



Competition Council  
Republic of Latvia

# ANNUAL REPORT 2021



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# FOREWORD BY THE CHAIRMAN

## IMPROVEMENTS IN THE GOVERNANCE ARE WORKING TODAY AND WILL WORK IN THE FUTURE



My first full year at the Competition Council has come to an end. How has this year been for the team of the Competition Council and, at the same time, for the competition environment and the Latvian economy as a whole?

In 2021, as in the previous year, we were still obliged to live under COVID-19. While the pandemic upset the balance of life as we had known it, and sometimes even seemed to put life on pause, it also taught us to become more innovative, more digitally advanced, and more efficient in our work. The year has thus passed quickly, dynamically and with ambition. Last year, we not only increased our focus on the national measures to limit the spread of COVID-19 and the support mechanisms developed for businesses to ensure that they are equitable for all market participants, but also analysed ourselves and our internal processes to ensure that, despite remote working, digital meetings and restrictions

on gatherings, we are able to communicate effectively with businesses, conduct quality investigations and conclude open infringement cases within the set deadlines. For example, preventive procedures, i.e., educational activities and warnings for undertakings were organised remotely, audio recording of conversations with members of undertakings was introduced to reduce the time spent by the Authority at inspections, cases under investigation were digitised and undertakings were invited to express an opinion on gathered evidence remotely using cryptic hyperlinks.

But these are not the only improvements in the management of the Authority that has borne fruit today and will continue

to do so in the future: in 2021, the Authority developed a new human resources management policy, organized team-building and professional development activities, improved the remuneration and incentive system, launched activities to strengthen the Authority's IT capacity, and prepared amendments to the regulatory framework to provide the Authority with the necessary independence guarantees, resources and enforcement powers for effective investigation and prevention of competition law infringements in the future because only a strong, independent Authority and professional staff can create the added value for Latvia's economic growth that undertakings, our business partners, policy makers and consumers expect from the Competition Council.

This added value for Latvia's economic growth, or the public benefit from the work of the Competition Council, is one of the most important results of the Authority's work, which shows whether we are making a difference, whether we are working in the interest of society as a whole. In 2021, we achieved significantly more overall public benefit than we had planned, stemming from avoided distortions of competition, educational activities, warnings, and merger control of large companies. We had set ourselves the bar - to achieve an average of at least €24 million in public benefit every year. Analysing the results of last year's work alone, the benefit to society is estimated at over €52 million. Taking into account the Authority's budget for 2021, each euro allocated to the Authority last year generated a public benefit of around €24.28. We can thus objectively assess that last year saw great achievements and significant successes.

In 2021, the fight against cartels contributed the most to society - 60% of the estimated public benefit, or more than €30 million. In 2021, the Authority discovered a cartel in the construction and land amelioration sectors. But our aim is not primarily to penalize companies but to raise their awareness of fair competition and prevent possible infringements. Therefore, in addition to infringement decisions, preventive procedures were actively applied in 2021, with a total of 24 legal entities being warned and educated about prohibited agreements hoping to prevent similar infringements in the future.

The Authority's detection of distortions of competition linked to the abuse of dominant positions by market players also brought significant benefits to society. In 2021, the Competition Council reached a settlement with Rīga City Municipality and LLC "Getliņi EKO" in the so-called "Tīrīga case", where Rīga had planned to close the waste management market to competition for 20 years. As a result, Rīga committed to organising waste management in a way that respects the principle of fair competition. The second infringement of abuse of dominant position was found in the actions of Jelgava City Municipality, when it unjustifiably and inconsistently with the regulatory framework granted its capital company LLC "Jelgavas komunālie pakalpojumi" the right to operate in the municipal

waste collection and transportation market, thereby closing the market to competition for more than seven years.

It is noteworthy that both infringements of abuse of dominant position were found directly in the activities of public bodies - municipalities and their capital companies. But these are not the only distortions of competition created by public administrative bodies. Since 2020, the Competition Council also assesses breaches of competition neutrality by public administrative bodies when they have discriminated against private market players, for example by creating advantages for their capital companies or by excluding private market players from the market. In 2021, the Competition Council received more than 110 different complaints about the conduct of public administrative bodies, in particular about the imposition of restrictive competition rules in procurement. And in several cases, the negotiation procedure has led to a quick and effective solution to the problem.

In terms of the 2021 competition monitoring trends, the increased willingness of large companies to merge is also a definite highlight, which may be explained by companies' intentions to change their business strategies and their willingness to implement business plans that were put on hold during the initial phase of the COVID-19 crisis. In total, the Competition Council received three times more merger notifications for assessment in 2021 than in 2020. In addition, the Authority has found room to improve its efficiency in 2021 by significantly speeding up the pace of merger clearance, with an average of 22 days per non-problematic merger, which is one week faster than in 2020.

Last year, the effectiveness of the Authority was also assessed by external international experts. In 2021, the Competition Council has maintained its high three-star rating in the international Global Competition Review (GCR) rating for the seventh consecutive year.

We expect that all these efforts and measures in 2021 will serve as a successful breeding ground for the Authority's further development and ability to fulfil its mission to protect and promote free and fair competition between market participants in all sectors of the economy, to the benefit of every member of society. ■



**JURIS GAIĶIS**  
Chairman of the Competition Council

# THE COMPETITION COUNCIL. PASSPORT OF THE AUTHORITY

Fair competition produces efficient companies that are motivated to offer high quality, choice, innovation, competitive prices, and other benefits to win the battle for consumer choice.

The Competition Council of the Republic of Latvia is a direct state administration institution operating under the supervision of the Ministry of Economics. The main activity of the Competition Council is the implementation of competition policy, which can be divided into two sub-activities - the protection of competition and the development of a competition culture, to which the financial and human resources of the Authority, as well as cooperation in the international environment, play a key role. Furthermore, the independence of the CC in conducting investigations and taking decisions is a core value of the Authority, which is also stipulated in the Competition Law.

The tasks and rights of the CC are laid down in the Competition Law, the Advertising Law, Prohibition of Unfair Trading Practices Law, European Council Regulation No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty establishing the European Community, Cabinet of Ministers Regulation No 795 "Regulations of the Competition Council" of 29 September 2008 and other regulatory enactments.

Key values: **legality, professionalism, independence and development.**

## Mission

The mission of the Competition Council in implementing competition policy is to protect and promote free and fair competition in all areas of the economy between market players and to prevent public administrative bodies - state and local governments - from unduly interfering in free competition.

## Aim

The aim of the Competition Council is to ensure that every market participant is able to carry out its economic activity in conditions of free and fair competition, promoting the development of competition in all areas of the economy in the public interest.

## Operational tasks

- ▶ **Detection and prevention of prohibited agreements:** companies do not engage in cartels or other collusion.
- ▶ **Preventing abuse of dominant position:** large, dominant companies do not abuse their market power.
- ▶ **Merger control:** there may be no mergers that lead to market concentration and may adversely affect the interests of consumers and business partners.
- ▶ **Supervision of public administrative bodies:** state and local governments and their capital companies do not discriminate against private market players.
- ▶ **Monitoring unfair trading practices:** market players along the agricultural and food supply chain do not engage in unfair trading practices, and non-food retailers do not abuse their buying power against suppliers.
- ▶ **Control over legislation:** laws, regulations and other decisions and actions of national or local governments do not restrict the development of free and fair competition.
- ▶ **Promoting competition:** competition is promoted in markets, including regulated markets, where it is limited or non-existent.
- ▶ **Raising public awareness:** society receives comprehensive information on the positive effects of fair competition on market functionality and social welfare.

## Our resources



State financing

2 143 139 euros



29

years of operation of the Authority



54

knowledgeable and motivated employees

## Priority directions based on the Strategy 2020-2022

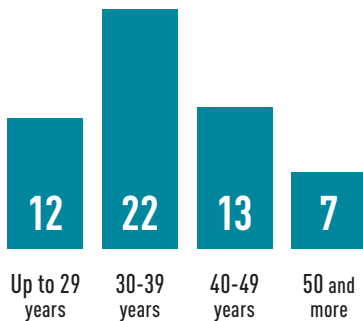
- ▶ more effective protection of competition;
- ▶ professional, committed, development-oriented and collaborative staff;
- ▶ more inclusive public education and competition.

# TEAM OF THE COMPETITION COUNCIL

The Competition Council consists of a decision-making body - the Council - and an Executive Body. At the end of 2021, the Authority had 54 staff members, 47 of whom were civil servants, and seven of whom were employees.

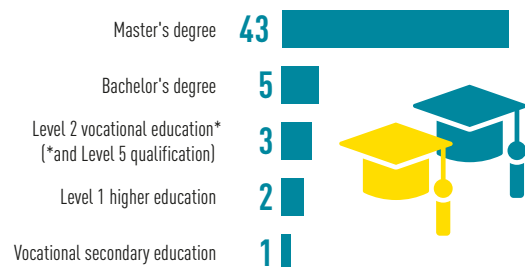
In 2021, staff turnover reached 10%. 5 individuals left the civil service and employment, while 11 entered it. As of 31 December 2021, the Authority employed 54 individuals.

## Age



The average age of the Competition Council staff is 37 years.

## Education



**65 %**  
or 35 employees  
are women



**35 %**  
or 19 employees  
are men

## 3 Council members

Assess the documents prepared by the Executive Body in its case studies and market surveillance and take the Authority's final decisions. The Council operates like a court of first instance. The Council consists of two members and a chairman, who manages the work of the Authority.

## 1 Executive Director

Ensures the coherent organisation, planning and management of the Executive Body's activities and provides legal and conceptual support to the Executive Body's staff in investigations and proceedings.

## 28 investigators

Investigate infringements, examine market developments, assess distortions of competition in laws and regulations and in the activities of public administrative bodies, and provide preventive education and advice to various target groups, including through lectures and seminars.

## 6 lawyers

Prepare the legal basis for the Council's decisions, represent the Authority in courts, prepare draft regulatory enactments, and assess whether documents prepared by other authorities distort competition, and provide suggestions for possible solutions.

## 6 economists

Prepare the economic justification for the Council's decisions and research, and study and develop new methods of econometric analysis.

## 10 support staff members

Manage communication with the public and coordinate international cooperation, budget management, personnel management and document management, IT user support for the Executive Body's departments, and implementation of internal audit recommendations. The Authority also has one newly created position, IT Project Manager, who develops the Authority's data processing and analysis and strengthens its investigative capacity by implementing information technology development projects.

# YEAR 2021 IN FIGURES

<b>Prohibited agreements</b>	<b>2</b>
Infringement detected	2
<b>Abuse of dominant position</b>	<b>4</b>
Infringement detected	1
Amendments to appropriate commitments	1
Settlement with legal obligation and payment of a fine	1
Case closed	1
<b>Mergers</b>	<b>22</b>
Merger cleared	21
Merger cleared with remedies	1
<b>Total number of decisions</b>	<b>28</b>

## Other relevant figures

### Infringement statistics

- ▶ €17,810,120 fines imposed on businesses
- ▶ €4,238,894.28 fines paid to the state budget
- ▶ 13 companies fined
- ▶ 7 inspections in 20 undertakings
- ▶ 6 terminated legal proceedings, 5 decisions of the Authority upheld

### Prevention and “Consult First”

- ▶ 9 warnings to 24 persons for alleged coordination
- ▶ 4 Negotiation procedures to remedy breach of competitive neutrality
- ▶ 1 preventive measure for 1 legal entity for alleged non-compliance with the Unfair Retail Trade Practices Prohibition Law

## €52 million in 2021

The public benefit from the Competition Council's activities in preventing distortions of competition, monitoring markets, and proposing changes to promote competition, and overseeing the large mergers. Taking into account the Authority's budget for 2021, each euro allocated to the Authority last year generated a public benefit of around €24.28.

## Submissions and opinions

- ▶ 338 submissions received on competition law issues, including
  - ▶ 194 submissions received on public administrative bodies issues
- ▶ 261 opinions given on competition law, including
  - ▶ 95 opinions on public administrative bodies participation in a capital company (Section 88 of the State Administration Structure Law)
  - ▶ 131 opinions given on other acts of public administrative bodies
- ▶ 42 opinions regarding proposals for the regulatory framework, including
  - ▶ 24 % of cases - the Authority's opinion was taken into account
- ▶ 1 positive opinion on the possibility of restoring lost credibility after engaging in a cartel

## Consultations, guidelines, and market inquiries

- ▶ 88 pre-merger consultations
- ▶ Completed inquiries in 10 markets
- ▶ 2 self-assessment tools to improve the competition environment
- ▶ 3 guidelines to improve the competition environment



For the seventh year in a row, the Competition Council maintained its position in the prestigious Global Competition Review Rating Enforcement among the world's best competition authorities.

1 euro 



24 euros





# COVID-19

In 2021, due to the high spread of COVID-19, the Competition Council (the CC) mostly conducted its work remotely in all its activities. Most of the educational events and international activities, but also the investigative activities - gathering information and explanations from undertakings, meetings, and other procedural activities, as well as presentations of case files and evidence and verbal hearings - were organised remotely and online, including fully remote meetings of the Council.

## A step towards digitisation

The COVID-19 restrictions created challenges to ensure investigative activities and case investigations within the timeframes set by the Competition Law, so it was essential for the CC to find more efficient solutions to modify and adapt certain activities and processes that were only implemented on-site before the pandemic. For example, **inspections** or unannounced visits to undertakings, **presentations of statement of objections to market players**, **preventive procedures** or warnings and education on various competition law issues. This led to the introduction of audio-recording, which allowed explanations to be digitally recorded and retrieved during procedural steps, significantly reducing the time normally spent on these procedural steps in face-to-face inspections. Similarly, remote access to the file was provided to market participants at the end of the case, after all evidence had been collected, by providing each participant with a cryptic hyperlink to access the file.

In 2021, work also started on the **development and implementation of a fully digital competition e-file**, identifying technical solutions and lessons learned from other institutions that have already started this process. It is planned that such a tool will allow to move away from the "paper file" and provide for a fully electronic management of the entire case, including the possibility for the parties to access the case file remotely and to submit the case to the court digitally.

## Effects of national measures on competition

The crisis caused by the spread of COVID-19 both globally and in Latvia continued to affect the business environment in Latvia. In order to achieve the overall objectives of the country, the CC supported the need for strict measures to limit the spread of the COVID-19 virus, but at the same time actively encouraged the Cabinet of Ministers, when deciding on restrictions, to introduce rules that would be proportionate and equitable for all market players and would not contribute to the economic downturn with negative effects on competition in the long term.

In 2021, the CC examined an application from the Latvian Association of Beauticians and Cosmetologists and the Latvian Association of Beauty Professionals regarding **beauty services banned during the state of emergency**. The CC concluded that the restrictions imposed during COVID-19 created uneven conditions of competition for private beauticians and beauty therapists in the cosmetology sector. Therefore, in spring 2021, during the state of emergency, some beauty services, mainly provided by private providers, were banned, but services provided by medical practitioners - beauticians, cosmetologists - were allowed if justified by medical indications, provided mainly in a public medical institution.

Taking into account that it was possible to ensure the same requirements in the provision of services in the context of the epidemiological situation in both medical institutions and beauty



### Māris Spička, the Head of the Executive Body:

"In 2021, the Competition Council the same as private sector and business environment much quicker refocused its work on the opportunities and challenges of the digital age because of constraints

imposed by the COVID-19 pandemic. This marked not only the Authority's move towards introducing remote processes or adapting them, which both contribute to the efficiency of the Authority's work and also provide additional convenience to the market participants, but also targeted new market research into new markets, including assessing the impact of internet platforms on competitive conditions or regulatory barriers for businesses."

salons, and that both places of provision of services employed specialists with appropriate qualifications, in the opinion of the CC, the regulatory framework created an unequal, distortive and discriminatory situation by excluding some service providers from the market.

In order to reduce the risks of the economic downturn **in the retail and related rental sector**, as well as to ensure that citizens are able to purchase the goods at retail outlets, the CC urged the Cabinet of Ministers not to introduce restrictions that would allow the sale of only certain groups of goods, divide outlets into primary and secondary outlets or group them according to their size, location inside or outside a shopping centre or other criteria of this kind. Furthermore, the CC pointed out that the regulatory framework should be fair to all market participants, which is an essential factor for the development of healthy competition.

## In-depth market studies

In addition to regulatory restrictions, the CC **assessed the mobility of bank customers during the COVID-19 pandemic**, assessing whether this situation had affected the ability or need of retail customers to switch service providers. The Authority concluded that the COVID-19 pandemic has not increased barriers to bank customer mobility. In 2021, a survey was also carried out to **assess the correlation of the growing market power and importance of the online food and non-food ordering and delivery platforms "Wolt" and "Bolt Food", with changes in their terms of engagement with restaurants, retailers, and other partners**, which was particularly relevant during COVID-19, when many service providers were unable to provide face-to-face services. The CC found that half of the companies surveyed had faced unequal treatment from platforms and therefore invited online platforms to conduct a serious assessment of the conditions they impose on operators that may affect competition. ■

# PROHIBITED AGREEMENTS

Detecting and preventing the most serious infringements of competition law remains one of the CC's top priorities. Thus, in order to ensure the detection of significant competition infringements and market distortions, a number of major **infringement investigations** have been completed in 2021, including the detection of repeated collusion between companies in the land amelioration sector and the fining of the largest Latvian construction companies in the so-called "Construction Cartel", marked by the largest fine ever imposed in the history of the Authority.

Also, during this period, based on the Authority's prioritisation strategy and the "Consult First" principle implemented in the public administration, the preventative measures were actively applied, during which 24 legal entities were **warned and simultaneously educated** on competition law issues, as well as 7 procedural actions or **unannounced inspections** were carried out in 20 undertakings to obtain evidence of possible infringements of the Competition Law.

## Construction Cartel

The CC **found a long-standing collusion between ten construction companies** on the conditions of participation in public and private tenders in Latvia.

The infringement was established in the activities of LLC "SKONTO BŪVE", LLC "LATVIJAS ENERGOCELTNIEKS", LLC "VELVE", LLC "ARČERS", LLC "RERE BŪVE", LLC "RE & RE", LLC "RBSSKALS Būvvaldība", LLC "ABORA", JSC "LNK Industries" and LLC "MERKS" with a total fine of €16,652,027.

Representatives of these companies have been distorting competition in procurements throughout Latvia for several years. The CC identified at least 70 of the nearly 90 procurements negotiated with a total contract value of €686,989,991. More than half of the procurements were made with EU co-funding.

In general, the competition was distorted in the procurement of the construction, reconstruction, supervision of educational establishments, shopping centres, medical facilities, sports grounds and centres, stadiums, law enforcement facilities, radioactive waste containers and storage facilities, various infrastructure facilities, etc.

## Cartel member regains lost credibility

Companies fined by the CC for participating in a cartel are banned from public procurement for one year.

During the investigation of the case, a settlement agreement was reached with one of the participants in the "Constructors Case", LLC "VELVE", on the termination of the legal dispute, with the company accepting the findings of the case and undertaking agreed not to appeal against the final decision of the CC.

Later, when assessing the technical, organisational and personnel management measures taken by LLC "VELVE", the CC issued a positive **opinion for "regaining the lost credibility"** of the contracting authority, thus, in accordance with Public Procurement Law and the Public Service Providers Procurement Law, **procurement organizers may decide on the participation of the company in public procurement**, despite the one-year ban on participation in public procurement imposed on the cartel member.

## Cartel in the land amelioration sector

In 2021, the CC carried out an audit of the land amelioration sector procurement and found suspicious bid-matches in the tenders organised by the Ministry of Agriculture's capital company LLC "Ministry of Agriculture Real Estate" in the period from 2016 to 2019, implemented under the European Agricultural Fund for Rural Development 2014-2020 programme.

By assessing the procurement procedures and inspecting six companies, the CC obtained evidence that the **providers of land amelioration services** - LLC "Valkas meliorācija" and LLC "Aglomeliorators" - **had colluded on the terms of participation in three procurement procedures**. Suppliers exchanged documents, including financial estimates, to be submitted for the procurement in question, simulating competition. For the infringements found, the CC imposed a fine of €208,837.15 on LLC "Valkas meliorācija" and €13,132.45 on LLC "Aglomeliorators".

## Prevention - educate, not punish

In 2021, **the CC issued warnings to a total of 24 persons in nine cases of alleged collusion**, three times more than in 2020.

The companies warned in 2021 are active in the construction of residential and non-residential buildings, building and repair works, rental of construction machinery and equipment, food sales, catering services, bus rental, installation of electrical wiring, real estate activities, including the rental and management of own or leased property.

In all these cases, the CC suspected that the tenderers had coordinated their bids in public procurement, for example, in one case, both tenderers were found to have used the same subcontractor resulting in identical draft designs with almost identical costs; in another case, a consultant was used to prepare the tender and two tenderers prepared and submitted tenders containing similarities. It is positive to note that in all these cases where the CC has warned undertakings of possible infringements of competition law, the prima facie signs of an infringement have been identified and communicated by the procurement organizers themselves. ■



## Ieva Šmite, the Head of the Cartel Department:

"In February 2021, the Cartel Department celebrated eight years of existence. The Authority's work against cartels, or collusive agreements between competitors, has been meaningful and has benefited society as a whole: a total of 56 cartel infringements have been detected, penalizing more than 260 companies, and fining them more than €42 million. But our priority has always been not to punish, but to educate and change the behaviour of businesses by embedding the principles of fair competition. This means that, in addition to punitive decisions for minor infringements, preventive procedures are implemented, i.e., businesses are warned on a "Consult First" basis. So far, we have warned more than 150 companies and, of course, we have actively educated them through numerous seminars, webinars and consultations to develop a culture of fair competition."

# ABUSE OF DOMINANT POSITION

In 2021, the CC adopted four decisions on abuses of dominant positions by market players. In two cases, municipalities were directly active on the market **and were found to have abused their dominant position**. In one of these cases, a **settlement agreement was reached** to end the legal dispute.

Also, in 2021, the CC decided because of market developments to update the legal obligations imposed on a state-owned electric utility company in Latvia "Latvenergo" in 2009 that addressed the competitive constraints created by the company on the wholesale heat market in Riga. In another case, a decision was taken to close the case.

## Riga Municipality settles

In 2021, the **Riga City Municipality and its owned company "Getliņi EKO" concluded a settlement agreement with the CC** in a dispute over distortion of competition – the planned 20-year monopolization of the Riga waste management market.

Riga generates a significant amount of waste - almost 50% of the total waste generated in Latvia. Until 2019, when Riga City Municipality, LLC "Getliņi EKO" and private partner JSC "Tīrīga" signed a concession agreement for the implementation of a new waste management system in Riga, the collection and transportation of municipal waste was provided by four competing companies. The new waste management system foresaw that only one company, JSC "Tīrīga", would operate in the municipal waste collection and transportation market, thus completely eliminating competition in the market for 20 years. In addition, the concession agreement will significantly affect competition in the related waste recycling market, as the concession agreement will result in only one municipal waste manager receiving all municipal waste collected in the administrative territory of the City of Riga, which after sorting can be sold as secondary raw materials to recyclers.

In 2019, the CC initiated an infringement case against the Riga City Municipality and LLC "Getliņi EKO" for alleged abuse of a dominant position under Article 102 of the Treaty on the Functioning of the European Union. Furthermore, in order to prevent the negative effects of the distortion of competition on citizens - the waste generators - the CC already in 2019 adopted a decision on interim measures, which imposed an obligation to immediately suspend the performance of the concession agreement and preserve competition on the market.

Taking into account the assessment made by the CC in the case and the fact that the Riga City Municipality was interested in eliminating the consequences of the concession procedure, which consisted in changing the competitive structure of the relevant market and establishing a monopoly position together with the selected partner JSC "Tīrīga", the parties **agreed to terminate the dispute, by concluding a settlement agreement**, which includes an obligation to ensure the provision of waste management services under conditions of fair competition without creating a monopoly on the market, as well as to carry out an in-depth assessment to ensure the implementation of a pro-competitive service delivery model in Riga and the payment of a fine totalling €885,000.

## Jelgava municipality fined

In 2021, the CC adopted another decision on abuse of **dominant position in the waste management sector - the Jelgava City Municipality** was fined for unjustified and incompatible with the regulatory framework provision to its capital company LLC "Jelgavas



**Rūta Šutko, the Head of the Analytical Department:**

"Abuse of a dominant position causes significant damage to the economy because, by their very nature, such abuses immediately affect the entire relevant market. They harm consumers in

the long term through higher prices and lower quality. Even worse, they block competitors, whose role in normal competition is to ensure that consumers have a choice of alternative offerings, thus leveraging competitive pressures in the market while improving both the investment environment for business and the development of innovation.

In 2021, the Competition Council concluded investigations in two important waste management cases. In both cases, the competitive structure of the market was restored and preserved. Both cases also showed that not only private players, but also municipalities can abuse a dominant position when they engage in market and commercial activities in the provision of services. In such circumstances, the status of a public administrative body does not protect against the effects of the Competition Law and the commission of serious infringements, which are punishable by severe fines."

komunālie pakalpojumi" of long-standing rights to operate in the municipal waste collection and transportation market in the administrative territory of Jelgava City.

Jelgava City Municipality has been providing waste management in-house since 2004. However, when a municipality entrusts the provision of a service to an in-house company, it must exercise full control over the company without the involvement of private capital. Meanwhile, the municipal company LLC "Jelgavas komunālie pakalpojumi", which is in charge of municipal waste collection and transportation, is partly owned by the private market player LLC "KULK". Thus, not all the criteria set out in the regulatory framework for the in-house exception were present.

In 2006, the Waste Management Law was amended to stipulate that a municipality can only enter into a contract with a waste management company for a fixed period - not less than three years and not more than five years. Old contracts that did not comply with the new requirements had to be terminated by 1 July 2013. However, Jelgava City Municipality did not take this into account and continued to use the in-house exception unjustifiably and to cooperate with LLC "Jelgavas komunālie pakalpojumi" even after 2013. As a result, the municipality has taken advantage of its dominant position and, more than seven years after the expiry of the contracts under the amendments, has transferred rights in the relevant market to one market player, thereby preventing other market players from offering their services in the relevant market.

For the competition infringement, the CC imposed a fine of €51,123 on Jelgava City Municipality. ■

# MERGERS

One of the tasks of the CC is to assess mergers and notified agreements between major undertakings in order to prevent possible negative effects on competition and consumers. In 2021, the **CC adopted 22 merger decisions**, double the number in 2020.

In 2021, there has been a significant increase in the willingness of companies to merge and strengthen their market position. In 2021, the CC received three times as many reports of companies wishing to merge (25) as in 2020, when only eight notifications were received.

During the year, the market players involved in merger reviews **paid € 86 000 in fees** to the State budget. In addition, to make it easier for companies to submit merger reports, the CC provided **88 pre-merger counselling sessions**, seven times more than in 2020.

The majority of mergers were assessed by the CC within one month, with additional focus on mergers requiring in-depth assessment. In 2021, such **in-depth studies were carried out on two occasions**.

## Owner of Apollo Kino acquires Forum Cinemas Latvia

The CC decided to authorise OÜ "MM Grupp", an Estonian company representing several companies in Latvia, including LLC "Apollo Kino", to acquire OÜ "Forum Cinemas Latvia", another Estonian company. Both companies are active in the film distribution and exhibition markets in Latvia.

Given that OÜ "Forum Cinemas Latvia" and OÜ "MM Grupp", representing "Apollo Kino", were the closest competitors on the film exhibition market in Riga before the merger, the CC anticipated that the merger would create barriers to effective competition on that market by significantly reducing the competitive pressure on "Apollo Kino" previously created by OÜ "Forum Cinemas Latvia". However, with OÜ "MM Grupp" announced intention to open cinemas in shopping centre "Riga Plaza" and in the shopping centre "Domina Shopping", there would be only one independent of OÜ "MM Grupp" cinema left in Riga, which would be unable to exert effective competitive pressure on the merging parties. This could lead to significant negative effects on competition and ultimately on consumers.

In order to address potential competition risks, the CC cleared the merger with remedies. The remedies provide that, first, as a result of the merger, OÜ "MM Grupp" may acquire all the shares in the share capital of LLC "Stockmann Centrs" held by OÜ "Forum Cinemas Latvia" that are not directly related to cinema business. Second, OÜ "MM Grupp" undertakes to transfer the remaining part of the business of OÜ Forum Cinemas Latvia - the cinema "Citadele" with its assets, employees, and property, as well as the right to use the premises - within one calendar year to the control of a third party which is not itself or its owners related to OÜ "MM Grupp".

This will ensure that the **market for the screening of movies does not lead to increased concentration** and that the merger does not lead to negative effects in this market.



## Artūrs Kuka, the Head of Economic Analysis and Mergers Division:

"2021 will be remembered as the most intense period for mergers in the last five years. The increase in merger notifications were not only observed in

Latvia, but also in many parts of Europe and on the other side of the ocean, exceeding even the pre-pandemic levels. At the same time, despite the increase in notifications, the CC has been able to significantly reduce the pace of non-problematic (Phase I) mergers in 2021, with one report being examined and a decision taken on average one week faster than in 2020. This also has a definite positive benefit for the business environment, as market participants can complete these transactions more quickly."

## "Akropolis Group" acquires shopping centre "Alfa"

The CC has decided to authorise UAB "AKROPOLIS GROUP", a company incorporated in Lithuania, which is an operator of multifunctional shopping centres and owns four centres and two office buildings in Lithuania and Latvia, including the shopping centre "Akropole" in Riga, to acquire a decisive influence over LLC "DELTA PROPERTY", the owner, operator, and developer of the shopping centre "Alfa".

The market affected by the merger is therefore the market for the leasing of retail space in mixed-use shopping centres in Riga and its immediate surroundings.

The CC found that the entry of the multifunctional shopping centre "Akropole" into the market in 2019 did not have a significant impact on the performance of the multifunctional shopping centre "Alfa". The surveyed shopping centres and tenants indicated that shopping centres "Akropole" and "Alfa" are not the closest competitors and their premises are substitutable with premises in other competitors' shopping centres. The CC did not find that UAB "AKROPOLIS GROUP" had the ability to exercise its market power against existing market players by restricting or impeding the entry or expansion of potential market players.

The CC's investigation concluded that the merger **would not result in a significant change in the market structure, lessen competition or create or strengthen a dominant position** in the affected market in Latvia in which the merging parties are active. ■

# MONITORING OF UNFAIR TRADING PRACTICES

The Unfair Retail Practices Prohibition Law (hereinafter - URPL) entered into force in Latvia on 1 January 2016 with the aim of balancing the power of suppliers and retailers. On 1 November 2021, the Prohibition of Unfair Trading Practices Law entered into force, implementing the Unfair Commercial Trading Practices Directive 2019/633, which aims to prohibit unfair commercial practices throughout the supply chain of agricultural and food products, as well as the use of purchasing power by non-food retailers against suppliers. Enforcement of the Prohibition of Unfair Trading Practices Law will be monitored and controlled by the CC, whereas the former Law supervised by the CC will become void.

The CC also participated in **five events, four of which were educational, educating a total of 481 people**. This included informing retailers, manufacturers, wholesalers, suppliers, and other interested market players about the new Prohibition of Unfair Trading Practices Law.

In 2021, the CC implemented **one preventive measure - a warning - to remedy an alleged infringement**.

## Unfair trading practices under the scope

The new law provides protection to a wider range of market players, i.e., it extends the range of agricultural and food suppliers who will be protected from unfair trading practices. This is because the new Law applies to all market players in the agricultural and food supply chain - retailers, food processors, wholesalers, cooperatives, producer organisations and individual producers, as well as to public administrative bodies that procure agricultural and food products.

The European Union has set common standards, or a minimum list of prohibited trading practices between the supplier and the buyer of agricultural and food products, to be considered in all Member States by adopting a Directive. Some practices are blacklisted, which are prohibited in all situations, and some are grey listed, which are prohibited unless the relevant conditions are clearly and explicitly stipulated in advance in a written contract between the agricultural and food supplier and the buyer. In addition to the above types of unfair trading practices, the law lists prohibited practices relating to payment terms for delivered agricultural and food products.

### “Blacklist” - always prohibited practices in trade:

- ▶ unilaterally amend the Agreement;
- ▶ demand payments unrelated to the sale of the supplier's goods (e.g., to pay for the conclusion of the contract, to reimburse administration costs, to pay for the location of the goods, to reimburse lost profits, to reimburse the costs of setting up new outlets and updating old outlets);

- ▶ require the supplier to pay for damage and loss of agricultural and food goods on the buyer's premises;
- ▶ claim compensation for the costs of dealing with customer complaints;
- ▶ return unsold goods (exceptions - poor quality goods, new goods, and goods unknown to consumers)
- ▶ impose unfair and unreasonable penalties for breach of contract;
- ▶ refuse to conclude written contracts;
- ▶ misuse of business secrets;
- ▶ threaten or use commercial retaliation against the supplier;
- ▶ cancel or change an order at the last minute;
- ▶ not to accept goods from a supplier with a 2/3 shelf life;
- ▶ demand the lowest prices;
- ▶ claim the cost of employing staff to set up the premises used to sell the goods;
- ▶ charge a fee for storing goods, including them in a range or making them available on the market;
- ▶ demand unfair, unreasonable, or non-contractual payments (discounts)

### “Grey list” - prohibited trading practices, unless the written contract expressly states otherwise:

- ▶ demand direct or indirect payment for advertising;
- ▶ demand direct or indirect payment for marketing;
- ▶ demand direct or indirect payment for logistics services;
- ▶ require the purchase of goods, services, or property from third parties designated by the buyer;
- ▶ apply promotional discounts to goods not sold during the promotion period.

The new law allows the CC to decide on the imposition of a legal obligation, the imposition of a fine and the issuing of warnings if it finds infringements in the cooperation of market participants. The warning procedure is an innovation of the new law, which was not included in the previous Unfair Retail Trade Practices Prohibition Law. Thus, the CC is entitled to replace a decision on a fine with a warning, taking into account the circumstances of the infringement, the nature of the infringement and other circumstances.

As regards the imposition of fines, the Prohibition of Unfair Trading Practices Law does not differ from the previous law, i.e., the CC is entitled to impose a fine of up to 0.2 per cent of the net turnover of the buyer and non-food retailer in the last reporting year, but not less than €70, for an infringement under the Law. ■



## Sintija Nagle, the Chief Expert on Unfair Trading Practices:

“Although the Prohibition of Unfair Trading Practices Law prohibits the use of purchasing power by non-food retailers against suppliers, agricultural production in particular is fraught with uncertainty, as the previous regulation did not cover this part of the supply chain. It is therefore important to ensure a balance between the disadvantaged supplier and the buyer. In practice, it has also been observed that market participants still do not distinguish between good practices and prohibited practices. Therefore, to promote the awareness of the market players in the sector about fair trading and their rights and obligations in their mutual relations in the agricultural and food supply chain, also in 2022 the Competition Council will not only monitor the enforcement of the Law but will also implement various explanatory measures.”

# IMPACT ON COMPETITION OF PUBLIC ADMINISTRATIVE BODIES

## State and local government involvement in business

In 2021, the CC received **194 applications** related to the activities of public administrative bodies - state, municipalities and capital companies owned by them, including possible distortion of competition.

In order to avoid the risks of a public administrative body unduly engaging in commercial activities and thereby distorting competition by making it more difficult or even impossible for private undertakings to operate on the market, public administrative bodies are required to carry out an assessment of their planned activities when establishing new or reassessing their holdings in existing capital companies.

According to the Law on Management of Public Entity Capital Shares and Capital Companies, such an assessment, including an assessment of the impact on competition, should be carried out at least every five years. Most public entities last carried out their capital company shareholding reviews at the end of 2015, so 2020 was an active year for the submission of capital company shareholding reviews. However, due to the Administrative Territorial Reform and the resulting changes in the regulatory framework, the deadline for submission of assessments was extended to 1 June 2022 for a large number of municipalities. Thus, in 2021, as in 2020, substantial resources were devoted to the preparation of opinions on the involvement of public administrative bodies in business activities through the companies they own. A total of 95 opinions were issued in 2021.

For advisory purposes, the CC has started and will continue to produce summaries by sector or industry, highlighting the key findings and issues arising from its opinions on reassessments of state and local government holdings in capital companies, on the involvement of public administrative bodies in various markets such as health, public transport, housing management, etc.

## Respect for competitive neutrality

On January 1, amendments to the Competition Law entered into force in Latvia, requiring public administrative bodies to **comply with the obligation to respect competitive neutrality**.

In 2021, the CC **used the negotiated procedure in four cases** to remedy a breach of competitive neutrality - in the organisation

of sanitation services in Jēkabpils and organisation of cemetery excavation services in Ventspils and Daugavpils, as well as in a public procurement organised by a public limited liability company.

In addition, during the reporting period, the monitoring of two markets was completed - the monitoring of the organisation of cemetery excavation services in major cities of Latvia, as well as the evaluation of the procurement of number plates organised by state owned company "Road Traffic Safety Directorate". These measures assess the conduct of the public administrative body and the findings of the monitoring exercise are important for further education of public administrative bodies on the principle of competitive neutrality.

## Pro-competitive laws and regulations

In 2021, the CC **issued 42 opinions to legislators in more than 20 economic sectors** to address potential restrictions to competition that could be facilitated by regulatory frameworks. In 2021, opinions were also provided on the compatibility of draft laws with the principles of free competition and distortions of competition in areas such as trade, public procurement, waste management, postal services, investment, rail services, public limited companies, water management, flag production regulation, security services, construction, public administration, pharmacies, and others.

**In 24% of cases, the CC achieved pro-competitive regulation.**

As an example, the Cabinet of Ministers adopted amendments to "Regulations on the Application of the Latvian State Flag Law", which were clarified to allow consumers to be offered higher quality flags with a light transmission coefficient of more than 70%. At the same time, the Meeting of State Secretaries also tasked the ministry-in-charge, together with the relevant institutions and stakeholders, to reassess the requirements of the Latvian national flag.

Also, regarding the draft Recovery and Resilience Mechanism Plan, the CC pointed out that in order to ensure a level playing field between public and private operators, the possibility for private operators to participate in tenders for the development of industrial parks and sites in the regions should be assessed on an equal footing, with certain qualification criteria.

To promote the adoption of pro-competitive regulatory framework, representatives of the CC **defended the principles of fair competition at 65 events**, including the Cabinet of Ministers, the Parliament, etc. ■



### Antis Apsītis, the Head of the Competition Promotion Division:

"It is essential that when choosing a particular course of action, whether it be retaining a shareholding in a capital company, public procurement or something else, the state and local authorities assess what consequences the planned action will have on competition. A high-quality market study and competitive impact assessment will allow us to achieve the necessary objectives while choosing the most competition-friendly solution, thus ensuring long-term benefits for citizens, the country and businesses."

# SECTOR INQUIRY

In 2021, the CC concluded its monitoring of ten markets, including assessing and proposing remedies to remove competitive constraints. For example, the CC carried out the monitoring of bank customer mobility, the monitoring of Motor Third Party Liability Insurance policies, the monitoring of the market for waste glass packaging management services, the cooperation of catering and food delivery platforms with catering and retail companies.

As well as several in-depth competition law compliance assessments of market players, including "Bite" and "Tele2" cooperation agreements in the joint use of radio frequency bands and active infrastructure, etc.

Market surveillance aims to provide in-depth insights into different sectors of the economy, as well as to identify the competitive situation and find ways to improve it.

## Highly concentrated market for waste glass management

The CC's **monitoring of the market for the management of packaging waste glass services** found that the market is oligopolistic and highly concentrated. These and other conditions, such as market transparency, product homogeneity, barriers to entry and operation in market, contribute to the collective dominant position in the relevant market enjoyed by the two strongest market leaders - JSC "Latvijas zaļais punkts" and LLC "Zaļā josta". Also, in the view of the CC, the requirements laid down in the regulatory enactments, the published management rates applied by operators to natural resource taxpayers, as well as the homogeneity of the product can be considered as factors that allow market leaders to coordinate their activities in the packaging waste management market, thus possibly anticipating each other's behaviour when the market situation changes, including at the same time increasing average management rates. The increase in management rates in 2018-2020 triggered the market monitoring, but the CC finds that they increased in line with the increase in management costs and are therefore considered reasonable.

Since 2018, the market structure has changed, and the competitive situation has improved following the entry of new operators in the glass packaging management market. As a result, two market leaders are long-standing players, while the remaining players are active for a short period of time, leaving the market after one to three years. The fact that two manufacturer's liability system operators have left the market after a short period of activity is, in the view of the CC, an indication that new entrants find it difficult to comply with the requirements imposed on manufacturer's liability system operators to operate on the market.

Although the new operators have increased the number of contractual partners, the volume of packaging to be managed and thus the market share over the last two years, the competitive pressure exerted by new manufacturer's liability system operators

on the market leaders - JSC "Latvijas zaļais punkts" and LLC "Zaļā josta" - may decrease as the management rates level out. At the same time, there is a risk that some natural resource taxpayers will return to their previous contractual partners, thus jeopardising the future success of new entrants in the market as a whole.

## "Wolt" and "Bolt Food" cooperation with companies

In 2021, the CC assessed the cooperation of online food and non-food ordering and delivery platforms **"Wolt" and "Bolt Food" with restaurants, retailers, and other partners.**

The CC's market monitoring found that half, or 50%, of the companies surveyed had experienced unequal treatment from "Wolt" and "Bolt Food". In the CC's view, certain conditions on the part of the platforms, such as permanent and long-term promotions, unilateral actions by the platform to reduce the caterer's opening hours or to increase the commission, as well as excessive charges, may lead to unequal treatment between undertakings using the platforms' services.

According to the results of the CC's survey, the platforms "Wolt" and "Bolt Food" tend to require operators to cooperate exclusively with one of the platforms, which may be an indication of exclusivity conditions for the cooperation partners. Market participants have a duty to assess such cooperation arrangements to ensure that they are compatible with fair competition.

## Brokers promote competition between insurance companies

In its **market investigation of insurance companies' cooperation with insurance intermediaries** in the distribution of Motor Third Party Liability Insurance policies, the CC found that the existence of insurance brokers on the market facilitates competition between insurance companies, ensuring not only price but also quality competition. At the same time, insurance brokers also make a significant contribution to informing their clients so that they can obtain the most appropriate and advantageous Motor Third Party Liability Insurance policy offer for their interests.

## COVID-19 has no impact on bank customer mobility

The CC conducted a **survey on the mobility of bank customers (consumers) during the COVID-19 pandemic**, assessing whether this situation has affected individuals' ability or need to switch banks. Summarising the results of the survey, the CC concluded that the COVID-19 pandemic has not increased barriers to the mobility of bank customers. At the same time, the CC found that consumers have successfully used remote banking services during the pandemic and switching to another bank has been less of an issue, not least because more than half of individuals are already customers of several banks at the same time. ■

# LITIGATION

**Six proceedings** relating to decisions taken by the CC were concluded in 2021. In five out of six cases, the CC's decisions have entered into force, including the decision on LLC "Rīgas satiksme" involvement in a cartel, the so-called "nano water" case and a cartel implemented by land amelioration companies. In the "Volkswagen" dealer cartel case, the proceedings have been concluded as regards LLC "SD Autocentrs" involvement in the cartel and the fine imposed. However, significant progress has been made against the other dealers, as the Senate completely overturned the erroneous judgment of the Administrative Regional Court and handed the case back for a new trial.

In 2021, companies paid €4,238,894.28 to the state budget after the legal proceedings were concluded and the CC's decision entered into force or after the companies reached settlements with the Authority, as was the case in the so-called "Tīriņa Case" with Rīga City Municipality and municipality owned company LLC "Getliņi EKO". The same happened in the so-called "Construction Cartel Case" with LLC "Velve".

In addition, in 2021 the Authority devoted resources to **litigating cases before the Court of Justice of the European Union**, providing independent submissions in a preliminary ruling on a vertical collusion interpreting the provisions of Article 101 of the Treaty on the Functioning of the European Union (TFEU), and supporting the Ministry of Justice in preparing answers to questions raised by the Court on the interaction between the regulatory and competition monitoring functions in a case involving Article 102 of the TFEU.

## Court confirms LLC "Rīgas Satiksme" participation in a collusion

The Senate refused to initiate **cassation proceedings against the cassation complaint of Riga municipality owned company LLC "Rīgas satiksme"** in the proceedings against the decision of the CC.

The CC in 2019 established a collusion between the company owned by the Rīga City Government that was tender organizer itself – LLC "Rīgas satiksme" - and six companies in the price surveys for the supply of nano technological chemicals. Thus, the **judgment of the Administrative Regional Court has entered into force**, and LLC "Rīgas satiksme" has paid €2.4 million to the state budget for its involvement in the collusion.

In its decision, the CC found that market players coordinated their offers in two price surveys organised by LLC "Rīgas satiksme" between 2012 and 2014 for a total contract amount of more than €800 thousand.

In the decision, the CC found that the contracting authority itself - LLC "Rīgas satiksme" - actively negotiated with the tenderers the conditions for participation and the documentation to be submitted, as

well as the intended winner. The municipality owned company was also held liable for the infringement as any other party to the cartel.

## Court upholds cartel finding in the land amelioration sector

In 2021, the Senate **decided not to initiate cassation proceedings in the case against the decision of the CC**, by which in 2018 the Authority established a collusion in the procurement of fund projects. The CC's decision thus came into force and three companies paid a fine of more than €70,000 to the state budget for the breach of competition law.

In 2018, the CC found that three amelioration system builders - LLC "LIMBAŽU MELIO", LLC "Bauskas meliorācija" and LLC "Meliorācijas eksperts" - had colluded in four tenders between 2015 and 2016 by electronically exchanging estimates to be submitted in the respective tenders and agreeing on actions to ensure that a particular company won the tenders. This led to a lack of competition between the companies and to bids that were not made under genuinely competitive conditions.

## Refuses to initiate a cassation appeal against the penalty imposed

In 2021, the Senate **refused to initiate cassation proceedings against LLC "SD Autocentrs" cassation complaint against the fine imposed by the CC in the "Volkswagen" car dealers' cartel case**. Thus, the judgment of the Administrative Regional Court has entered into force, and LLC "SD Autocentrs" must pay a fine of €124,916.54 to the State budget for its involvement in the collusion.

In 2014, the CC found that "Volkswagen" dealers in Latvia had systematically coordinated their participation in tenders organised by private companies, state administration authorities and agencies, municipalities, schools (school buses), nursing homes, internal affairs authorities, and others for at least five years. Dealers regularly informed each other of their plans for a procurement, asking others not to compete, e.g., not to participate at all or not to offer lower prices. "Volkswagen" dealers were fined €7.6 million for the cartel.

One of the dealers, LLC "SD Autocentrs", had settled the case with the CC by concluding an administrative agreement and admitting the infringement, but the amount of the fine was disputed in court. The Senate had no doubts as to the legality of the judgment of the Administrative District Court, and the cassation proceedings were dismissed. The CC's decision is therefore final as regards LLC "SD Autocentrs". The proceedings regarding the involvement of other "Volkswagen" dealers in the cartel and the fine imposed will start anew before the Administrative Regional Court, as the Senate annulled the previous judgment in its entirety and referred the case for a new hearing. ■



### Valentīns Hitrovs, the Head of the Legal Department:

"The year of 2021 is marked by a number of important developments in Court findings, which strengthen the rules of application of competition law both for the Authority itself and for market participants who are guided by the Competition Law on a daily basis. The findings in the "nano case" are significant because for the first time in Latvian competition law enforcement practice, the involvement of the contracting authority – tender organizer - itself in a horizontal cartel has been identified in addition to the tenderers. In the "Volkswagen" dealers' cartel case, the Senate sent a clear message that a cartel can also exist within a single brand distribution network. Dealers cannot coordinate prices or the terms and conditions of participation in public or private procurement, whether they distribute only one brand or several competing brands. Horizontal competition between them must be ensured on an ongoing basis."



# CHANGES IN THE LEGAL FRAMEWORK

## Strengthening the independence of the CC

In 2018, the European Parliament and the Council adopted the so-called **ECN+ Directive**, based on a proposal from the European Commission, which requires national competition authorities to be provided with the necessary powers, independence guarantees and resources to ensure effective enforcement of competition law infringements.

To ensure the transposition of the ECN+ Directive into national laws and regulations, amendments to the Competition Law have been prepared and agreed at an inter-institutional meeting in 2021. On 14 December 2021, the amendments were approved by the Cabinet of Ministers and submitted to the Parliament at the end of the reporting period.

The draft law harmonises the powers of competition authorities at EU level to effectively investigate, detect and enforce competition infringements. This includes a change in the status of the Authority to an independent body under the supervision of the Cabinet of Ministers, as well as a positive impact on the Authority's investigative processes and decision-making; among other things, the draft law revises the fines applicable to a market participant by introducing changes to the thresholds for the maximum fine applicable and the procedure for calculating them.

The deterrent effect of fines varies considerably across the EU, which significantly undermines disincentives to commit competition law infringements. It is therefore particularly important to unify the minimum level of fines within the EU for infringements of EU competition law - infringements of the prohibition of agreements laid down in Article 101(1) of the Treaty on the Functioning of the European Union and of the abuse of a dominant position laid down in Article 102. The amendments provide that the liability of a competition law infringer for infringements of EU competition law will henceforth be determined by its worldwide turnover, and that for infringements of restrictive agreements and abuse of dominant positions, the maximum fine applicable to market players will be set at 10% of their worldwide net turnover for the last financial year.

In addition to implementing the requirements of the ECN+ Directive, the CC has drafted amendments to the Cabinet of Ministers' Regulations on the procedure for setting fines for infringements of competition law.

## Prohibition of Unfair Trading Practices Law enters into force

In 2018, the European Parliament, the Council and the Commission reached agreement on a new set of rules that will ensure protection against unfair practices and trade for EU farmers and businesses working in the food supply chain.

Unlike the Unfair Retail Practices Prohibition Law, which has been in force since 2016 and protects the interests of suppliers directly against the market power of retailers, the Directive applies unfair trading practices to the entire food supply chain - from the producer to the retail outlet.

The new **Prohibition of Unfair Trading Practices Law entered into force on 1 November 2021**. Thus, in 2021, the CC devoted

significant resources to educating food supply chain operators on the monitoring of the new law.

## Amendments to the merger review procedure are put out to consultation

The CC, in cooperation with the Ministry of Economics, has drafted amendments to **the Cabinet of Ministers' Regulation No 800 "Procedures for Submission and Examination of Full and Abbreviated Reports on Mergers of Market Participants"**.

The new Regulations will increase the time limit within which the Authority will assess the merger notification before deciding if submitted information is compliant with the requirements set out in the Cabinet of Ministers Regulations. The amendments to the Regulations provide for a broader content of the merger report than before and for the accompanying documents to be prepared by market participants and submitted to the CC for assessment. For example, it is expected that a market participant will need to provide information as to whether the merger has been notified or is planned to be notified in other countries, a detailed calculation of its turnover, the nature of the merger, a more detailed description of the merger and its possible positive and negative effects on competition in each affected market, as well as the future development plans of the merged market participant after the merger. In the future, the economic purpose and rationale of the merger as well as other information should also be provided by the applicants for the merger notification report.

The amendments have been drafted in the light of the Authority's experience and the best practices of competition enforcers in other countries and aim to improve the quality of merger reviews.

A public consultation on the amendments was launched in 2021 and the new rules are expected to enter into force in 2022. ■

# COMMUNICATION AND COOPERATION

In 2021, representatives of the CC participated in 29 educational events organised by the Authority or other organisations. In addition to joint fair competition awareness-raising activities, the CC held 92 inter-institutional cooperation meetings on various topics.

The CC held **56 meetings with businesses and NGOs** - twice as many as in 2020 - to discuss competition developments and concerns in different sectors and to promote fair competition principles. In addition, the Authority provided information seminars to these target groups on various aspects of competition law enforcement, including the prevention of collusion between competitors or within associations.

## Educating priority target groups

Considering the results of the public opinion poll, the two most important competition law problems in Latvia are cartels in public procurement and distortions of competition caused by public administrative bodies - the state, local governments, and their capital companies, thus these two groups are the priority target groups of the CC where it is necessary to raise awareness about free and fair competition.

### ► Entrepreneurs

**Educational seminars and webinars for entrepreneurs** were organised to prevent major competition law infringements, such as collusion by undertakings.

In 2021, an educational seminar "Start-up Package for Entrepreneurs or the ABC of Competition" was prepared, with an opportunity to test the newly acquired knowledge by completing a test at the end of the seminar. Both businesses and business associations in the regions took the opportunity to listen to training sessions led by representatives of the CC.

To educate young entrepreneurs about collusion in public procurement, the CC in cooperation with representatives of the Corruption Prevention and Combating Bureau and the Procurement Monitoring Bureau organised a seminar on fair participation in public procurement for young entrepreneurs of the Investment and Development Agency of Latvia.

Entrepreneurs were also educated about collusion through business associations. In 2021, the CC, in cooperation with the Procurement Monitoring Bureau, educated members of the Security Guards Association.

### ► Contracting authorities and stakeholders

To promote the development of the procurement environment, **the CC provided seminars for public procurement managers and European Union fund monitors**, thus strengthening the competences of this target group and their ability to identify signs of cartel agreements between bidders. Among others, the CC educated procurement professionals in cooperation with the Procurement Monitoring Bureau, the State Chancellery, the magazine "Iepirkumi", the Central Financial Contracts Agency, Anti-Fraud Coordination Service (AFCOS) in Latvia.

Awareness-raising activities increased in the second half of the year following the conclusion of the "Construction Cartel" case, explaining both the decisions taken and the consequences of collusion and possible remedies. The training covered not only procurement managers and EU fund monitors, **but also stakeholders that can help the CC prevent collusion**. Cooperation activities took place with the State Revenue Service, the Economic Crimes Combating Directorate of the Main Criminal Police Directorate of the State Police and the Corruption Prevention and Combating Bureau.

### ► Traders and suppliers

On 1 November 2021, the new Prohibition of Unfair Trading Practices Law came into force with the implementation of the Unfair Commercial Practices Directive 2019/633, which aims to prohibit unfair trading practices throughout the agricultural and food supply chain and the use of buying power by non-food retailers against suppliers. To inform market participants about the new provisions of the Law and the prohibited practices, the CC participated in **four educational events, reaching a total audience of 481 persons**. This included informing retailers, manufacturers, wholesalers, suppliers, and other interested market participants about the new Law in cooperation with the Ministry of Agriculture and the law firm "Cobalt".

### ► Public administrative bodies

Since 2020, when the amendments to the Competition Law entered into force, the CC pays special attention to increase education of **public administrative bodies - state, municipalities, and their capital companies**.

In 2021, the CC organised a webinar on "Fair Competition in Local Government" for new local municipal councils and executives. The aim of the webinar was to educate the representatives of municipalities both about the conditions under which it is acceptable to involve municipalities in business and about distortions of competition or breaches of competitive neutrality caused by municipalities, which are prohibited by the amendments to the Competition Law as of 2020.

In 2021, the CC has also promoted public awareness of competition neutrality at events organised by other institutions, such as the Latvian Association of Local Governments, the Healthcare Employers Association (HEA) and others.

## Central theme: public administrative bodies in competition

In addition to the seminar-type events, the CC organised two activities in the second half of the year focusing on decisions and actions of the state, municipalities, and capital companies in relation to entrepreneurship. In autumn, for the third year in a row the CC invited businesses and other members of the public to take part in the **Authority's campaign "Most Useless Obstacle to the Competition"**.

Participants were invited to report unjustified restrictions on competition, which could include, for example, public administrative bodies favouring their own companies, rules or laws that give a competitive advantage to one particular company and thus prevent entry or drive existing companies out of the market, or other actions by public administrative bodies that make it more difficult for companies to operate in the market.

The CC received information on 29 barriers to competition. The campaign has received submissions on potential barriers to



For the third year in a row, the CC awarded the title "Competition Advocate" to the winners of the campaign "Most Useless Obstacle to the Competition".

competition in sectors such as manufacturing, energy, tourism, security, events, finance and insurance, IT, etc.

On the occasion of the World Competition Day, on 15 December, the CC organised a **roundtable discussion** with stakeholders about state and local government involvement in business and competition neutrality in the activities of public administrative bodies. The aim of the event was to discuss the main issues related to state and local government involvement in business, whether the current framework for reassessing shareholdings and competition neutrality is sufficient, what sectors should receive more attention in the future and what the CC and other stakeholders can do more and better to improve the competitive environment.

## Fostering a culture of competition in young audiences

The Authority is also involved in **educating the younger generation - the pupils and students**. The CC took part in a competition for schoolchildren organised by Junior Achievement Latvia "Business Fairy-tales" by evaluating fairy-tales written by

The CC's 30th anniversary calendar for 2022. It is based on Rafaēla's (13 years old) drawing "A Tale of Demand and Supply Meeting", which was submitted as a part of a drawing competition.



Guntars Račs from music publishing company "MicRec" was also nominated as the "Competition Advocate 2021", pointing out the problems that exist in the cultural sector when it comes to organising events.

children about competition. Also, the CC **organised a drawing competition "Competition - the cornerstone of development" for schoolchildren**. Children's drawings were used as visual messages to promote fair competition.

In 2021, the CC also educated **future competition law professionals and other students** from both the University of Latvia and Turība University, as well as CC experts spoke at the Prof. K. Dišlers Public Law Summer School.

In 2021, a new initiative was launched to encourage creative thinking among lawyers and support the most diligent students of competition law. Law firm "PricewaterhouseCoopers Legal" in cooperation with the Competition Council and Riga Graduate School of Law **announced a competition for research papers in competition law**. The winner will receive a cash prize of €1,000 from "PricewaterhouseCoopers Legal", an internship at the Competition Council and other incentive prizes.

All entries will be evaluated by a jury and five finalists with the highest scores will be selected by 25 May 2022. Finalists will be invited to present their work to the jury before 10 June 2022.

The winner of the competition will receive a cash prize of €1,000 and an internship at the Competition Council.

## Piedalies zinātnisko darbu konkursā!

Galvenā balva  
**1000 eur**





The Competition Podcast can be listened to on the Authority's website [www.kp.gov.lv](http://www.kp.gov.lv) and on the CC's channel on SoundCloud and Spotify.

## CC develops digital communication

In 2021, the CC continued to actively use different communication channels to reach new audiences.

A total of **114 press releases** were issued, almost double the number in 2020. In total, the CC has been mentioned in the media 2,352 times. Social networks such as Facebook, Twitter, and LinkedIn, where new audiences are reached, produced a total of **up to 200 publications in 2021**, an increase of 20% on the previous year.

To reach new target groups and strengthen its image, the Competition Council also developed its communication in the digital environment during the reporting period by **producing 12 podcasts and videos on competition**. For example, an educational video which explains competition neutrality, as well as the first identified non-compliance with competition neutrality by

*The Heads of the Baltic Competition Authorities meet in Riga to discuss current competition law issues in the Baltic States and to discuss mutual cooperation, joint projects, and possible research.*

public administrative bodies. The videos also contain messages on collusion, abuse of dominant position, mergers, and unfair trading. In 2021, the CC recorded and published podcasts on the involvement of public administrative bodies in business, the new Prohibition of Unfair Trading Practices Law, retailers' cooperation with suppliers and the responsibility of contracting authorities in public procurement.

Also, to modernise the CC's information systems, the CC's website platform has been improved, including the **integration of a virtual assistant (a bot)** to help clients get answers to key competition law questions.

## Self-assessment tools

The CC prepared **guidelines and a self-assessment tool** for businesses to assess vertical agreements, as well as a cartel alert list for State Revenue Service experts to use in their daily work with businesses. This complements the easy-to-use self-assessment tools available to businesses and procurement organizers, which provide a preventive way of assessing whether businesses are engaging in prohibited agreements.

## International activities

In 2021, the representatives of the CC have promoted the recognition of Latvia and strengthened the position of the Authority on the international level by **attending 43 international events and making presentations or speeches on 24 occasions**, including at the Baltic Competition Conference, the Organisation for Economic Cooperation and Development, the International Competition Network, the European Competition Network and United Nations Conference on Trade and Development.

In 2021, the CC also organised two international events in Riga - a meeting of the management of the Baltic Competition Authorities and the hosting of a Ukrainian delegation and an experience exchange event at the Competition Council. ■



# IMPROVEMENTS IN THE MANAGEMENT OF THE AUTHORITY

To ensure the success and consistency of the Authority's operations, the CC improved several internal processes and developed relevant internal laws and regulations in 2021.

The **CC Human Resources Management Policy** was developed in 2020-2021 to ensure effective human resources management practices in the CC in line with its corporate values, ethical standards, and long-term interests in order to successfully achieve the CC's objectives and implement its strategy. At the heart of the policy is the employee, who is characterised by the values of the Authority, which shape the culture of the organisation and determine how employees think and act. The integration of the values of the CC into the daily work of the Authority helped to ensure that the human resources of the CC were managed in a planned way and that staff were retained.

In 2021, the **remuneration and staff incentive system of the CC was improved**, and the additional funds made it possible to increase the salaries of CC staff from 8% to 27%. In 2021, it was again possible to provide an effective mentoring programme for new recruits, providing mentors and a quality induction process for new staff. During the pandemic, the CC was able to effectively move to a remote or semi-remote working model, which contributed to staff satisfaction. According to the results of the staff satisfaction survey carried out in December 2021, the average staff satisfaction score increased by 23% and the CC's as employer image score improved by 12%.

With a view to the sustainable development and effective management of the CC, measures were taken in 2021 to **strengthen the management team and develop their professional development**: a competency assessment of managers was carried out and, based on the results, a long-term programme for the development of managers' competencies was designed and implemented by attracting the best specialists and focusing on the application of practical knowledge. The programme consisted of three big blocks:

- ▶ Bring to life the strategy, values, and culture of the CC;
- ▶ Improving the CC's processes;
- ▶ Development of the CC management team.

There was also a strong focus on individual work with subordinates by managers - regular development discussions, feedback, individual development plans, improving communication and collaboration skills - which helped to keep staff motivated and reduce turnover.

As part of the improvement of the staff selection process, the **CC's Staff Selection Regulations were approved**.

The Authority **reviewed and updated its governance documents to ensure the legality and transparency of its operations**. The Rules of Procedure of the CC and the Rules of Procedure of the Administrative Division were updated.

A **new procurement procedure has been developed** to improve the proper use of financial resources. A new budget planning and reporting tool, *Jedox*, was launched in cooperation with the Ministry of the Economy.

In order to ensure compliance of the Authority's activities with the regulation on the **protection of personal data** and to implement the audit recommendations, a new privacy policy was implemented, defining procedure for the processing of personal data and data of CC staff.

The CC has revised the **employment safety rules** and developed a new CC employment safety manual. Given the epidemiological situation in the country due to the pandemic, the CC has established a remote working regime and carried out an appropriate risk assessment of remote work. Special COVID-19 precautionary statements have been drawn up for employees' information.

In 2021, the CC strengthened its investigative capacity by purchasing **new software and equipment for collecting, processing, and analysing electronic evidence**, thus starting the process of upgrading the Authority's technical capacity to investigate competition law infringements more effectively.

In the reporting year, in order to improve the application of the Competition Law, the cooperation with other institutions, which have at their disposal the data necessary for the implementation of the CC investigation process in various sectors, was promoted. **Cooperation agreements were concluded** with several institutions **for operational data retrieval**.

During the year, the staff of the CC **attended 63 training sessions** led by external lecturers, thus enhancing the professional competence of the staff by participating in conferences, international forums, courses organised by the School of Public Administration and training and skills coaching by other professionals.

In order to ensure the exchange of best practices within the organisation and to ensure institutional memory, **two internal training events** on the organisation of inspections and the procedural specificities of competition law enforcement were held in the CC in 2021. ■

# PERFORMANCE INDICATORS OF THE COMPETITION COUNCIL

In 2021, the CC has broadly achieved the planned performance indicators set for the Authority under the budget sub-programme "Implementation of Competition Policy".

The target was exceeded for a number of performance indicators, including infringement investigations, investigative measures to ensure competitive neutrality, the assessed merger notifications, in-depth data analyses gathered in the inspections, provided opinions and proposals, organized public educational and international cooperation events.

Name of the indicator / Name of the measure	Planned value	Execution
<b>Preventive measures and investigation of alleged infringements, as well as market inquiry have been carried out</b>	25	30
<i>Total number of measures</i>		
including high priority areas for market research - construction, transport, digital financial services, pharmaceuticals, public procurement, the relationship between retailers and food suppliers <i>Number of high priority actions</i>	10	10
including investigative measures (case and monitoring) to ensure competitive neutrality <i>Total number of measures</i>	4	6
including monitoring measures to ensure fair trade practices in the agricultural and food supply chain <i>Total number of measures</i>	2	2
<b>Assessment of the impact on the competitive environment of mergers and agreements proposed by market participants</b>	16	22
<i>Number of cases/high priority cases</i>		
including in-depth merger investigations <i>Total number of measures</i>	6	2
<b>In-depth analyses of data (e-evidence) obtained during inspections were carried out</b>	8	16
<i>Number (calculated once per year)</i>		
<b>Restrictions removed from the activities of public administrative bodies (percentage of positive result achieved in relation to total number of measures taken)</b> <i>Percentage (to be calculated annually)</i>	22 %	24 %
<b>Completion of administrative court proceedings and percentage of decisions upheld</b> <i>Percentage (to be calculated annually)</i>	82 %	83 %
<b>Public partners' support in promoting competition ideas and coverage of target audiences ensured (explanations, opinions, proposals, drafting of legislation and guidelines)</b> <i>Number of documents</i>	200	283
<b>Raising of public awareness of free and fair competition in the agricultural and food supply chain</b> <i>Total number of measures</i>	6	7
<b>Positive evaluation of activities by the Competition Council from entrepreneurs (% proportion of survey answers to the respective question were "positive" and "rather positive")</b> <i>Percentage (calculated once in two years)</i>	85 %	Not calculated in 2021
<b>The role and recognition of the Competition Council in the international environment has been strengthened (number of publications and events with taking the floor)</b> <i>Total number of measures</i>	45	52
<b>Personnel turnover (number of employees who have left the Authority against the total number of employees)</b> <i>Percentage (calculated once per year)</i>	20 %	10 %
<b>Loyalty of employees (% proportion of employees who have answered in the survey that they will continue legal employment relations with the Authority for the next two years)</b> <i>Percentage (calculated once per year)</i>	85 %	84 %
<b>Public benefit from the operation of the Competition Council</b>	> 23	26

# STATE BUDGET HIGHLIGHTS

With its operation the Authority implements the sub-programme "Introduction of Competition Policy" (26.02.00) of the budget programme "Ensuring of Fair Competition, Protection of the Internal Market and Consumer Rights" (26.00.00).

At the end of the 2021, the planned financial resources (total) amount comprises to €2,007,401, their execution - €1,946,106. Compared to the funds planned at the beginning of the year for the operation of the institution, reallocated funds are €135 738. In 2021, the CC absorbed 96.95% of the funding foreseen for the institution.

No.	Financial indicators	In the previous year (actual execution)	In the reporting year	
			plan	actual execution
<b>1.</b>	<b>Financial resources for covering costs (total)</b>	<b>1 289 490</b>	<b>2 007 401</b>	<b>1 946 106</b>
1.1.	grants	1 289 490	2 007 401	1 946 106
1.2.	paid services and other own revenue			
1.3.	foreign financial assistance			
1.4.	donations and gifts			
<b>2.</b>	<b>Expenditure (total)</b>	<b>1 289 490</b>	<b>2 007 401</b>	<b>1 946 106</b>
2.1.	maintenance expenditure (total)	1 276 842	1 911 976	1 862 897
2.1.1.	current expenditure	1 276 842	1 911 976	1 862 897
2.1.2.	interest expenses			
2.1.3.	subsidies, grants, and social benefits			
2.1.4.	current payments into the budget of the European Community and international cooperation			
2.1.5.	transfers of maintenance expenditure			
2.2.	expenditure for capital investments	12 648	95 425	83 209

# PRIORITIES AND TASKS IN 2022

2022 is the last year of the Competition Council's three-year (2020-2022) operational strategy. One of the priority tasks for this year will be to develop a new operational strategy as an independent body.

This year, the CC will continue to work in the three main areas defined so far:

1. **detecting and preventing significant competition infringements and market distortions**, and avoiding the adverse effects of market concentration;
2. **Strengthening and growing the capacity** of the CC;
3. **Promoting awareness of free and fair competition among market players and public administrative bodies** and shaping competition policy and culture at national and international level.

In accordance with the directions set out in the Strategy, the CC has set several key tasks for 2022.

## 1. Detection and prevention of significant competition infringements

According to the practice of the CC and the results of public opinion polls, there are two major problems in the field of competition in Latvia: collusion and distortions of competition caused by state and local authorities or public administrative bodies, which often manifest themselves in the creation of unequal conditions of competition, discrimination, or exclusion of undertakings from the market.

The CC will ruthlessly address **the most serious infringements of competition law** in public procurement in various sectors with a high impact on the economy, including the continuation of case investigations already launched in 2021.

The Authority will also devote significant resources to the **supervision of public administrative bodies**, which has been particularly relevant on the CC's agenda since 2020, when amendments to the Competition Law entered into force, giving the Authority stronger powers to address distortions of competition caused by public administrative bodies. In order to prevent violations of competition neutrality, it is essential to ensure an immediate change in the behaviour of a public administrative body, which also brings immediate benefits to society, therefore that is why the CC intends to use negotiation procedures as the most effective tool to address potential violations. But at the same time, in 2022, the CC will not refrain from imposing fines in cases where public administrative bodies are unwilling to change behaviour that distorts fair competition. Furthermore, for advisory purposes, the CC has started and will continue to produce sectoral summaries,

based on analysis of public administrative bodies involvement in various markets such as health, public transport, housing management, etc.

To identify barriers to free and fair competition early, the CC plans **to focus on sectors with a significant impact on the economy**, as well as markets undergoing rapid development or innovation. Among other things, the Authority will pay attention to the conditions of competition in the field of trade, considering the obligation to monitor the new Prohibition of Unfair Trading Practices Law and the need to educate market participants in the food supply chain. Attention will also be paid to insurance and financial markets, considering past supervision and signals from market participants and industry supervisors. The Competition Council will also focus on digital platforms and their impact on their customers and competitors.

In markets that are not functioning effectively, the **CC will monitor and address** abuses of market power by dominant market participants and prevent anti-competitive market concentrations. The Authority will also contribute to the identification and elimination of unjustified restrictions of competition in laws and other regulatory acts, as well as to the development of the competition law regulatory framework. It will remain relevant to assess the business constraints and support mechanisms imposed by COVID-19, providing an opinion on unjustified business restrictions imposed by the state.

## 2. Strengthening the CC as an independent Authority.

To ensure maximum efficiency and quality in detecting potential infringements and promoting competition in all sectors of the economy, the CC needs to continuously develop and strengthen the Authority's capacity in line with today's developments.

In 2022, **by implementing so-called "ECN+ Directive"**, which provides the necessary independence guarantees, resources and enforcement powers for effective investigation and prevention of competition law infringements, it is planned to strengthen the Authority's capacity to fight the most significant distortions of competition - involvement of undertakings in cartels, abuse of dominant position, unfair trade practices, as well as distortions of competition caused by state and local governments, which hinder the development of the economic environment in Latvia.



Amendments to the Competition Law aimed at transposing the provisions of the Directive were approved by the Cabinet of Ministers on 14 December 2021, and the draft law is currently submitted to the Parliament for consideration. The draft law harmonises the powers of competition authorities at EU level to effectively investigate and detect infringements of competition rules. This includes a change in the status of the Authority to an independent body under the supervision of the Cabinet of Ministers, as well as a positive impact on the Authority's investigative processes and decision-making; among other things, the draft law revises the fines applicable to a market participant by introducing changes to the thresholds for the maximum fine applicable and the procedure for calculating them.

One of the Authority's key priorities for 2022 is to implement the **legislative changes in a qualitative manner in the Authority's internal processes** and to explain them to market participants in order to benefit the business environment as a whole.

In 2022, it is also planned to **strengthen the information technology capacity of the Authority** by setting up an IT laboratory and training staff to use the most modern IT technical equipment for more efficient acquisition and processing of electronic evidence, with particular focus on the development of an automated cartel screening tool. In addition, the **Authority's capacity for economic analysis will be strengthened**, which will provide more in-depth and economically accurate investigations in merger cases, market surveillance and abuse of a dominant position cases, etc., with additional attention to the economic impact assessment of the competition.

### 3. Creating an effective competition culture in the interests of the Latvian economy

To ensure that entrepreneurs understand the benefits of fair and free competition and act in good faith, the CC needs to implement extensive communication activities both at national level and internationally.

The CC has defined the education of market participants on fair competition as one of the Authority's main priorities; therefore, in 2022, the Competition Council will continue the active education of market participants by organizing seminars, webinars, and providing consultations. At the same time, for minor infringements, market participants will be warned and educated using the "Consult First" principle, rather than being fined with severe fines. The Authority will continue to develop tools that encourage businesses and public administrative bodies to monitor their own behaviour and participate in the prevention of competition infringements, for example by developing easy-to-use self-assessment tools, including the launch of a digital merger notification tool for businesses.

In order to learn and exchange the best practices of competition law experts in competition supervision and competition culture, as well as to adopt them into Latvian practice, the CC plans to organise with **Organisation for Economic Co-operation and Development (OECD) the workshop for competition experts on Hub and Spoke theme**, and as well plant to organise **a Baltic Competition Authorities Conference in 2022**. ■

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