



Republic of Latvia
Competition Council

Annual Report 2013

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SPEECH BY THE CHAIRWOMAN OF THE COMPETITION COUNCIL

Justice, professionalism and independence - these are the core values of the Competition Council that we have agreed on by developing our medium-term strategy of action. We have been devoted to them all year round, doing everything to improve the competition environment. And believe that we have achieved a lot. I would like to highlight three major achievements in 2013.

First, in the field of protection of competition, the year has been remarkable for active combating the largest and most severe violations of the competition law - abuse of market power by enterprises holding a dominant or a monopoly position (gas supplies, copyright tariff fixing, administration of national database and other sectors), as well as cartels. Cartels constitute 70 % of the most severe violations of the competition law detected last year. Moreover, the majority of violations have been detected in public procurements. Among them is also the largest prohibited agreement in the history of competition law in Latvia - cartel of energy construction companies. The detected cartels in 322 procurements for five years are a serious call to the public and authorities organizing or supervising public procurements. If there is any chance for competing companies and often a member of the procurement committee to agree on proposals and prices, then commissioning parties, users and consumers - all of us are forced to pay higher prices. Therefore, there is a lot of work to do to combat and prevent cartels from spreading. It can be achieved by active tracking any trace of prohibited agreements in close cooperation with other law enforcement authorities and procurement organizers, as well as warning entrepreneurs and encouraging them not to participate in prohibited agreements or use the leniency programme to protect their enterprises from fines in case of actual violation.

Second, we have faced the bitter truth that not only the risks of violations of the competition law arise out of irresponsible or incompetent actions of private entrepreneurs but they also arise out of increasing intention of public persons to establish capital companies in order to enter markets with guaranteed sales without any need for strategic investments or innovative solutions. The study of the Competition Council regarding the participation of local governments in commercial activity reveals the scope of this trend, while we tend to follow actively the development of competition in certain markets based on the reports from private entrepreneurs, customers or consumers who have suffered from the market power acquired by some state or local government companies in the above mentioned market sectors, for example, by terminating successful contracts, increasing prices. We are committed to further keep strict position and insist on halting deforming actions, as well as to find solutions to enforce our position.

And third, open communication with the public, systematic information and education measures to match the needs of the sector, numerous meetings with entrepreneurs, their professional associations, thus expanding the range of our allies, customers and cooperation partners, and identifying the needs and quickly responding to problems - it is also a way to protect and supervise competition. Last year, we have actively worked in this area. I am glad to see that our efforts are appreciated and we will keep working on developing the Competition Council into an open and contemporary institution for the public needs.

You can find the summary of our accomplishments in the previous year in our annual report for 2013. Read it and, what is more important, be active and stand up for your rights to fair and dynamic business environment so that it would provide an actual contribution to our welfare!

Skaidrīte Ābrama
Chairwoman of the Competition Council

I. BASIC INFORMATION

The Competition Council is a direct administrative institution under the supervision of the Ministry of Economics and implements State policy on the matters of development and protection of competition. Independence of the Competition Council in investigations and decision-making is specified by the Competition Law.

The main aim of the Competition Council is to give every market participant a possibility to perform economic activities in free and fair competition environment, as well as to ensure favourable environment for maintenance, protection and development of competition for the benefit of entire society.

Tasks and rights of the Competition Council are defined in the Competition Law, the Advertising Law, the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the Cabinet Regulation No 795 of 29 September 2008 “By-law of the Competition Council” and other regulatory enactments.

Within its activities the authority implements the sub-programme “Implementation of Competition Policy” (26.00.00) of the budget programme “Ensuring Fair Competition, Protection of Internal Market and Consumer Rights” (26.02.00).

Tasks of the Competition Council:

1. To ensure a coherent application of the competition legislation so that:
 - The market participants would not enter into prohibited agreements;
 - There would be no changes in the relevant market that may have a negative impact on consumers and other market participants in case of a merger of market participants;
 - The market participants would not abuse their dominant position that may have a negative impact on other market participants and consumers;
 - The market participants would not disseminate misleading advertising that essentially affects overall competition;
2. To promote competition in markets with no or limited competition within the competence of the Competition Council;
3. To ensure that legislation developed by other state institutions ensures protection, maintenance and development of competition;
4. To ensure that society has access to comprehensive information about the positive effects of competition on functioning of market and social welfare;
5. To ensure that Latvia’s interests are fully represented in the relevant institutions of the European Union (hereinafter – the EU) and international organisations.

The key direction of action of the Competition Council – implementation of the competition policy is further sub-divided into two directions. The first sub-direction - protection of the competition involves protection of market participants and the society as a whole against negative effects of market concentration and violations of the competition law. Whereas, the second sub-direction - development of the competition culture involves providing proposals for reducing administrative barriers, providing information to consumers, market participants, public and local government authorities about the nature and application of the competition law, raising their awareness of substantial harm of violations of competition to the public interests, thus implementing measure to prevent the risks of violations.

Within these directions of action, the Competition Council had set certain priorities for 2013 - to detect and prevent the most severe violations of the Competition Law (cartel agreements and abuse of dominant position), to carry out wide market surveillance activities, to ensure monitoring of the euro changeover process, to strengthen cooperation with other public institutions as well as non-governmental organizations. The Competition Council also planned to reinforce the measures to raise public awareness and education, as well as to ensure quality participation in international competition protection organizations and networks.

1.1. Structure of the Competition Council

According to the By-law of the Competition Council which defines the structure, division of competencies, management and work organization, the Competition Council consists of a collegial decision-making authority, permanent structural units and an executive institution (see Figure 1).



Figure 1. Organizational chart of the Competition Council

The Decision-Making Authority – the Competition Council – consists of its Chairperson and two Council Members. The Competition Council is chaired by the Chairperson. The Chairperson and Council Members are confirmed to hold their office by the Cabinet of Ministers upon the recommendation of the Minister of Economics. The term of office for the Chairperson and Council Members is five years and these officials may be re-appointed to office. The Chairperson of the Competition Council manages activities of subordinated structural units to the council – Administrative Resources Management Division, External Relations Division and Legal Support Division, as well as the public relations assistant to the Chairperson.

The Executive institution – the Executive Directorate – is run by the Executive Director who is directly subordinated to the Chairperson of the Competition Council. Structural units of the Executive Directorate – three analytical departments and the Legal Department consider applications and investigate violations of the Competition Law, prepare conclusions and draft decisions, perform supervision of competition environment, ensure control regarding execution of legal obligations under the decisions and represent the Competition Council in courts.

In 2013, the **Informatics and information processing division** started to operate within the Executive Directorate. As a result of reorganization of the existing structural units of the Executive Directorate, the Department of Prohibited Agreements was established on February 1, 2013. The mission of the new department is targeted and focused fight against cartels through detecting and preventing such violations and providing information and educating enterprises and budget authorities across Latvia.

II. PERFORMANCE RESULTS OF THE COMPETITION COUNCIL IN 2013

In 2013, the Competition Council has achieved all expected performance results defined for the institution in the budget sub-programme “Implementation of Competition Policy” (see Table 1).

Table 1. Result-based Performance Indicators of the Competition Council

| No | Measure/activity result activity | Expected performance result | Achieved performance result |
|----|---|-----------------------------|-----------------------------|
| 1 | Investigation of possible violations/sector inquiry (number of cases and market surveillances) | 32 | 32 |
| 2 | Assessed the impact of planned mergers of market participants on competition in the market (number of cases) | 10 | 18 |
| 3 | Provided explanation of legislation regulating competition and proposals for improvement of laws and regulations and draft laws (number of conclusions) | 60 | 62 |
| 4 | Organized press conferences, meetings, seminars and training (number of measures) | 18 | 20 |
| 5 | Prepared and published opinions and conclusions on topical issues, published annual reports (number) | 10 | 11 |

Thus, according to the expected results, the Competition Council has provided both entrusted interinstitutional services and public services: it has considered notifications on violations of the Competition Law and the Advertising Law, provided consultations on the competition law, considered notifications on notified mergers of market participants, adopted decisions on

mergers of market participants, as well as informed the public about protection and supervision of competition.

2.1. Decisions of the Competition Council

Table 2. Statistical summary of decisions:

| | |
|--|-----------------------|
| Prohibited agreements | 14 |
| Detection of violation | 7 |
| Non-initiation of a case | 1 |
| Termination of investigation | 4 |
| Evaluation of a notified merger | 2 |
| Abuse of dominant position | 6 |
| Detection of violation | 3 |
| Non-initiation of a case | 1 |
| Termination of investigation | 2 |
| Enterprise merger | 20 |
| Permitting a merger | 13 |
| Permitting a merger on binding conditions | 4 |
| Detection of violation (failure to timely notify the merger) | 2 |
| Termination of investigation | 1 |
| Violations of the Advertising Law | 0 |
| Violations of the Latvian Code of Administrative Violations | 1 |
| Failure to provide information or providing of false information | 1 |
| Total | 40¹ |

In 2013, the Competition Council adopted a total of 40 decisions. Thus, 12 decisions detected violations of the Competition Law, imposing fines in the amount of LVL 3 775 254.95 on 44 enterprises.

The Competition Council has also imposed fine of LVL 5000 for the infringement of the Code of Administrative Violations in one case. The fined enterprises have failed to provide information to be provided within the investigation in accordance with the Competition Law.

The percentage breakdown of decisions by types of violations is shown in Figure 2.

¹In one case the decision on non-initiation of a case on prohibited agreement and abuse of dominant positions at the same time was made, and therefore the number of decisions by groups of violations exceeds the total number of decisions

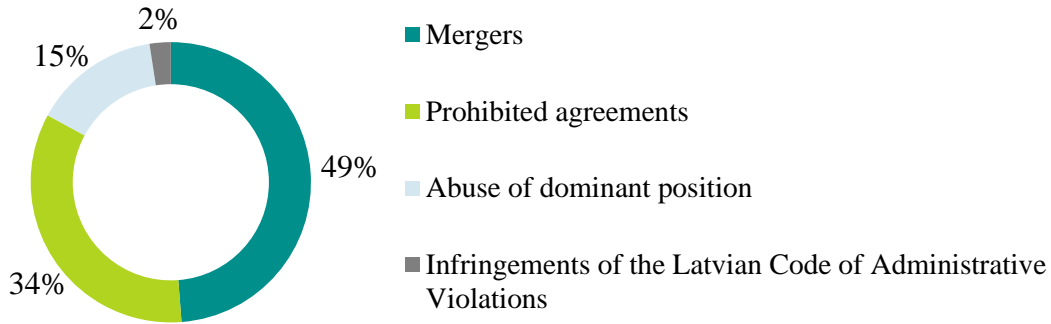


Figure 2. Breakdown of decisions of the Competition Council in 2013 by types of violations

As regards detection and prevention of the most severe competition violations – violations of prohibited agreements and abuse of dominant position, a total of 20 decisions were adopted last year and 10 of them detected violations, thus punishing a total of 42 enterprises and imposing fines in the amount of LVL 3 759 964.95.

Overall in 2013, decisions on determination of violation were adopted in 12 cases. In 2 cases the Competition Council decided not to initiate a case because the concerns about possible violations expressed in notification of market participants did not confirm. Yet, 7 decisions were made on termination of investigation in cases where the initial information indicated on possible violation of the Competition Law; however it was not proved during the investigation, while 18 decisions were related to mergers control (see Figure 3).

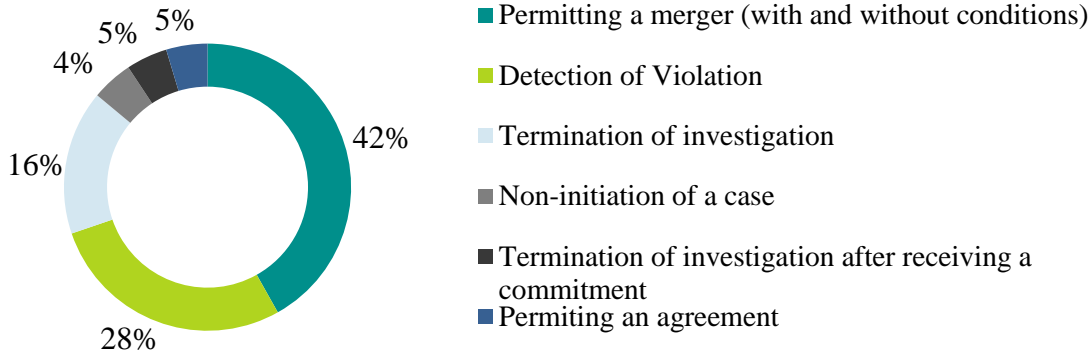


Figure 3. Types of decisions on the Competition Law adopted in 2013

Imposed Fines

In 2013, the Competition Council has imposed fines in the amount of LVL 3 775 254.95 within a total of 13 decisions. The fines have been imposed on 44 enterprises.

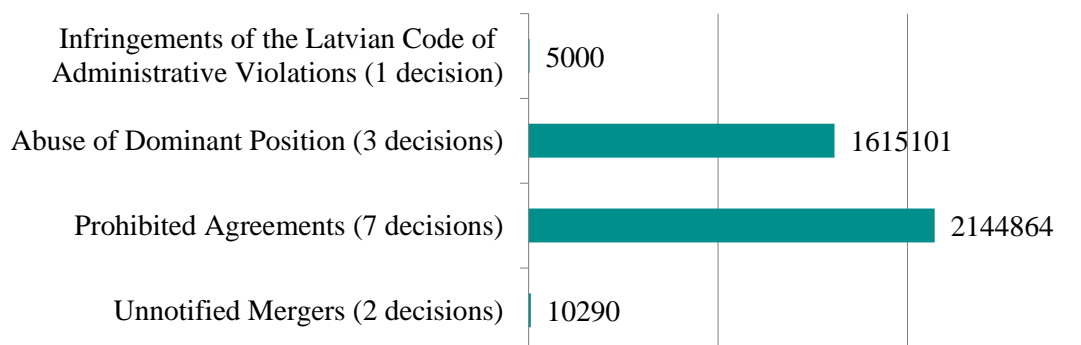


Figure 4. Amount of imposed fines (LVL) by types of violations

The amount of fines imposed on market participants for violations of the Competition Law within the reporting period ranged between LVL 500 to LVL 1 567 180. The size of imposed fine depended on the length of the violation and consequences caused by unnotified mergers or the turnover of financial year of the involved market participant, as well as the severity, length, consequences of the violation and other factors in case of prohibited agreements and abuse of dominant position.

Within the reporting year, the Competition Council has imposed fines on one enterprise for violations of the Latvian Code of Administrative Violations – failure to provide information or providing of false information.

In 2013, **fines in the amount of LVL 338 975.92** imposed by the Competition Council within previous years and in 2013 for violations of the Competition Law and the Latvian Code of Administrative Violations have been **paid into the state budget**.

By the end of 2013, fines in the amount of LVL 11 888 983.32 imposed by the Competition Council have not been paid yet – the payment period has not expired yet, a compulsory enforcement of the decision on imposing a fine has been initiated and implemented by sworn bailiff, or the decision has been appealed and there are pending legal proceedings. In case the decision of the Competition Council is appealed, the enterprise shall pay the fine imposed by the decision only after closing the legal proceedings unless the court cancels the fine.

2.2. Legal Proceedings

Final decisions of the Competition Council on violations of the competition law may be appealed to the Administrative District Court within a month from entering into force of the decision. Decision on initiation of a case, on initiation of an additional investigation in merger control cases and extension of the time period for decision-making cannot be appealed.

Thus, 15 of all final decisions of the Competition Council adopted in 2013 were appealed.

In 2013, **legal proceedings were closed in 17 cases**, out of which 16 of the Competition Council's decisions were recognized as justified and enforceable by the court. In one case legal proceedings were closed after entering into settlement (signing an administrative

contract) and the Competition Council agreed to resume an investigation that had been previously terminated.

Overall, **administrative contracts** have been concluded with four market participants. The Competition Council has the right to conclude an administrative contract or settlement to end a legal dispute. That makes it possible to avoid long proceedings that usually are caused by appealing the decisions of the Competition Council, thus allowing to save state administration resources and forcing payment of the imposed fine. Yet, enterprises that enter into the contracts usually are subject to reduced amount of the imposed fine. Pleading guilty for the particular violation is one of the pre-conditions for the administrative contract set by the Competition Council. The decision of the Competition Council comes into force as soon as the contract is signed.

During the reporting year a total of 32 court hearings have taken place to consider the appealed decisions of the Competition Council. At the end of 2013, there were 28 pending cases on the decisions adopted by the Competition Council.

Among the most important court rulings is the ruling of the Regional Administrative court thus sustaining the decision of the Competition Council adopted in 2011 on imposing fines on five construction supervision and design enterprises. These enterprises used the permissible legal status of a general partnership as the front to implement prohibited exchange of information and market sharing. The court in its ruling recognized that the Competition Council had reasonably considered the ability of every enterprise to participate in specific procurements individually without partnership as an evidence of prohibited agreement. The court also reconfirmed that defining specific market plays no essential role in carter cases and the Competition Council was allowed to leave the market definition open to interpretation.

Equally important is the ruling of the Supreme Court Senate to reject the claim of OU "Eisenberg Scrap Trading & Recycling" to annul the decision of the Competition Council adopted in 2012 not to initiate a case based on the application of the enterprise regarding abuse of dominant position by LSEZ AS "Liepājas osta LM" and AS "Liepājas Metalurģs". According to the decision of the Competition Council, the said enterprises did not have a dominant position, and therefore, they were not able to abuse it. The court sustained the considerations of the Competition Council that large market share on its own was not an evidence of dominant position, and when establishing that an enterprise had market power, the council had to take into consideration flexibility of market participants to the demand, profit, barriers to entry into the market, characterising features of the market and its participants, behaviour in the market and other factors.

First instance authorities also sustained the decision of the Competition Council adopted in 2011 to fine 22 commercial banks in Latvia for prohibited agreement.

2.3. Investigation of Violations of the Competition Law

Prohibited Agreements

Prohibited agreements are particularly severe violation of the competition law that may cause substantial and usually irreversible damage to the particular market, consumers and often in long-term also enterprises involved in the violation as they feel no competition pressure and therefore lose competitiveness. Thus, detection and prevention of prohibited agreements is one of the key priorities of the Competition Council.

In 2013, the Competition Council has adopted 14 decisions on possible violations of prohibited agreements. Thus, 7 decisions have detected violations and fines in the total amount of LVL 2 144 863.73 have been imposed on altogether 39 enterprises. One decision has been adopted on non-initiation of a case as thorough investigation did not confirm the concerns about possible violations expressed in submitted notifications. Also, in four cases the Council decided to terminate the case because no evidence of possible violation was obtained in investigation, though initial information available to the Competition Council indicated on such violation.

Six out of seven violations that were detected last year involved prohibited agreements among public procurement applicants. These violations resulted in competition distortion in public procurements of construction services, archive services, diving equipment and security services. Yet, the market-sharing of accounting programmes was the only violation that involved no participation in procurements.

Last year, targeted implementation of educating measures by the Competition Council, thus ensuring lectures and informative materials about possibilities to identify prohibited agreements among procurement applicants have helped the Competition Council to detect more violations based on the notifications of the procurement organizers. Thus, the Ministry of Foreign Affairs, the Procurement Monitoring Bureau, the Corruption Prevention and Combating Bureau, the State Fire and Rescue Service and other institutions reported violations to the Competition Council.

Among the most important violations detected last year was prohibited agreement among 26 energy construction companies - distortion of competition that resulted in rising prices altogether in more than 300 procurements. The total fine in the amount of LVL 2 011 557 was imposed on the companies. Prohibited agreement resulted in distortion of competition in a total of 316 procurements organized by AS "Latvenergo" and AS "Sadales tīkls", three procurements of VAS "Latvijas Dzelzeļš", two procurements of SIA "LatRosTrans" and a procurement organized by CBF SIA "Binders". These commissioning parties purchased construction works of electrical installations and infrastructure (for example, installation, repair and modernization of power lines). The works were mainly performed in Latgale and Vidzeme, while procurement amounts ranged from several thousands to 150 thousand lats.

Considering the length of the infringement and severe damage to particular commissioning parties and their clients, the Competition Council imposed the highest fines since its inception in terms of percentage. The companies involved in the majority of cartel procurements were subject to a fine in the amount of 7.5 % their net turnover of previous financial year.

Abuse of Dominant Position

In every free market, there may develop enterprises in a dominant position. Such enterprises have sufficient market power to operate completely or partially independently of competitors, customers, suppliers or consumers; however, dominant position itself is not a violation – the Competition Law prohibits enterprises from abusing dominant position by preventing competitors from entering or operating in particular market.

Prevention of abuse of dominant position is particularly important to small and medium-sized enterprises who cannot win unfair competition due to limited resources. It is essential also to consumers as it helps prevent prices that do not comply with the actual market situation.

In 2013, the Competition Council adopted 6 decisions on possible abuse of dominant position. Three of them were made on detection of a violation and imposing a fine, one decision. Two decisions were taken on non-initiation of a case, while one was adopted on termination of investigation as no violation was detected.

The Competition Council has imposed fines in the total amount of LVL 1 615 101.22 on three commercial companies for abuse of dominant position.

Last year, the Competition Council imposed a fine in the amount of LVL 1 567 180 on AS “Latvijas gāze” – the company abused its monopoly power by refusing to sign natural gas supply contracts with new users before they had paid previous users' debts. The Competition Council commanded AS “Latvijas Gāze” to halt its unfair practice and change its debt recovery practice. At the same time the Competition Council encouraged consumers and enterprises that have suffered from the illegal actions of AS “Latvijas Gāze” to exercise their lawful rights to claim indemnification of losses.

The collective copyright management association AKKA/LAA in Latvia was also fined for abuse of dominant position last year. The association imposed excessive tariffs on the small- and medium-sized stores and service providers for music airplay in customer and visitor areas; these tariffs were considerably higher than similar tariffs imposed not only in Lithuania and Estonia but also in the majority of the EU member states.

Yet, SIA “Transporta telemātikas sistēmas” has been fined for hindering competition. The company is the operator of the national database of public transportation and it has sole control of the access to the IT information, thus hindering competition among enterprises that develop, sell and service ticket cash registers and telematics equipment for public transport and gaining competitive advantages in the market. Among other things the infringement resulted in increased expenses of public transport operators and thus also the state as it covers the losses of public transport operators.

Merger Control

Last year, transactions of 20 enterprises have met the criteria laid down by the Competition Law, which means that in order to merge they have to obtain a permission of the Competition Council. The number of mergers considered last year is considerably higher than in previous years - in 2010, the Competition Council considered just nine mergers, while in 2011 and 2012 - 11 mergers in each.

Out of all cases considered in 2013, the Competition Council has adopted a permitting decision in 13 cases, while in 4 cases the merger has been permitted on binding conditions thus preventing possible harm to market and competition, and by two decisions a fine has been imposed on market participant for failure to submit the notification of a merger. In one case the investigation has been terminated because the involved companies never merged.

Within supervision of mergers, the key priority of the Competition Council is protecting public interests by preventing excessive market concentration and maintaining consumer rights to choose. At the same time, the authority endeavours to ensure fast and quality consideration of notifications submitted by market participants.

The Competition Council imposes special conditions to prevent possible harm of mergers to the market, competition and consumers. Thus, binding conditions have been imposed on Lithuanian company UAB “Malinvest” which acquired the shares of AS “Rīgas Dzirnavnieks”, and pharmacy owner transactions have been restricted in two cases, while in

one case the conditions have been imposed on telecommunication companies – SIA “BALTCOM TV” and SIA “IZZI COM”.

Last year, many of mergers were carried out in fuel retail market – the Competition Council assessed and permitted six transactions. Along with mergers, two permitted cooperation agreements were concluded in the fuel market last year where companies agreed on providing more opportunities for consumers to use the advantages of loyalty cards.

2.4. Sector Inquiries

Sector inquiries are an essential tool to promote and protect competition – based on the information on selected target markets obtained within sector inquiries, the Competition Council analyses competition situation, as well as it develops and submits proposals for improvement of competition to responsible institutions as necessary, and checks the supervised market for violations of the Competition Law.

In 2013, the Competition Council completed inquiries in fifteen markets:

- **Within autogas market inquiry** the Competition Council compiled information about competition situation and development trends in the market. The inquiry results allowed to compare autogas consumption behaviour in different European countries - in Latvia along with Belgium, the Netherlands and Italy, the share of autogas was 3.4 % of the total fuel consumption. Yet, Turkey and Poland were leaders in terms of use of autogas, and the share of autogas was 18 % and 12 %, correspondingly. Although autogas was considerably cheaper than petrol, its broader use in Latvia is hindered by such factors as difficulties to purchase and maintain vehicles having autogas devices installed, additional expenses on installation of the autogas device, relatively low number of autogas stations in Latvia, lack of state support and social preconceptions regarding this type of fuel.
- **Sector inquiry of electricity trade in free market** allowed the Competition Council to draw a conclusion that enterprises purchasing electricity in free market have opportunities to easily change suppliers. Besides, current suppliers are able to compete successfully on prices and contractual conditions, and therefore competition has high growth potential in this market. However, timely defining of deadlines for market opening is an essential precondition for successful competition after the expected market opening for electricity supply to households, thus providing potential market participants an opportunity to plan their activities in the market.
- The Competition Council carried out **teaching material publishing and sales market inquiry** at the request of the Ministry of Education and Science. No violations of the Competition Law were detected within the inquiry. At the same the inquiry allowed to conclude that the state and local governments should use the possibilities to purchase teaching materials without retail trade markup at broader level. The retail trade markup for textbooks ranged from 20 % up to 70 %. The huge volume of books sold by publishers to bookstores was a clear sign of the failure to fully use the opportunities to purchase textbooks wholesale.
- The Competition Council commenced **heat supply sector inquiry in Jūrmala city** based on the information of several apartment owner associations and property management companies in Jūrmala regarding possible distortion of competition. Within the inquiry the Competition Council established that SIA “Jūrmalas Siltums” hindered equal competition

among local government and private property management companies, thus preventing costumers of private property management companies from making payments directly to SIA “Jūrmalas siltums”. Since the heat supply company voluntarily agreed to halt the discriminatory payment procedure, the Competition Council decided on non-initiation of a case against abuse of dominant position, instead applying a new solution - a warning. Thus, the damage to the market and consumers were prevented as soon as possible, avoiding the entire duration of investigation and possible legal proceedings and saving resources of all parties involved.

- Within the **sector inquiry of sales market of medicinal products for diseases of circulatory system** the Competition Council studied the market structure and trends, as well as evaluated factors that influence the pricing, access to original and generic drugs and their mutual effect. The Competition Council detected no distortion of competition that would prevent new participants from starting to produce or sell drugs for treatment of cardiovascular diseases.
- Within the **sector inquiry of milk supply contractual conditions** the Competition Council checked, whether AS “Rīgas piena kombināts” and AS “Valmieras piens” complied with the binding conditions imposed as a result of their merger in 2012, as well as the Council assessed the impact of the merger on the dairy sector. During the sector inquiry the Competition Council established that in general, both companies complied with the binding conditions on giving a timely warning to suppliers regarding termination of a contract.
- **The sector inquiry of manufacture and wholesale of veterinary drugs** was aimed at identifying the market structure, the market and trends from 2007 to 2012. The information obtained within the inquiry allowed the Competition Council to detect two violations of the competition law. Thus, a wholesaler of non-productive pet food and medicine was fined for fixing a minimum resale price and market sharing that restricts opportunities of consumers to buy specific products in specialised pet shops and veterinary clinics for lower prices. Yet, another wholesaler of non-productive pet food had been restricting the possibilities of its cooperation partners - retailers to set lower prices in their stores for 11 years, thus violating the condition on prohibited agreements.
- **The sector inquiry of metrology services** allowed to detect the risks of competition distortion caused by activities of SIA “Latvijas Nacionālais metroloģijas centrs” in the market. This company was both a competitor and inevitable business partner of all companies providing metrology services, thus it had the power to influence competition conditions in the market, gaining advantages. The Competition Council reported the identified risks to the Ministry of Economics which had started working on the risk assessment.
- **The regional sector inquiry of drug retail trade in Sigulda** was carried out based on the application of a market participant - the concerns about unnotified and thus illegal merger of market participants did not confirm; however, it became clear that there had been a rapid increase in market concentration of one market participant in Sigulda.
- **The sector inquiry of beauty and household products** was carried out to check the competition situation in the market after the violations committed by AS “Drogas” in 2012. The Competition Council established that the company had complied with all legal obligations imposed by the institution - it had prevented the violations detected and improved cooperation with suppliers.

- The information obtained within the **sector inquire of public procurement of medical devices** gave reason for concerns about supranational barriers to free competition, and therefore the Competition Council forwarded the data obtained to the European Commission for further action.
- **The sector inquiry of AS “Latvenergo” heat energy pricing in Riga heat energy wholesale market** was carried out to evaluate the competition situation in the market after the enforcement of the Competition Council’s decision adopted in 2009 establishing factors affecting competition in the activities of AS “Latvenergo”, while the company undertook to prevent them.
- **The sector inquiry of ship-generated oily waste treatment** provided the Competition Council with information about the competition situation in the market which was necessary for the decision-making on further action under legal proceedings as a result of the Competition Council’s decision adopted in 2012 establishing a violation in the activities of SIA “Eko Osta”.
- Within the **sector inquiry of tugboat services** the Competition Council has evaluated the competition situation in the particular market, while the data obtained within the inquiry will be used in further investigation of violations related to this market.
- After completing the **sector inquiry of pharmacy and laboratory testing** the Competition Council addressed general physicians, encouraging them to promote competition in the laboratory testing market by their choice and actions. Thus, general physicians should select a service provider after careful consideration of all options, as well as explain their patients as far as possible that they are free to choose any laboratory service provider depending on accessibility, prices, service quality and other factors.

Thus, in 2013, the Competition Council continued previously initiated and new market inquiries expected to be continued also in 2014. At the end of 2013, the Competition council continued inquiries in 16 different markets.

Monitoring of the euro changeover process

In 2013, Latvia was getting ready for introduction of the euro and the Competition Council participated in the national market inquiry activities and verified that enterprises would not enter into prohibited agreement or otherwise concerted their actions with an aim to increase prices unreasonably due to introduction of the euro.

Within the monitoring the Competition Council analysed processes in the market, as well as worked in close cooperation with the Consumer Rights Protection Centre and the Ministry of Economics, using the data of price monitoring conducted by these authorities to assess price fluctuations for certain food and non-food products on a weekly basis, thus analysing relations within one retail chain and among competitive retail companies in different cities and towns across Latvia. The Competition Council also received and evaluated consumer reports to the Consumer Rights Protection Centre regarding the increase in prices.

During the reporting year, specialists from the Competition Council met with enterprises and their non-governmental organization to actively inform the about the need to respect the competition law. In certain cases the Competition Council gave a warning based on public statements of enterprises that contained some signs of possible violations in their future actions.

Research Studies

Along with the sector inquiries conducted by the institution, the Competition Council involved independent experts in 2013 to carry out a study ***“Activity of Local Government Companies in Goods and Services Market and the Impact Assessment Thereof on the Competition Environment”***.

The study was carried out because the Competition Council frequently received complaints from entrepreneurs and consumers about the activity of local government companies in the market, as well as the institution had detected a number of situations where local government companies had harmed competition on the market due to their competitive advantages.

The comprehensive study allowed the Competition Council to identify the negative tendency for local governments to get involved in business activities on certain markets where there was sufficient competition and private companies were fully capable to ensure a quality and adequate supply to match the market demands. Any activity of state and local government companies in such markets not only distorted or even eliminated competition but also demotivated private companies to develop their business in the particular local government or Latvia in general. The Competition Councils published the study data for wider public and the public administration institutions, thus encouraging discussion on the possible ways to prevent and avoid the negative impact of local government business activity on the competition and the business environment in Latvia.

2.5. Improvement of Legal Framework

In order to make the application of the Competition Law more efficient and easier for entrepreneurs and to ensure its conformity to the decisions of the EU Court and the best practice of the EU Member States, in 2013, specialists of the Competition Council continued working on the amendments to the Competition Law. Thus, the draft amendments were announced at the Meeting of State Secretaries on September 19, 2013 and the draft law was further coordinated at the first inter-ministerial meeting on December 20, 2013. The said amendments were aimed at expanding the opportunities for enterprises to receive exemption from the fine, to explain their position to the Competition Council and to receive indemnification of the losses incurred due to distortion of competition. The procedure for merger control was also streamlined and the opportunities for the Competition Council to force the enterprises to pay the imposed fines and comply with the imposed obligations were reinforced, as well as an opportunity for the Competition Council to allocate its resources to investigation of the most severe violations was provided.

In 2013, massive contribution has been provided to the drafting of the Law on the Prohibition of Unfair Practices of Retailers, by participating to the Committee’s meeting of the Cabinet of Ministers and further coordination of the draft law with the interested parties, retailers’ and manufacturers’ associations. The law is expected to further replace or specify regulations of relations between large retail chains and small and medium suppliers currently laid down in the Competition Law.

In 2013, the Competition Council continued working on the amendments to the Civil Procedure Law and the Competition Law to simplify the procedure for bringing an action in court concerning violation of the Competition Law and recovery of losses.

In order to eliminate administrative barriers and promote competition for the benefit of consumers, in 2013, the Competition Council has provided opinions on **nearly 20 draft laws and policy planning documents at the various stages in the decision-making procedures, as well as effective laws and regulations** applicable to different sectors like postal services, waste management, port activities, electricity production, public procurements, and others.

During the reporting year the Competition Council has participated in discussions on the possibilities to prevent the distortion risks of competition with the representative from the Ministry of Health, the Ministry of Agriculture, the Ministry of Transport, the Ministry of Justice, the Ministry of Environmental Protection and Regional Development and the Ministry of Finance.

After having evaluating draft laws and regulations, the Competition Council aims at eliminating unjustified barriers, requirements for entering the market, unreasonably different regulations since any kind of unjustified restrictions on the particular market have negative impact on competition and in long-term – also on consumers.

Thus, last year, the Competition Council objected towards the expected amendments to the Law on Application of Taxes in Free Ports and Special Economic Zones because they were expected to impose additional conditions on business activities in the territory of free ports – the need for the title to land in the port territory. Whether the purpose of the use of the land is provision of certain services (there is no objective need for the title to land for provisions of tugboat services and waste removal services) or not, such requirement would restrict equal competition and business start-up or continuation in the port territory since land in these territories was a particularly limited resource.

2.6. International Cooperation

The objective of international cooperation of the institution is to fully make use of opportunities offered by the participation of the Competition Council in the European Union and world competition authorities' networks, while priorities are - to participate in development of legislation at the European Union level, cooperate with the European Commission and competition protection authorities of other countries in investigations of joint cases and exchange of experience, as well as to build international recognition of the institution.

The Competition Council is actively involved in international organisations and networks; among the most important are the European competition network, the International competition network and the Organisation for Economic Co-operation and Development (OECD).

The aim of **the European Competition Network (ECN)** is to provide an opportunity to competition authorities of the European Union to discuss on application of Article 101 (prohibited agreements) and Article 102 (abuse of dominant position), as well as to promote cooperation among these authorities.

Last year, representatives of the Competition Council participated in the ECN plenary sessions and several meetings of its sub-groups to discuss the experience of the Member States in combating cartels and mergers control, obtaining and processing electronic evidence, as well as to discuss issues on competition in food, pharmacy, telecommunication, waste management, energy, and financial and payment services market. Representatives of the Competition Council also participated in the punishment and senior economist working group,

as well as the Commission hearings procedure and worked as a reporter in the EC Advisory Committee.

A representative from the Competition Council participated in the meetings of the EC Working Group on Competition Issues in relation to the draft directive on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union.

The Competition Council has also provided information for the ECN Brief that is published every two months. The Brief contains information on the major news about activities of the ECN member state competition authorities – important investigated cases, carried out inquiries and market surveillance, latest laws and other important competition policy related issues.

The International competition network (ICN) ensures exchange of information and experience among competition authorities around the world, thus facilitating dynamic dialogue that, in its turn, serves to build consensus and convergence towards sound competition policy principles. In the reporting year, a representative from the Competition Council participated in the ICN seminar on exclusive distribution contracts.

The mission statement of **the Organisation for Economic Co-operation and Development (OECD)** is to support economic growth, promote employment, increase quality of life, maintain financial stability, support economic growth of other countries, as well as to promote trade. One of the key directions of this organisation is supervision of competition. Since 2012 the Competition Council has been participating as an observer in the OECD Competition Committee meetings and working groups, as well as the OECD Global forum. Within the OECD measures the Competition Council presented a report on the situation in television broadcasting sector in Latvia, as well as provided information about Latvia's experience in application of the Competition Law to investigations of cartels cases and public transport services-related cases. The Competition Council also presented conclusions on the sector inquiry of fuel market and railway services, as well as the institution's experience in investigation of cases in food chains and waste management sector.

In 2013, members of the Competition Council participated in several annual events of international competition authorities – the annual meeting of heads of competition authorities held by the European Commission Directorate General for Competition, the meeting of heads of European competition authorities, the European Competition day conference, as well as the Baltic regional conference held in Tartu. A representative from the Competition Council also participated in the annual UNCTAD round table discussion about prioritising and resources allocation, as well as shared Latvia's experience in defining priorities and efficient use of budget resources.

Participation in Development and Enforcement of the European Union Laws

Within the reporting year, the Competition Council participated in development of the Latvia's position in relation to the proposal for a directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union. The Competition Council also prepared an opinion on the Green Paper - On unfair trading practices in the business-to-business food and non-food supply chain in Europe.

In 2013, the Competition Council received information on 296 cases submitted to the EC for consideration regarding the Council Regulation No 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation). Out of cases declaring turnover of participants of a merger in Latvia there were no such merger that might significantly affect competition in Latvia, therefore, there was no need to ask the Commission to consider handing over a case or a part of a case to the Latvian Competition Council for consideration according to the Competition Law.

Comparing to the last two years, the number of merger cases considered by the EC has slightly dropped (see Figure 5).

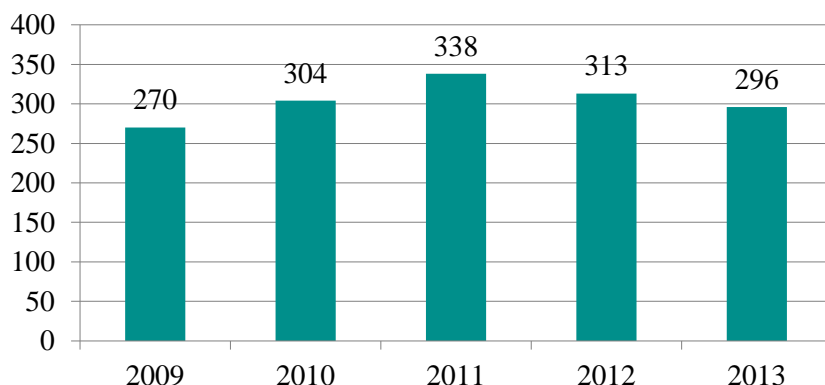


Figure 5. The number of merger cases considered by the EC

Overall last year, the most of notifications on fusion, merger of enterprises or establishing a joint venture in Europe was submitted by participants of food industry, pharmacy, manufacture of vehicle spare parts, real estate, energy, telecommunication, metal processing and leasing markets.

III. MANAGEMENT OF THE COMPETITION COUNCIL

3.1. State Budget Financing and Use Thereof

In 2013, the Competition Council has used financing in the total amount of LVL 581.24 thousand within the sub-programme “**Implementation of Competition Policy**”. Financing in the amount of LVL 581.21 thousand have been used for implementation of the principal activities of the Competition Council (see Table 3).

In this year, the Competition Council participated in implementation of the EU financed twinning project “*Support to Implementation and Enforcement of Competition and State Aid Policy*” in the Republic of Moldova. The financing earmarked for the project implementation (see Table 4) constituted 2.2 % of the financing approved within the budget for the sub-programme “Implementation of Competition Policy”.

In 2013, the Competition Council has used 97.97 % of the financing allocated to the institution. The main reasons for not using the full amount of financing were the following: it was not possible fill in all vacant positions because a number of personnel selection tenders

were closed without results, as well as the final financing under the twinning project were never provided.

Table 3. Financing for principal activities of the Competition Council (LVL)

| No | Financial indicators | Previous year (actual performance) | Reporting year | |
|--------|--|--|--------------------|------------------------------------|
| | | | Approved by law | Actual financial performance |
| 1. | Financial resources to cover expenditures (total) | 576 097 | 580 256 | 581 209 |
| 1.1. | Grants | 576 097 | 580 256 | 580 256 |
| 1.2. | Chargeable services and other own income | | | 953 |
| 1.3. | Foreign financial assistance | | | |
| 1.4. | Donations and gifts | | | |
| 2. | Expenditures (total) | 541 468 | 580 256 | 579 774 |
| 2.1. | Maintenance costs (total) | 538 145 | 577 014 | 576 549 |
| 2.1.1. | Current expenditure | 538 145 | 577 014 | 576 549 |
| 2.1.2. | Interest expenditure | | | |
| 2.1.3. | Subsidies, grants and social benefits | | | |
| 2.1.4. | Current contributions to the European Union budget and international cooperation | | | |
| 2.1.5. | Maintenance cost transfers | | | |
| 2.2. | Expenditure on capital investments | 3324 | 3 242 | 3 225 |

Table 4. The EU financing to the Competition Council for implementation of the twinning project in Moldova (LVL)

| No | Financial indicators | Approved by law | Actual financial performance |
|--------|---|--------------------|---------------------------------|
| 1. | Financial resources to cover expenditures (total) | 13 000 | 27 |
| 1.1. | Grants | | |
| 1.2. | Chargeable services and other own income | 13 000 | 27 |
| 1.3. | Foreign financial assistance | | |
| 1.4. | Donations and gifts | | |
| 2. | Expenditures (total) | 14 448 | 1 446.6 |
| 2.1. | Maintenance costs (total) | | |
| 2.1.1. | Current expenditure | | |

| | | | |
|--------|--|--|--|
| 2.1.2. | Interest expenditure | | |
| 2.1.3. | Subsidies, grants and social benefits | | |
| 2.1.4. | Current contributions to the European Union budget and international cooperation | | |
| 2.1.5. | Maintenance cost transfers | | |
| 2.2. | Expenditure on capital investments | | |

3.2. Personnel

In 2013, the Competition Council had 45 job positions, out of which 38 – state civil servant positions and the remaining seven – employee positions.

The actual number of persons employed at the institution in late 2013 was 35 persons, 28 of them were state civil servants and seven – employees.

In 2013, 63 % of the Competition Council’s personnel were women and 37 % - men (see Figure 6). The average age of personnel at the end of reporting year was 34.5 years.

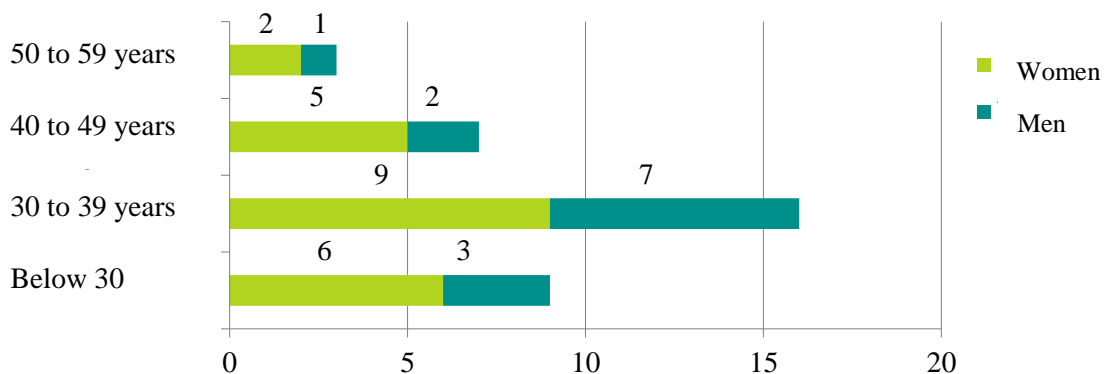


Figure 6. Number of personnel by age and gender groups

In 2013, state civil service relations were established with one servant, while employment legal relations were established with one employee. In 2013, five civil servants were dismissed.

At the end of the reporting year, 23 % of the employees had worked at the institution for more than 10 years. Breakdown of personnel by length of employment at the institution is shown in Figure 7.

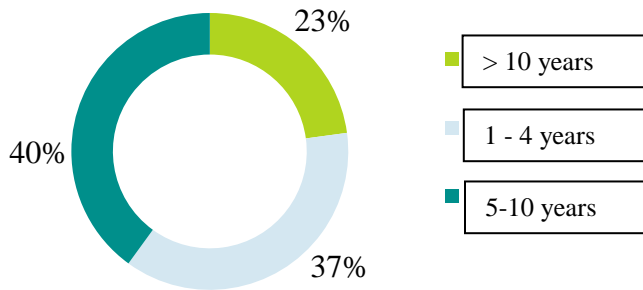


Figure 7. Breakdown of personnel by length of employment at the Competition Council

In late 2013, the assessment carried out via the single public administration performance assessment system NEVIS showed that the performance of 76 % employees was assessed as “very good” and “good”, while 19 % - “excellent”. Yet, 5 % of employees should improve their performance.

Education of the Personnel

In 2013, 33 of 35 employees of the Competition Council had higher education and 25 employees or 71 % of the total number of personnel had obtained master’s degree. Several servants have acquired two higher educations.

Considering the specific nature of the institution, the majority of employees have acquired legal or economic education. The rest have acquired education in engineering sciences, management, communication sciences and other.

In 2013, after assessing performance results of the personnel, the necessary training was identified and 31 employees were sent to six trainings offered by the State administration school and five training courses developed by other natural and legal entities to improve qualification.

The employees of the Competition Council attended training in such fields as administrative process, prevention of corruption, public procurements, communication and public presentation skills, quality management and financial management.

3.3. Improving Performance of the Institution

The activity of the Competition Council is based on the principles of good governance that according to the State Administration Structure Law include openness with respect to private individuals and the public, the protection of data, the fair implementation of procedures within a reasonable time period and other regulations aimed at ensuring that State administration respects the rights and lawful interests of private individuals.

The Competition Council strives to improve its performance, and therefore it is committed to use available internal and external resources as efficient as possible.

Thus, in 2013, the Competition Council has taken major steps towards improvements of internal culture and personnel motivation system within the institution. It has been achieved through the single public administration performance assessment system NEVIS, thus

identifying and evaluating the needs, desires and opinions of the personnel regarding their work at the Competition Council.

In 2013, the structure of the institution has been changed to ensure efficient use of the Competition Council's knowledge and experience, as well as to develop favourable environment for further growth. Therefore, new structural unit - Informatics and information processing division has been established early last year with the core mission to conduct in-depth analysis of market processes, as well as obtaining and analysing of electronic.

Yet, as a result of reorganization of the existing structural units of the Executive Directorate, the **Department of Prohibited Agreements** has been established on February 1, 2013. The mission of the new department is targeted and focused fight against cartels through detecting and preventing such violations and providing information and educating enterprises and budget authorities across.

Violations of the competition law are often indissolubly linked with other areas of the law, and therefore the Competition Council has strengthened cooperation with other public administration authorities - the Corruption Prevention and Combating Bureau, the State Revenue Service, the Register of Enterprises, the Security Police - to effectively use the information available to the public administration to detect, assess and prevent distortion of competition.

In order to ensure maximum quality and fast investigation of cases by balancing openness and data protection, the Competition Council continued improvements of internal regulations.

IV. COMMUNICATION WITH THE PUBLIC

One of the key tasks of the Competition Council is promotion of competition by improving public understanding of the competition law and the influence of violations on business environment and consumers.

When the public understands the competition law and its meaning, they are intolerant of violations of the competition law, thus reducing the possibility to violate the law, while making it more possible for the supervisory authority to detect violations of the law.

Public Information and Education Measures

An essential communication channel between the Competition Council and its target audience is the **website** of the authority www.kp.gov.lv.

For the purpose of finding ways to help enterprises to better understand and exercise their competition rights, as well as give an opportunity to find out the latest news of competition surveillance in Latvia and Europe, the Competition Council started to publish a newsletter **Competition Close-Up** in 2013. To receive the quarterly newsletter by e-mail, all interested persons have to register on the website of the Competition Council.

In order to match the newsletter with the interests and needs of entrepreneurs, any interested person has an opportunity to suggest a topic on which she/he would like the Competition Council to provide an explanation.

The Competition Council **informs mass media** on the adopted decision and latest news in competition control on regular basis because each single decision applies not only to the

particular case and market participants but also to the entire competition environment. Publicly available information on detected violations clearly shows consequences of illegal activities, thus increasing public awareness and promoting legal activities.

In order to explain competition and trends in different product and service markets by assessing in advance the importance of information to the public, the Competition Council informs mass media on the results of sector inquiries it has carried out.

To provide broader explanation of decisions that are particularly important for markets and consumers, the Competition Council organizes **press conferences**. Thus, four special information measures have been held in 2013.

Along with explanation of the nature of the competition law, experts of the Competition Council **provide lectures and seminars** for employees of certain companies and students of Latvian higher education institutions and employees of the state and local governments.

To provide practical support and knowledge to enterprises to ensure competition and cooperation in accordance with the competition law, the Competition Council in collaboration with the Employers' Confederation of Latvia held a conference "Competition and Agreement: What an Enterprise Should Know". Participants of the conference had an opportunity to listen to the speeches of international experts - Mr. Hassan Qaqaya, the Head of Competition law and Consumer Policies Branch of the United Nations Conference on Trade and Development and professor Anders Paalzow, the Rector of Stockholm School of Economics in Riga, as well as presentation of Latvian competition law specialists, lawyers and representatives of enterprises and their associations.

As part of their daily work, employees of the Competition Council provides **consultations on competition issues** to representatives of legal service offices, entrepreneurs and other interested persons in writing, by telephone or within consulting hours for visitors at the office. In 2013, over 200 consultations have been provided.

Public Involvement

Cooperation between the Competition Council and **non-governmental sector** (entrepreneurs and their professional associations, civil society) plays an important role in development of competition policy and culture – exchange of information within development of laws and regulations allows to timely prevent possible shortcomings, while consultations on effective law ensure understanding thereof and promote compliance with the law.

Notifications of enterprises on possible violations of the competition law are an essential source of information that helps the Competition Council detect and prevent market distortion.

In order to discuss topical competition policy issues representatives of the Competition Council meet representatives from Professional and sectoral associations.

Last year, the Competition Council in cooperation with students of Alberta College implemented business and broader social surveys. Within the business survey the institution identified the intensity of application of corporate compliance programmes of the competition law, thus determining what kind of support enterprises need for development and implementation of such programmes.

Yet, the social survey allowed to identify the degree of public awareness of the Competition Council and opinion on competition policy issues.

V. PLANS FOR 2014

The key priority of the Competition Council **in the field of protection and control of competition** will be combating the most severe violations of the Competition Law – prohibited agreements and abuse of dominant position.

In order to use the resources of the authority as efficient as possible and to focus mainly on the detection and prevention of the most severe violations, in 2014, the Competition Council plans to improve and to further apply the alternative violation preventive methods to relatively minor violations. These methods have been applied since 2013. The institution, acting as mediation partner and inviting enterprises to negotiations or giving them a warning, is able to ensure instant changes in the market, thus preventing the violation without the need to spend resources on in-depth investigation often followed by lengthy proceedings.

Since sector inquiries are one of the key tools to detect distortion of competition, in 2014, the Competition Council is expected to carry out comprehensive sector inquiries in such priority markets as IT products and services market, online sale, energy, finance, food industry and procurement power in retail trade. It is also planned to focus on telecommunication sector, as well as pharmacy and health care.

Cooperation with the public and local government authorities, legal offices, business associations and education institutions will play a major role in **promotion of competition** in 2014.

In order to foster common understanding of the application aspects of the competition law, as well as to timely notice and prevent shortcomings hindering efficient protection of business and consumer rights, the Competition Council is expected to promote discussion among specialists of the Competition Council and their legal offices specialised in issues of the competition law.

As of 2014, to efficiently use the resources of the Competition Council and the Corruption Prevention and Combating Bureau, both institutions have agreed to actively cooperate in carrying out joint inspections to identify violations and obtain evidence, as well as organizing joint information measures.

Public and local government authorities and enterprises have an essential role in ensuring fair competition environment. Thus, in 2014, the Competition Council is expected to continue working on providing information to organizers of public procurements about the possibilities to detect prohibited agreements among applicants, as well as the need to provide fair and competition-friendly procurement conditions. Therefore, in 2014, the Competition Council will study the issues of commercial activities of public persons to find solutions to prevent the negative impact of such activities on competition in markets.

In 2014, within Latvia's accession process to the OECD, the Competition Council is expected to cooperate with this international organization and provide information about application of the competition law in Latvia.

In the field of improvement and development of capacity of the Competition Council the institution plans to continue working on improvement of internal regulations, enhancement of performance and personnel management organization and strengthening of international cooperation.

A number of guidelines on application of legislation are expected to be drafted in 2014. These guidelines along with the EU practice and the Competition Council's experience will contribute to efficient and transparent performance of the institution. Among the most important guidelines are the guidelines for prioritising cases to be investigated by the institution, as well as the guidelines for hearing enterprises within violation cases and submission of merger notifications.

In 2014, within Latvia's accession process to the OECD, the Competition Council is expected to cooperate with this international organization and provide information about application of the competition law in Latvia. At the same time participation in the OECD as an observer gives the Competition Council an opportunity to get involved in international studies and working groups before the accession of Latvia to the organization.

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