UAB Kauno saulėtekis	
<b>Refusals to initiate investigations (1)</b>		
<b>Concerning actions of unfair competition (3)</b>		
<b>Refusals to initiate investigations (3)</b>		
<b>ENFORCEMENT OF THE LAW ON ADVERTISING</b>		
<b>Concerning misleading and comparative advertising (16)</b>		
<b>Established infringements (5):</b>		
02-02-2006 No. 2S-4	UAB Getz Medical Baltic for misleading advertising of food supplements Ostron	LTL 15,000
23-03-2006 No. 2S-5	AB Lietuvos telekomas for misleading advertising	LTL 16,500

11-05-2006 No. 2S-7	UAB Acme for misleading advertising	LTL 15,000
01-06-2006 No. 2S-8	UAB VP Market for misleading advertising	LTL 19,500
10-07-2006 No. 2S-10	UAB Baltic Clipper for misleading advertising	
<b>Refusals to initiate investigations (8)</b>		
<b>Cases closed (3)</b>		
<b>Total fines imposed in 2006</b>		<b>LTL 3,883,514</b>

## TOTAL NATIONAL STATE AID IN LITHUANIA IN 2005

Aid forms	A1	A2	B1	C1	C2	D1	Total (LTL m)	Total (MEUR)
<b>Sector</b>								
1.1. Agriculture	138.70	181.72	0.35				320.77	92.90
1.2. Fisheries	2.09						2.09	0.60
<b>2. Industry/services</b>	<b>64.51</b>	<b>24.08</b>					<b>88.59</b>	<b>25.66</b>
<b>2.1. Horizontal aid</b>	<b>37.71</b>	<b>13.70</b>					<b>51.41</b>	<b>14.89</b>
2.1.1. Research and development and innovations	7.70						7.70	2.23
2.1.2. Environmental protection	8.81						8.81	2.55
2.1.3. SMEs	12.29						12.29	3.56
2.1.4. Trade	0.44						0.44	0.13
2.1.5. Energy efficiency								
2.1.6. Investment								
2.1.7. Employment programs	5.40						5.40	1.56
2.1.8. Professional development	0.06						0.06	0.02
2.1.9. Privatisation								
2.1.10. Rescue/restructuring	3.01	13.70					16.71	4.84
<b>2.2. Sectorial aid</b>								
2.2.1. Steel industry								
2.2.2. Ship-building								
2.2.3. Transport								
2.2.4. Coal industry								
2.2.5. Synthetic fibre								
2.2.6. Other sectors								
<b>2.3. Regional aid</b>	<b>26.80</b>	<b>10.38</b>					<b>37.18</b>	<b>10.77</b>
<b>Total:</b>	<b>205.30</b>	<b>205.80</b>	<b>0.35</b>				<b>411.45</b>	<b>119.16</b>
<b>Manufacturing and services:</b>	<b>64.51</b>	<b>24.08</b>					<b>88.59</b>	<b>25.66</b>

### EXPLANATIONS OF SYMBOLIC MARKINGS:

A1 – not recovered aid: grants, subsidies

A2 – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions

B1 – different types of increase of the state-owned equity of enterprise or increase of its value

C1 – soft loans

C2 – tax deferrals

D1 – State guarantees

## TOTAL NATIONAL STATE AID IN LITHUANIA IN 2000 – 2005 (MEUR)

Indicators	Year	2000	2001	2002	2003	2004	2005
<b>Total national State aid</b>		<b>68.70</b>	<b>39.73</b>	<b>74.96</b>	<b>40.67</b>	<b>120.38*)</b>	<b>119.16</b>
Of which:							
- manufacturing and services		42.07	17.26	44.03	25.56	25.34	25.66
- agriculture and fishery		0.43	0.82	1.43	0.74	89.63	93.50
- transport		26.20	21.65	29.50	14.37	5.41	-

## TOTAL NATIONAL STATE AID IN LITHUANIA IN 2000 - 2005

Indicators	Year	2000	2001	2002	2003	2004	2005
MEUR		68.70	39.73	74.96	40.67	120.38*)	119.16
EUR per one employee		43.32	26.11	53.31	28.28	83.81	81.04
% of GDP (at current prices)		0.57	0.29	0.51	0.25	0.66	0.58
% of national budget expenditures		2.81	1.36	2.22	1.12	2.85	2.41
% of national budget deficit		66.50	13.21	23.50	12.42	55.73	71.77
Population (m)		3.70	3.48	3.47	3.46	3.43	3.41

## METHODS OF NATIONAL STATE AID IN 2000 - 2005

	A1	A2	B1	C1	C2	D1	Total(LTL m)	Total (MEUR )
State aid 2000	225.55	7.45	0.06	0.01	0.07	22.48	255.62	68.70
State aid 2001	87.99	24.50	0.00	0.07	27.54	0.00	140.10	39.73
State aid 2002	93.09	127.19			38.45	0.07	258.8	74.96
State aid 2003	50.03	46.22	11.62	0.34	32.13	0.00	140.34	40.67
State aid 2004	202.79	183.33	13.40	0.03	15.69	0.40	415.64*)	120.38
State aid 2005	205.30	205.80	0.35				411.45	119.16

\*) revised statement

### EXPLANATIONS OF SYMBOLIC MARKINGS:

**A1** – not recovered aid: grants, subsidies

**A2** – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions

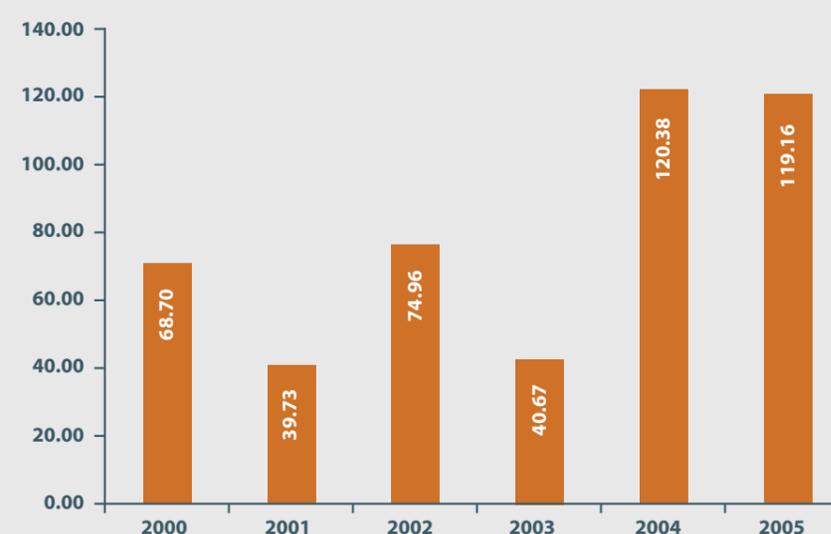
**B1** – different types of increase of the state-owned equity of enterprise or increase of its value

**C1** – soft loans

**C2** – tax deferrals

**D1** – State guarantees

## TOTAL NATIONAL STATE AID IN LITHUANIA IN 2000-2005 (MEUR)



## STATE AID ASSESSED BY RESOLUTIONS OF THE EUROPEAN COMMISSION IN 2006

State aid notification registration in the EC	Name of the aid	Beneficiary sector	Purpose of the aid	Duration of the aid scheme	Decision date
04-03-2005	N 112/ 2005 – Support to land acquisition	Agriculture	Investment support	Until 2010	22-11-2006
08-06-2005	N 294/2005 – support to development of bio-fuel production	Agriculture	Environmental protection, promotion of production of bio-fuels	Until 31-12-2011	24-01-2006
17-06-2005	N 313/ 2005 – Reduction of social insurance contributions for seamen	Maritime and costal transport	Promotion of employment	Until 01-01-2012	22-03-2006
22-06-2005	N 330/ 2005 – Aid to shipping enterprises – tonnage tax scheme	Maritime and costal transport	Sectoral development	Until 19-07-2016	19-07-2006
20-07-2005	N 371/ 2005 – Aid for the procurement of used equipment in flax sector	Agriculture	Investment in agricultural holdings	Until 14-12-2012	14-12-2006
20-07-2005	N114/2005 – Credit interest support	Agriculture	Investment support	Unlimited	16-12-2006
16-09-2005	N 464/ 2005 – Restructuring aid to AB Kauno ketaus liejykla	Other sectors (production of metal casts )	Restructuring	2005-2008	22-02-2006
28-10-2005	N 544/ 2005 – State aid to cooperation development	Agriculture	State aid to start-up of associations of producer groups and associations	Until 08-03-2016	08-03-2006
10-11-2005	N 571/ 2006 – State aid for partial compensation for adverse weather events	Agriculture	Partial compensation for adverse weather events	Until 12-04-2007	12-04-2006
24-11-2005	N 586/ 2005 – Support for procurement of breeding animals	Agriculture	Support for procurement of breeding animals	Unlimited	26-04-2006
09-01-2005	N 21/ 2006 – Compensation of the losses due to the application of the phytosanitary measures	Agriculture	Compensation of the losses due to the application of the phytosanitary measures	Unlimited	15-05-2006

01-03-2006	N 140/ 2006 *) – Allotment of subsidies to the State Enterprises at the Correction Houses	-	Employment	Until 31-12-2011	19-07-2006
23-06-2006	N 405/ 2006 – Support for procurement of breeding animals Aid No. 586/ 2005	Agriculture	Support for procurement of breeding animals	Unlimited	04-08-2006
27-09-2006	N 641/ 2006 2007 - 2013 regional aid map	All sectors	Regional development	From 01-01-2007 to 31-12-2013	24-10-2006

\*) Support measure not State aid within the meaning of Article 87(1) of the EC Treaty .

## LITIGATION PROCEEDINGS IN 2006

	Cases in the Vilnius Regional Administrative Court	Cases in the Supreme Administrative Court of Lithuania	Completed cases	Total number of representations
Infringements of Art. 4 of the LC	1. <i>PI Palangos pliažo tinklinio bazė v. CC</i>	1. <i>UAB Žalmargės pienas v. CC</i> (proceedings renewed) 2. <i>Palanga Municipality v. CC</i> (proceedings renewal application filed) 3. <i>Kaunas Municipality v. CC</i> 4. <i>TEO LT, AB, UAB Omnitel, UAB Bitė Lietuva v. CC</i> 5. <i>Police Department under the Ministry of the Interior v. CC</i>	1. <i>State Patient's Fund v. CC</i> 2. <i>UAB Rivona v. CC</i>	8
Infringements of Art. 5 of the LC	1. <i>UAB Eurointegracija v. CC</i> 2. <i>UAB Libra Vitalis, UAB Schneidersöhne Baltija v. CC</i>		1. <i>Undertakings providing taxi services in Vilnius v. CC</i>	3
Infringements of Art. 9 of the LC	1. <i>AB Mažeikių nafta v. CC</i> 2. <i>AB flyLAL – Lithuanian Airlines v. CC</i>		1. <i>AB Gubernija v. CC</i> 2. <i>AB Akmenės energija v. CC</i> 3. <i>AB Lietuvos paštas v. CC</i>	5
Infringements of Art. 5 and 6 of the LA		1. <i>UAB Acme v. CC</i>	1. <i>UAB Euroinvesticijos v. CC</i> 2. <i>UAB Vilniaus energija v. CC</i> 3. <i>UAB Žvilgsnis iš arčiau v. CC</i> 4. <i>UAB Getz Medical Baltic v. CC</i> 5. <i>AB Gubernija v. CC</i>	6
Concentration			1. <i>UAB Medipresa v. CC</i>	1
Interim measures	1. <i>Rautakirja Oy v. CC</i>			1
<b>Total:</b>	<b>6</b>	<b>6</b>	<b>12</b>	<b>24</b>

Cases in which resolutions of the CC were upheld - 5

Cases in which resolutions of the CC were partly amended - 3

Cases in which resolutions of the CC were overruled - 2

Cases in which the appellant of the CC resolution withdrew his appeal - 2

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