



Competition Council
Republic of Latvia

ANNUAL REPORT 2020



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FOREWORD BY THE CHAIRMAN

THE YEAR 2020 HAS BROUGHT STRONG WINDS OF CHANGE



The year 2020 has been a year of changes, which has challenged almost every person and authority in every corner of the world. Also, the Competition Council went through strong winds of change last year – not only those brought by COVID-19 pandemic, but also much more local. On 14 September 2020, I was honoured to take over the helm of the Competition Council after the longstanding Head of the Authority Skaidrīte Ābrama left her office. Undoubtedly, this year has asked much from employee's of the Competition Council – self-discipline while working

remotely from home, motivation not to give up when facing the unknown, and, most important, willingness to develop and adapt constantly, so that every employee could grow as an expert in own area and we could together become a strong, independent and influential authority, the opinion of which is taken into consideration by market participants, public administrative bodies and also policy makers, who hold the required powers to develop such laws and other regulatory enactments of Latvia that promote fair competition in all areas of the national economy.

The year 2020 was the first year of implementation of the 3-year (2020-2022) operational strategy of the Competition Council. Starting from this year, we have supplemented the previously defined three key values of the Competition Council – legality, professionalism and independence – with development, which proves that we are ready to work on the growth of the Authority, modernization of supervision methods and focusing on achievement of results. Also, over the course of these three years, we will dedicate our resources to three main directions of operation: 1) identification and elimination of the most significant infringements of the competition law, 2) strengthening of the capacity of the Authority, and 3) education of the public on fair competition.

Despite the challenges faced in 2020, it has been a successful year of work and we have achieved considerable results in every direction of operation. As regards elimination of the most significant infringements of the competition law in 2020, I would like to highlight the decision adopted by the authority on the abuse of dominant position by SIA “LDZ CARGO” on the market of railway freight transport and the fine of 5.7 million euros imposed on the company for this infringement. Also, the last year was the first year when the Competition Council was able to use its newly-obtained powers to address competition distortions caused by public administrative bodies. In the first year of supervision, we received approximately 200 different applications on the conduct of public administrative bodies, the majority of which were complaints on restrictive competition conditions set by public administrative bodies in procurements. Considering that the Competition Council obtained the powers to address competition distortions caused by public administrative bodies only on 1 January 2020, the first year was spent under the sign of “Consult at first” principle, educating and consulting the state, local governments and their capital companies. In addition, the Competition Council also implemented four market inquiries, assessing the activities of public administrative bodies, and the conclusions drawn after these market inquiries serve as a significant tools in further education of public administrative bodies on observing of the principle of competition neutrality.

The overall public benefit from the operation of the Competition Council, preventing competition distortions, conducting market inquiries and encouraging changes for promotion of competition on these markets, as well as supervision of the implementation of merger transactions of large companies, constitutes 24.1 million euros in 2020. Whereas fines in the amount of 934,957.36 euros have been paid into the state budget.

An efficient penalty policy serves as one of the preventive instruments for prevention of competition infringements. At the same time, explanatory, understandable for the customer and convenient communication may serve as a

preventative instrument in prevention of infringements, because by timely understanding of the negative consequences of infringements of the Competition Law and benefits of fair and responsible conduct, entrepreneurs and public administrative bodies are interested in acting in compliance with the law or, upon facing infringements of the competition law, they are ready to report them to the Competition Council. Therefore, in 2020, the Competition Council dedicated considerable resources to one of the priorities of the authority – education of the public, strengthening the cooperation with public administration institutions, as well as national and international partners. During the reporting period, the Authority has not only consulted companies and public administrative bodies, but has also organised seminars, webinars, discussions, given recommendations for implementation of fair competition through podcasts and video messages, and also has developed several self-assessment tools, by using of which compliance of own conduct with the principles of fair competition can be assessed. One of these self-assessment tools has been developed for entrepreneurs for mitigation of bid-rigging risks, the second tool is intended for public administrative bodies to facilitate assessment of their participation in a capital company, and the third tool – for procurement organisers, in order to support them in recognising bid-rigging signs.

As regards the third operational priority of the Authority – strengthening of the capacity – significant progress has been achieved in 2020. A long-standing problem of the Authority has been insufficient financing, as a result of which the Authority has systematically fought high employee turnover. At the end of the last year, support from the government was achieved, as it was decided on granting additional financing to the Authority – 853,467 euros in 2021, 879,769 euros in 2022 and 965,197 euros in 2023. These funds will be a significant help to strengthen remuneration of employees, create additional jobs, ensure efficient supervision of compliance with the principle of competition neutrality and the new Unfair Retail Trade Practices Prohibition Law, as well as to strengthen the capacity of IT investigation of the Authority. By developing the competences of our employees, as well as the technical and technological capacity of the Authority, we will strengthen the backbone of the Authority in the fight against competition distortions. ■



JURIS GAIĶIS
Chairman of the Competition Council

THE COMPETITION COUNCIL. PASSPORT OF THE AUTHORITY

Under conditions of fair competition, efficient companies are found, which are motivated to provide high quality, variety of choice, innovations, competitive prices and other advantages in order to win the competition for consumers' choice.

The Competition Council of the Republic of Latvia is a direct public administration authority operating under supervision of the Ministry of Economics. The principal area of operation of the Competition Council is the implementation of the competition policy, and it is divided into two sub-areas – protection of competition and development of the competition culture, where the financial and human resources, as well as cooperation in the international environment, has a key role in ensuring these aspects. The independence of the Competition Council during investigation activities and the decision-making process is the main value of the Authority, which is also stipulated in the Competition Law.

The tasks and rights of the Competition Council are specified in the Competition Law, the Advertising Law, the Unfair Retail Trade Practices Prohibition Law, the European Council Regulation No. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the Cabinet of Ministers Regulations No. 795 "Regulation 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 the implementation of competition policy is protection and stimulation of free and equal competition within all fields of national economy among market participants and prevention of unjustified involvement of public administrative bodies – state and local governments – in free competition.

Aim

The aim of the Competition Council is to provide a possibility to each market participant to conduct business activities under free and fair competition conditions, promoting the development of competition in all areas of the national economy for the public benefit.

Operational tasks

- ▶ **Detection and elimination of prohibited agreements:** undertakings do not engage in cartels and do not conclude any other prohibited agreements.
- ▶ **Aversion of abuse of dominant position:** large and dominating companies in their market sectors do not abuse their market power.
- ▶ **Merger control:** mergers that create a concentration of companies on the market and which may negatively impact the interests of consumers and cooperation partners do not occur.
- ▶ **Surveillance of public administrative bodies:** the conduct of the state and local governments and their capital companies do not discriminate against the private market players.
- ▶ **Control over legislation:** legislation, regulations and any other state or local government decisions or actions do not restrict the development of free and fair competition.
- ▶ **Promotion of competition:** competition is promoted on markets, including the regulated ones, where it is limited or non-existent.
- ▶ **Raising public awareness:** society receives comprehensive information about the positive effects of fair competition on market functionality and social welfare.

Our resources



Priority directions based on the Strategy 2020-2022

- ▶ detection and elimination of severe competition infringements and market distortions, as well as non-allowance of negative effects on the market concentration;
- ▶ strengthening of the capacity and growth of the Competition Council;
- ▶ raising awareness of market participants and public administrative bodies of free and fair competition, as well as formation of the competition policy and culture on a national and international scale.

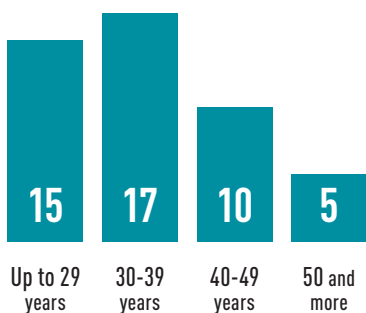
TEAM OF THE COMPETITION COUNCIL

The Competition Council consists of a decision-making body – the Council – and the Executive Body. The Authority had 47 employees at the end of 2020, out of whom 39 had the status of officials, and eight – the status of employees.

There were 48 positions in the list of positions, 41 of which were official positions and seven employees' positions.

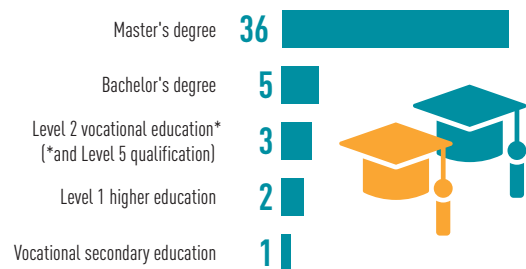
In 2020, the personnel turnover of the Competition Council reached 28 % due to insufficient financing, which prevented full-fledged operation of the Authority. 13 persons terminated the state civil service relations and employment legal relations, while 18 persons – commenced such relations.

Age



The average age of personnel of the Competition Council is 36 years.

Education



3 Council members

Assess documents prepared by the Executive Body during an investigation of cases and market surveillance, and adopt final decisions of the Authority. The Council operates as a court of the first instance. The Council is comprised of two Members and the Chairperson, who manages the work of the Authority.

1 Executive Director

Ensures organisation, planning and management of unified operation of the Executive Body, and provides legal and conceptual support to officials of the Executive Body during investigative and court proceedings.

24 investigators

Conduct investigation of infringements, study market processes, assess competition distortions in regulatory enactments and activities of public administrative bodies, implement preventive education, provide consultations to various target groups, and hold lectures and seminars.

7 lawyers

Prepare the legal justification for decisions of the Competition Council, represent the Authority in courts, prepare draft regulatory enactments, as well as evaluate, if the documents prepared by other institutions and authorities do not distort competition, and provide suggestions for possible solutions.

3 economists

Prepare the economic justification for the decisions and market inquiries of the Competition Council, as well as explore and develop new methods of econometric analysis.

9 support staff members

Implement communication with the public and coordinate the international cooperation, ensure personnel management, management of finances and documents, introduction of internal audit recommendations, and provide IT and informative support to structural units of the Executive Body. Develops and improves procedures of the authority and organises economic provision of the authority operation.

YEAR 2020 IN FIGURES

Abuse of dominant position	1
Detected infringement	1
Mergers	11
Cleared mergers	11
Procedural infringements	2
Detected infringement	2
Total number of decisions	14

Other relevant figures

Infringement statistics

- ▶ 5,701,637 euros in fines imposed on companies
- ▶ 2 companies fined
- ▶ 1 dawn-raid in 6 companies
- ▶ 934,957.36 euros paid into the state budget in fines
- ▶ 3 terminated legal proceedings, in all the decision issued by the Authority has been upheld

Prevention and “Consult at first”

- ▶ 3 warnings to 7 persons for alleged coordination of activities
- ▶ 2 preventive measures for 3 persons concerning non-conformity with the Unfair Retail Trade Practices Prohibition Law

24.1 million euros in 2020

The public benefit from the operation of the Competition Council, preventing competition distortions, conducting surveillance on markets and encouraging changes for competition promotion on these markets, as well as surveillance of implementation of merger transactions of large companies. The calculated public benefit considerably exceeds the amount of financing allocated to the Competition Council in this period.

Applications and opinions

- ▶ 358 applications received regarding matters associated with the competition law, incl.
 - ▶ 200 applications received regarding activities of public administrative bodies
- ▶ 196 opinions on application of the competition law, incl.
 - ▶ 72 opinions on participation of public administrative bodies in a capital company (Section 88 of SASL)
 - ▶ 89 opinions on other activities carried out by public administrative bodies
- ▶ 42 opinions regarding proposals for the regulatory framework

Consultations, guidelines and market inquiries

- ▶ 12 pre-merger consultations
- ▶ Completed inquiries in 8 markets
- ▶ 3 self-assessment tools for improvement of the competition environment



For the sixth 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 



16 euro



COVID-19

During the COVID-19 pandemic, the Competition Council ensured the work process remotely – majority of meetings, obtaining information and explanations, organising oral hearing in online mode, including fully remote meetings of the Council.

Challenges of the pandemic

Despite the capability of the Authority to adapt to the conditions caused by the pandemic, processes of investigation cases had to be adjusted to the existing epidemiological situation. For example, **the Authority had limited possibilities to carry out procedural activities in companies** in order to obtain evidence on alleged infringements of the competition law. Also, upon a request of market participants, observing the legal framework concerning the emergency situation, **terms for replying to information requests and examination of merger cases were extended**, such terms exceeding the decision-making term stipulated by the Competition Law.

Measures introduced by state

Since the first wave of COVID-19 pandemic, the Competition Council received several complaints on **unequal competition situation, which was promoted by restrictions and support mechanisms introduced by the government** for mitigating the consequences of the crisis. For example, according to the Cabinet of Ministers Regulations complaints were received on unequal attitude towards lessees of commercial premises. The Regulations stipulated that lessees that lease premises from a public administrative body – state or local government, or their capital companies – can be granted release or reduction of rental fee, as well as release from interest on arrears or contractual penalty. Such reliefs and advantages are not available to lessees that lease premises from private persons.

In the opinion of the Competition Council, state support mechanisms cannot create advantages for separate companies and, at the same time, cause competition distortions on the commercial premises lease market in general. Therefore, a solution should be found for eliminating this problem so that the support for covering lease fees also reaches lessees, whose lessors are private persons, not public administrative bodies.

The Competition Council also assessed the idea of **setting maximum prices** and state intervention in a free market. On a national scale, an initiative was discussed to set maximum prices for face masks and disinfectants because increased demand and prices for these products were observed during the crisis. The Authority held a view that the administrative setting of maximum prices for the entire market could negatively impact the availability of goods and competition in a long-term perspective, for example, preventing the offer of these goods on the Latvian market or competitors adjusting their prices close to the set limit. Therefore, the position of the Competition Council – state intervention in the price regulation may be used only as a last resort, also taking into consideration the risk of error while setting an acceptable maximum price for the existing market situation.

Prevention of infringements

During the extraordinary situation, the Competition Council actively **focused on prevention of infringements of the competition law**, incl. informing entrepreneurs, their associations and organizations about prohibited agreements



Māris Spička, the Head of the Executive Body

“The crisis caused by the spread of COVID-19 both globally and in Latvia has significantly shattered the entire society, also causing negative consequences to the business environment. Over the course of this period, the Competition Council invested in education and preventive measures

in order to prevent possible infringements of the competition law under cover of the COVID-19 crisis and also consulted policy planners to ensure that by operative decision-making aimed at containing the spread of the pandemic they do not create unequal, competition restrictive conditions for companies that already struggle daily to overcome the consequences caused by the crisis. Decisions that ignore the principles of fair competition present a significant threat to the post-crisis recovery of the economy; therefore, the decision-makers bear particular responsibility for facilitating competition development in all sectors.”

and abuse of market and procurement power during the crisis, as well as prohibited information exchange, for example, within associations.

The Competition Council **assessed the decision of the Finance Latvia Association**, which consolidates almost all banks registered in Latvia, as well as banks registered in two other EU Member States, which have opened their branches in Latvia, **to agree on the conditions of temporary non-legislative moratorium of loan payments and its application** on natural persons and legal entities under the conditions of COVID-19. After consulting with the European Commission, the Competition Council expressed an opinion that matters discussed within an association that refer to common goals and development of the sector, for example, legislative initiatives or introduction of common temporary measures within the sector for protection of clients affected by the crisis, for example, regulations of loan payment moratorium, are permissible and supportable, and comply with the Competition Law.

The Competition Council also **gave a positive assessment of the hotel campaign** organised by the Association of Hotels and Restaurants of Latvia. Clients could use the overnight stay offers of campaign participants at a single reduced price to promote and support the sector affected by the crisis.

The sectors that came to attention of the Competition Council involved finances, medicine and distribution of goods related to COVID-19 protective measures, as well as retail sales, where the Competition Council found **during the market inquiry** shortcomings in the procedure of application of contractual penalties between retailers and suppliers during COVID-19 pandemic, and gave recommendations for elimination of these shortcomings. ■

PROHIBITED AGREEMENTS

Prevention – facility for elimination of infringements

When the Competition Council detects features, which may indicate a prohibited agreement of companies, but these features do not indicate significant harm to competition, the Authority can issue a warning.

In 2020, the **Competition Council issued a warning to 7 persons in total in three cases of detecting features of alleged prohibited agreements**. In two of these cases, the Authority established that features of alleged prohibited agreement can be observed not only in activities of companies, but also the conduct of public administrative bodies – local governments and their capital companies, which organise procurements – has not promoted fair competition.

For example, in one procurement on supply of construction materials, plumbing products and electric appliances, entrepreneurs submitted tenders with prices under the market value and mostly did not supply these goods at all, in reality replacing them with other goods that were not indicated in the technical specification. As a result, these procurements were essentially fictitious. Whereas in the other price quotation on car interior and body maintenance services, an objectively inexplicable conduct by the local government capital company was detected – invitations to participate in price quotations were sent to specific companies and to e-mail addresses that are not publicly accessible and identifiable with the respective companies, and tenderers with artificially increased prices were announced winners.

Warnings comply with the “Consult at first” principle introduced by the state administration – first to educate instead of punishing. So far, warnings have been successful as an alternative method for prevention of infringements, because none of the persons being warned has come to attention of the Competition Council repeatedly for similar non-conformities.

Self-assessment tool for entrepreneurs

The Competition Council of Latvia (the CC) has prepared a **self-assessment tool** for entrepreneurs, so that they could verify in an easy manner, whether they have not engaged in a prohibited

agreement with competitors due to their negligence or lack of knowledge.

The self-assessment tool highlights the most common situations that entrepreneurs may face, without knowing that it may be qualified as an infringement in the meaning of the Competition Law. For example, a company is asked by another tenderer not to participate in a particular procurement, or vice versa – to participate, but without a real desire to win. It may be formal participation, offering an inadequately high price, in order to artificially generate a sufficient number of tenderers in the procurement. Participation in a prohibited agreement can also be considered any meeting, during which it is discussed with other competitors, which procurement is “planned” for which market participant.

Entrepreneurs can assess their conduct **by filling in an anonymous survey** – <https://ej.uz/parbaudiuiznemumu>.

The competition law also stipulates that a company can be punished for concluding a prohibited agreement, which is implemented one, five, or ten years ago. Therefore, the Competition Council encourages the companies that have been engaged in a prohibited agreement of competitors deliberately or unconsciously not to remain silent and use the facilities offered by the Leniency Programme.

Construction companies – still under close scrutiny

Until August 2021, the Competition Council has to conclude an **investigation regarding an alleged bid-rigging agreement among at least ten leading companies in the construction sector**. The case investigation was commenced after the Authority became acquainted with the information provided by the Corruption Prevention and Combating Bureau, which indicated alleged infringements of the Competition Law.

Over the course of several years, the involved construction companies have allegedly coordinated their conduct and concluded prohibited agreements on market distribution and conditions for participation in procurements of public and private customers all across Latvia. In order to make obtaining evidence more efficient, the Competition Council together with the Corruption Prevention and Combating Bureau, carried out a joint and extensive investigation activities. Whereas in 2020, an investigation was carried out independently within the framework of the competence of each authority. ■



Ieva Šmite, the Head of the Cartel Department:

“The practice of the Competition Council over several years shows that bid-rigging can be listed among the most significant problems of the competition environment in Latvia. Only in the course of the last five years, 13 bid-rigging cases have been detected, involving 64 companies that have been fined in the total amount of more than 3.5 million euros. The statistics speak for themselves; therefore, the Competition Council offers lifelines to entrepreneurs – a self-assessment tool, by using of which entrepreneurs can assess their activities, and the Leniency Programme, which grants to the first reporter involved in an infringement full release from a fine and prohibition to participate in procurements.”

ABUSE OF DOMINANT POSITION

An infringement in the railway freight transport market

At the end of 2020, the Competition Council imposed a fine of 5,694,174 euros on SIA "LDZ CARGO", a subsidiary of the state joint stock company "Latvijas dzelzceļš", for abuse of the dominant position, whereas VAS "Latvijas dzelzceļš" as the holder of capital shares is obliged to assume joint and several liability for payment of the fine.

Upon reorganisation of VAS "Latvijas dzelzceļš" in 2007, its subsidiary SIA "LDZ CARGO" took over the provision of freight transport services in Latvia. Over the period from 2007 until 2020, SIA "LDZ CARGO" constantly ensured 70-80 % of railway freight transport in Latvia, although another three carriers operated on this market.

For a long time, the Competition Council established that SIA "LDZ CARGO" has been an inevitable cooperation partner to every client that wanted to carry railway freight through Latvia, crossing the border of Russia and Belarus. Consequently, in these border areas, every client had to purchase the freight transport service from SIA "LDZ CARGO", regardless of whether further freight transport in Latvia was carried out by SIA "LDZ CARGO" or any of its competitors. SIA "LDZ CARGO" used this situation to offer various reliefs, such as discounts, to its clients using services provided by the capital company throughout the route. For customers who chose any of the three competing private merchants, SIA "LDZ CARGO" applied a standard tariff.

It was economically disadvantageous for customers to choose competitors of SIA "LDZ CARGO" as the service providers, which, in its turn, made difficult for new service providers to enter the market and encumbered competition among the existing companies, as well as influenced the options of choice for a consumer.

Moreover, the Competition Council concluded that SIA "LDZ CARGO" conducts accounting of wagons in Latvia and charges a fee for a downtime of wagons, which resulted from detention of wagons on the way or loading and unloading of wagons. The Competition Council also established that SIA "LDZ CARGO" applies the charge for downtime not only in cases, when inventory wagons supervised by the company are used for railway freight transport, but also in cases, when wagons owned by private persons are used for railway freight transport, the use of which is agreed between the freight shipper or recipient and the wagon owner or its representative. The CC concluded that the charge that is imposed on the downtime of wagons belonging to private persons on common use railways is groundless.

Investigation in the waste management market

In 2020, active investigation of the case initiated by the Authority in 2019 against Riga City Municipality and SIA "Getliņi EKO" on alleged infringement under Article 102



Rūta Šutko, the Head of the Analytical Department:

"Market liberalization is the basic principle of a modern economy. Companies and sectors operate and develop most efficiently when there is a free market with fierce competition.

At the same time, there are still companies in Latvia that have historically operated under monopoly or closed market conditions. Such companies lack encouragement to operate economically more efficient, and they groundlessly protect their market position from competitors. This results in obstructing a free competition environment and development on the market. The task of the Competition Council is to ensure that neither market participants themselves nor the state create and maintain market obstacles that impede free competition environment and entrepreneurship. To achieve these goals, investigation cases on abuse of dominant position still prevail in the work of the Analytical Department."

of the Treaty on the Functioning of the European Union (TFEU) – abuse of dominant position – continued.

The Competition Council objected to the concession agreement, concluded among Riga City Municipality, capital company SIA "Getliņi EKO", which is owned by the Municipality, and AS "Tīrīga", which provided for the introduction of a new system in the waste management area – to entrust the provision of the service to one company for a period of 20 years, instead of previously operating four service providers. By initiating an infringement case and adopting a decision on the application of interim measures, the Competition Council achieved that the said concession agreement is suspended in part on the collection and transport of unsorted and separately collected household waste in Riga.

Considering that more than a half of all waste of Latvia is collected in Riga, this significant market monopolization for a period of 20 years would not only have negative impact on consumers, who would not be protected from disproportionate increase of prices in the future, but also would critically affect competition on the market. Moreover, creation of dominant position on the market, where competition conditions have existed previously, influences the market structure significantly, completely eliminating any competition on the specific market.

The Competition Council has to adopt a decision until 18 July 2021. ■

MERGERS

One of the tasks of the Competition Council is to assess merger transactions and notified agreements of large companies to prevent possible negative impact on competition and consumers. In 2020, **the Competition Council adopted 11 decisions on mergers.**

Market participants involved in mergers **paid fees equal to 48,000 euros** into the state budget for assessment of merger notifications. To facilitate submission of merger notifications by companies, the Competition Council provided **12 pre-merger consultations.**

Companies merge and strengthen competitiveness

In 2020, the Competition Council did not detect possible threat to competition in any of 11 assessed merger cases and allowed these transactions.

The assessed transactions were implemented in various sectors. For example, in January 2020, the Authority allowed a merger of car wholesalers dealing with distribution of Hyundai, Suzuki, Ssang Yong, Peugeot and Isuzu passenger cars in Latvia. Also, the Competition Council allowed mergers in the banking sector, television wholesale and retail market, and a Luxembourg company to acquire capital shares of AS "LIDO" in 2020.

Although most merger transactions did not cause significant negative consequences for competition, **two mergers were assessed in more detail** and conducted the in-depth economic analysis.

Binding regulations prevent discriminatory conduct

On 20 February, the Competition Council adopted a decision to allow SIA "BITE Latvija" to gain decisive influence over SIA "Baltcom".

The economic activity of both merger participants overlaps on several markets related to telecommunications. The owner of SIA "BITE Latvija" is UAB "Bite Lietuva", which also owns SIA "All Media Baltics", which, in its turn, ensures wholesale of such television channels as TV3, LNT, TV6, "Kanāls 2" and others in Latvia.

The operation of both merger participants does not overlap on the television channels distribution wholesale market; however, they have vertical relations, because SIA "Baltcom" buys television channels developed and distributed by "Bite Group" company. Telecommunications market players have expressed concerns that as a result of this merger the new market

participant will use its power on the television wholesale market and will restrict the operation of other merchants, for example, by "Bite Group" companies offering television channels of SIA "All Media Latvia" on more favourable conditions. Also the economic analysis carried out by the Competition Council indicated to such risks.

At the same time the concerns that Bite may isolate other market participants from the popular television channels in Latvia, were resolved with the binding regulations already in 2017, when the Competition Council decided on the merger of UAB "Bite Lietuva" and "MTG Broadcasting AB" Group companies in Latvia, now known as SIA "All Media Latvia". These binding regulations are still in force and impose an obligation on Bite Group to distribute television channels of the merger to all market participants on non-discriminatory conditions.

Considering that the binding regulations applied to UAB "Bite Lietuva" in 2017 are still effective, the Competition Council **did not detect that the merger of SIA "Bite Latvija" and SIA "Baltcom" would pose significant harm to competition,** deciding on allowing the transaction.

Economic analysis - significant role in the assessment of mergers

On 6 August, the Competition Council adopted a decision to allow the coffee machines rental company SIA "Coffee Address" to acquire SIA "KAFFE SERVISS" and additional assets of SIA "ESPRESSOBLUE", which are included in SIA "KAFFE SERVISS" since the beginning of 2020. The Competition Council **did not detect significant harm to competition, so the Authority decided on allowing the merger.**

As a result of the merger, the coffee machine rental and servicing market was affected at offices and in HoReCa sector, i.e., hotels, restaurants and cafes, and also trade of food and drinks in machines, and trade of coffee machines and coffee (incl. capsules) was impacted.

For the Competition Council to be able to make a decision, a significant role was played by in-depth economic analysis. The Authority assessed, how actively clients change their suppliers and also how significant is overlapping of clients among the merger participants, thus establishing, how close competitors the market participants involved in the merger transaction are.

Allowing the merger, the Competition Council took into consideration the condition that a significant number of other market participants operate on the market, which offer a complex service – therefore, customers can easily replace the service provider, if necessary. ■



Artūrs Kuka, the Head of the Economic Analysis Unit:

"Compared to previous years, the year 2020 was relatively quieter in the merging context, and it is self-evident. Due to COVID-19 pandemic, the priority of market participants was to retain their economic activity. At the same time, by COVID-19 crisis and various restrictions extending, there are concerns that both in 2021, and in more distant future market concentration will be observable in various sectors, which also may significantly increase the number of merger notifications that the Competition Council will have to assess."

UNFAIR RETAIL TRADE PRACTICES PROHIBITION LAW

The Unfair Retail Trade Practices Prohibition Law (URTPPL) came into effect in Latvia on 1 January 2016. The aim of this Law is to balance the power of suppliers and retailers, and the supervisory authority of this Law is the Competition Council.

To ensure compliance with URTPPL, the Competition Council provided **15 explanations and opinions in relation to application of the law** in 2020. The Competition Council also implemented **five educational events and educated in total 94 persons**, incl. retailers, in order to explain the impact of adoption of the new Unfair Trading Practices Directive on the economic activity of retailers.

In 2020, the Competition Council **implemented preventive measures for elimination of alleged infringement in two cases**.

Problems during COVID-19 crisis

Upon beginning of COVID-19 outbreak in Latvia, the Competition Council gave recommendations to retailers and suppliers on cooperation during the emergency situation, reminding that the principles of fair retail sales according to the provisions of URTPPL have to be observed and that retailers are not allowed to impose unfair sanctions, if suppliers are unable to ensure execution of significantly larger orders for separate groups of goods during the crisis.

After the “first wave” of COVID-19, the Competition Council carried out **market study** to identify the potential problems in mutual cooperation between retailers and suppliers during the emergency situation from 12 March to 9 June.

The Competition Council detected significant problems related to imposing of unfair and groundless sanctions and returning of goods. During COVID-19 crisis, retailers imposed repeated sanctions for the goods ordered, but not delivered. Such retail practice cannot be considered fair and justified, especially because such non-delivery has occurred as a result of logistics disruption caused by COVID-19 emergency situation.

The market study also showed that cooperation agreements concluded between retailers and suppliers included different sanctions application conditions for promotional goods and non-promotional goods, and agreements provided for a specific applicable contractual penalty in euros instead of percentage of contractual penalty, which does not meet the conditions stated in Law.

Express stores impact on the market structure

Since 2018, two largest retailers in Latvia, SIA “RIMI Latvia” and SIA “Maxima Latvija”, have developed their operation in the express store sector, strengthening the impact on the consumption goods retail market. In 2020, the Competition Council conducted **market study**, concluding that **express stores entering the market currently do not cause significant impact on the structure of retail market** in general; however, the Authority expressed its concerns about local impact on the market structure in the future.

Retailers need to improve their actions

During the **market study**, the Competition Council detected that cooperation between separate suppliers and certain retailers involved regular returning of bread, indicating quality problems as the reason. The regularity of such practice cause suspicions about lawfulness of the action by retailers, using the goods returning condition as a permanent solution for, allegedly, returning the unsold bread.

To tackle these gaps, the Competition Council implemented **preventive activities, calling the large market players SIA “RIMI Latvija” and SIA “Maxima Latvija” to improve their internal control processes**, in order to eliminate any doubts about conformity of their activities to URTPPL. ■

SECTOR INQUIRY

In 2020, the Competition Council concluded inquiries on eight markets, incl. two market studies in retail sales, and in several cases conformity of conduct by public administrative bodies to the principles of fair competition was assessed. The purpose of market inquiry is to obtain in-depth insight into various sectors of the national economy, identify the competition situation and find solutions for improving the situation.

The procurement is favourable for one company

During the market study, **investigating the procurement of car transport number plates making and supply, organised by the Road Traffic Safety Directorate (RTSD), the Competition Council detected competition restrictive requirements** in the procurement regulations. This resulted in only one company – a long-standing cooperation partner of RTSD – to participate in the tender.

Comparing number plates procurement procedures among the Baltic states, the Authority concluded that the costs per one number plate in Latvia are approximately three times higher than in Estonia and five times higher than in Lithuania. Although the Latvian procurement procedure involves more specific requirements than in the neighbouring countries, the Competition Council holds a view that such requirements cannot justify such a significant increase in price.

One of the specific requirements included in the procurement regulations, due to which other candidates did not participate in the tender, was supply of express number plates or number

plates made upon an individual order in a very short term – within 30 minutes, while the vehicle registration service is received. Such service can be offered only by a company, which operates in the premises of RTSD central office in Riga. It is remarkably that the procurement winner and its attracted sublessee SIA "Latsign" lease CSDD premises already since 1992, and it had an effective premise lease contract also at the moment of the procurement.

Entrepreneurs mentioned as another restrictive requirement in this procurement the short term – 45 days – for supply of first number plates to RTSD after conclusion of the contract and the unclear requirements for development and maintenance of centralised number plates making and accounting system.

Competition restrictions in ticket trading services

During the market study, the Competition Council concludes that **cultural institutions include competition restrictive conditions in their procurements, when selecting ticket trading service providers.**

The Competition Council detected that cultural institutions not always observe the amount of service fee charged from consumers, when selecting the economically most favourable service in the procurement. Depending on the selected ticket trader, these fees are set both as fixed fees up to 1.50 euro per one ticket, and as a percentage up to 7 % of the ticket price.

In order to increase competition and acquire the financially most beneficial solution for consumers, the service fee shall be set as one of the procurement assessment criteria, when organising a procurement.

The Competition Council also noticed that cooperation agreements on ticket trading are concluded for excessively long periods; therefore, it would be advisable to conclude agreements for a period from one year up to three years, instead of the usual five years. ■

IMPACT ON COMPETITION OF PUBLIC ADMINISTRATIVE BODIES

Involvement of the state and local governments in entrepreneurship

In 2020, the Competition Council received **200 applications** in relation to activities of public administrative bodies – the state, local governments and their capital companies – incl. alleged competition distortion.

To eliminate the risks of the public administrative body groundlessly engaging in commercial activity and causing competition distortion by such action, public administrative bodies, when establishing new capital companies or reassessing their participation in the existing capital companies, have to assess planned activities.

Such an assessment, including evaluation of the impact on competition, shall be carried out at least once every five years. Majority of public administrative bodies have carried out the assessment at the end of 2015, so it was expected that a significant number – at least 120 – assessments of participation in a capital company will be received in 2020. However, the Competition Council provided in total **72 opinions**. The number of opinions does not reach the planned level, because some public administrative bodies did not prepare the required assessments within the terms set in 2020 both due to COVID-19, and also due to changes to the regulatory framework, as those local governments that are subject to the forthcoming administrative territorial reform are released from preparation of assessment of participation in a capital company until formation of the new administrative units. Consequently, it is planned that the number of assessments of participation of public administrative bodies in a capital company will be high also in 2021.

A Self-assessment tool - before establishing a capital company

To facilitate the assessment process for public administrative bodies in relation to **participation in a capital company**, the Competition Council prepared **a self-assessment tool** in 2020. The aim of this self-assessment tool is to facilitate the convenient legal and economic assessment of the economic activity for public administrative bodies. This assessment covers all the most essential risks that a public administrative body shall pay attention to, thus obtaining all the necessary information before the decision-making on establishing a capital company or retaining participation in a capital company.

The principle of competition neutrality

On 1 January, amendments to the Competition Law came into effect, which impose **an obligation to observe competition neutrality on public administrative bodies**.

The Competition Council detected that because of public administrative bodies actions its' capital company SIA "Jēkabpils ūdens" had advantage of the provision of sewerage services that were not available to private service providers. To **eliminate the infringement of the competition neutrality**, the Competition Council **commenced a negotiation procedure** with SIA "Jēkabpils ūdens" in 2020.

Competition promoting regulatory enactments

To prevent possible competition restrictions, which may be facilitated by the regulatory framework, the Competition Council **prepared 42 opinions concerning approximately 15 sectors of the national**



Antis Apsītis, the Head of the Competition Promotion Unit:

"When the state, local governments and their capital companies engage in entrepreneurship or work with issues that may affect the competition situation on the market, competition neutrality is an

especially important concept. With the amendments to the Competition Law, which impose an obligation on public administrative bodies to observe competition neutrality, we have moved a step closer to more organised business environment, where private service providers are more protected from possible discrimination on the market, implemented by the state and local governments, and are motivated to invest in their development. Whole society will benefit from it."

economy for legislators in 2020. In nine cases the Competition Council achieved development of regulatory framework that is favourable for competition.

The Competition Council made objections to amendments to the Waste Management Law to resolve the unfair requirement – starting from 2020, end-of-life vehicle processing companies shall provide a financial security equal to 100,000 euros, regardless whether a company processes 20 vehicles or more. This requirement resulted in pushing two thirds of market participants out of the market. After the objections made by the Competition Council, rights for the Cabinet of Ministers to differentiate the amount of the financial security were provided for.

Moreover, the Competition Council called to make amendments to the Public Procurement Law to eliminate the possibility for entrepreneurs related to bid-rigging to avoid the prohibition to participate in public procurements and further promote the efficiency of *the Leniency Programme*. The Competition Council proposed that also persons related to bid-rigging, for example, parent companies that are responsible for payment of fine, may be excluded from public procurement. The Cabinet of Ministers accepted the proposal, and currently, it is in the adoption process in Parliament.

Already for years the Competition Council has expressed its opinion that local governments create a risk to fair competition on the media market by issuing their printed informative publications. Therefore, the amendments to the Law adopted on 8 October, which stipulate that local governments are entitled to issue free printed informative publications not more than once per month, where they will be able to inform the public about fulfilment of their functions, can be assessed as positive.

To facilitate adoption of regulatory framework that is favourable for competition, representatives of the Competition Council **defended the principles of fair competition in 40 events**, incl. in the Cabinet of Ministers, the Saeima, etc. ■

LITIGATIONS

In 2020, **three legal proceedings were completed** in relation to decisions adopted by the Competition Council. In all cases legal proceedings ended in favour of the Authority. In total, representatives of the Competition Council ensured legal representation in **30 court hearings**.

In 2020, companies that were penalised for infringements of the competition law, incl. after termination of legal proceedings and coming into effect of the decision adopted by the Competition Council, **paid 934,957.36 euros into the state budget**.

In addition, the Authority was intensively attracted for giving opinions in **seven proceedings at the Constitutional Court and the Court of Justice of the European Union** in 2020. The Authority has given its opinion to the Constitutional Court regarding amendments to the Law on Institutions of Higher Education, restrictions for advertising of medicinal products, Riga City Council Dismissal Law from the competition law's perspective well as regarding restrictions on gambling activities during COVID-19 pandemic. Over the course of this period, the Competition Council has also participated in the preparation of national positions for the Court of Justice of the European Union on topical issues of application of the competition law, as well as got involved as an independent participant of the proceedings for the first time, providing explanations of the Authority in preliminary ruling proceedings, where a decision adopted by the Competition Council has been appealed.

Applications of building materials traders have been rejected

On 31 August 2017, the Competition Council adopted a decision on a prohibited agreement concluded by building materials traders, which was appealed in the court by three infringers – SIA “DEPO DIY”, AS “Kesko Senukai Latvia” and SIA “Tirdzniecības nams “Kurši””.

On 17 February 2020, the Administrative Regional Court adopted a judgment to reject applications filed by AS “Kesko Senukai Latvia” and SIA “Tirdzniecības nams “Kurši””, and on 3 April – to reject also the application filed by SIA “DEPO DIY” on cancellation of the decision adopted by the Competition Council. The decision of the Competition Council regarding AS “Kesko Senukai Latvia” has come into effect because the market participant decided not to appeal the unfavourable court judgment. Whereas SIA “Tirdzniecības nams “Kurši”” and SIA “DEPO DIY” have appealed the judgment in the court of the next instance.

During the case investigation, the Competition Council assessed an agreement concluded by building materials manufacturers SIA “Knauf” and SIA “Norgips”, as well as four largest retailers of building materials – SIA “DEPO DIY”, AS “Kesko Senukai Latvia”, SIA “Tirdzniecības nams “Kurši”” and SIA “Krūza” –, over a long period of time fixing the minimum resale price level and specific price level for products distributed by SIA “Knauf” and SIA “Norgips”. The Competition Council established in the decision that the agreement manifested itself both as vertical restrictions between SIA “Knauf” and SIA “Norgips” and retailers, and as horizontal bid-rigging agreements by retailers achieving common understanding and coordinated action regarding unified operational principles and mutual control in implementation of the agreement concerning products of SIA “Knauf” and SIA “Norgips”.

The Competition Council adopted a decision to impose a fine equal to 5.8 million euros on three traders of building materials – AS “Kesko Senukai Latvia”, SIA “Tirdzniecības nams “Kurši””, as well as SIA “DEPO DIY” – for the concluded prohibited agreement. Prior to adoption of the decision, administrative agreements were concluded with SIA “Knauf”, SIA “Norgips” and SIA “Krūza”, which provided for termination of legal dispute and payment of a fine in total of 1.6 million euros.

The court confirms participation of SIA “Rīgas satiksme” in a prohibited agreement

On 20 April, the Administrative Regional Court **left effective** the decision of the Competition Council, according to which the Authority detected in 2019 **a prohibited agreement concluded between SIA “Rīgas satiksme” and six other companies** in price quotations **on supply of nanotechnology chemicals**, organised by a company owned by the local government. This was the first decision, in which the Competition Council detected participation in a prohibited agreement by the procurement organizer SIA “Rīgas satiksme” itself, as the company actively promoted formation of the prohibited agreement in its price quotations. The public administrative body was penalised alike each of the other participants of the prohibited agreement.

The Competition Council detected that six market participants with the support of the public administrative body coordinated their tenders in two price quotations organised by SIA “Rīgas satiksme”, implemented in the period from 2012 to 2014 with the total contract sum exceeding 800 thousand euros and aimed at ensuring supply of nanotechnology chemicals. ■



Valentīns Hitrovs, the Head of the Legal Department:

“The year 2020 marked itself as a year of development and growth in the Legal Department. Alongside the basic task to ensure legality of the Authority’s work and represent the Authority in court authorities, application of the competition law was explained also in examination of constitutional disputes. In cases, when a company defends its rights granted by the Constitution, it frequently concerns existence on the market on equal competition conditions, which can be restricted by the state through the regulatory enactment that is appealed by the market participant. It is essential in examination of disputes to identify the competition issues and give their interdisciplinary characteristics not only in terms of law aspects, but also economic aspects. To achieve this aim, also teamwork has a great role both at the level of structural unit, and the Authority in general.”

CHANGES IN THE LEGAL FRAMEWORK

Competition neutrality has come into effect

On 1 January, **amendments to the Competition Law came into effect** in Latvia, which prohibits **public administrative bodies – the state, local governments and their capital companies – from infringement of the principles of equal competition** by groundlessly restricting the possibilities of private entrepreneurs to operate on the market.

These amendments to the Competition Law prohibit public administrative bodies from discriminating against other market participants, creating advantages for their capital companies and implementing activities that result in entrepreneurs being forced to leave the market. If the Competition Council spots any alleged infringement of the law conditions, the Authority will first initiate negotiations with the particular state authority, local government or its capital company. In case of unsuccessful negotiations, the Authority will be entitled to impose legal obligations and disciplinary sanctions on capital companies – a fine up to 3 % of the previous year's turnover.

The first year of amendments to the Competition Law was focused on education and consulting. To help public administrative bodies adapt to the new requirements of the law, the Competition Council organised several educational activities in 2020 and acquainted both with the competition neutrality assessment guidelines and the self-assessment tool, by which a public administrative body can verify the conformity of its activities to the principles of fair competition.

Resources required for all competition authorities in Europe

To harmonise the investigation of competition infringements and make the operation of competition authorities of the European Union Member States more efficient, the European Parliament and the Council adopted the so-called **ECN+ Directive** in 2018, following a proposal from the European Commission. **It states that national competition authorities shall be provided with the required powers, independence guarantees, and resources** to ensure efficient prevention of infringements of the competition law.

ECN+ Directive provides for the necessity of competition authorities for efficient investigation and decision-making instruments, properly developed Leniency Programme, independence in the decision-making and investigation process, and sufficient technical, technological and human resources for fulfilment of their tasks.

The Directive shall be integrated into the national laws in 2021. Within the framework of the development of the regulatory framework in 2020, the planned amendments to the Competition Law related to ECN+ Directive to be integrated have been prepared and submitted for cross-institutional coordination at the meeting of the State Secretaries. In addition to the introduction of the ECN+

Directive requirements, the Competition Council has prepared amendments to the Cabinet of Ministers Regulations that provide for a procedure regarding the determination of fines.

Prohibitions of unfair trade practice are extended

In 2018, the European Parliament, the Council and the Commission agreed on a new set of conditions, ensuring the protection of European Union farmers and companies operating in the food products supply chain against unfair practice and trade.

Unlike URTPPL, which already exists in Latvia and protects suppliers' interests against market power of retailers, this Directive refers to the types of unfair trade practice to the entire food products supply chain – from the manufacturer to the retail store.

In 2020, the Competition Council, in cooperation with the Ministry of Agriculture, participated in several cross-institutional meetings aimed at integrating the new legal framework into the national laws, which provides for the extension of the existing URTPPL in the case with Latvia. The new **draft Unfair Retail Trade Practice Prohibition Law** will come into effect on 1 November 2021. ■

COMMUNICATION AND COOPERATION

In 2020, representatives of the Competition Council ensured participation in 34 events organised by the Authority or other organizations.

Education of target groups for improvement of competition environment

Taking into consideration the results of the public opinion survey, two most significant problems of the competition law in Latvia are bid-rigging in public procurements and competition distortions caused by public administrative bodies; thus, these two groups are the priority target groups of the Competition Council, where raising understanding of free and fair competition is necessary.

To prevent the most significant infringements of the competition law, for example, prohibited agreements of entrepreneurs, the Authority organised **educational seminars and webinars for entrepreneurs**, for instance, a seminar for the Latvian Electrical Material Wholesalers' Association, a seminar for entrepreneurs in cooperation with "Iepirkumi" magazine, as well as a webinar for young entrepreneurs in collaboration with the Investment and Development Agency of Latvia.

In order to promote development of procurement environment, **the Competition Council held seminars for organizers of public procurements**, thus strengthening the competence to recognise features of bid-rigging among tenderers. Among other things, the Competition Council educated procurement specialists in collaboration with the Procurement Monitoring Bureau, "Iepirkumi" magazine, and also implemented targeted work with specialists of capital companies of Riga Municipality, for example, organizers of procurements of "Rīgas ūdens" and "Rīgas namu pārvaldnieks".

Considering that amendments to the Competition Law came into effect on 1 January 2020, the Competition Council

addressed enhanced **education of public administrative bodies – the state, local governments and their capital companies – on the new norm of the Law**. The Competition Council organised a webinar "Involvement of the state in entrepreneurship", for representatives of the state capital companies and visited Kuldīga with an educational seminar in cooperation with the Latvian Chamber of Commerce and Industry. Also, other events for public administrative bodies were implemented in 2020, for example, in collaboration with the Latvian Association of Local and Regional Governments, Procurement Monitoring Bureau and capital companies of Riga Municipality.

Central topic: public administrative bodies in competition

In addition to seminar events, the Competition Council organised two activities in the second half of the year, the main topic of which was decisions and actions of the state, local governments and capital companies regarding entrepreneurship. In autumn, the Competition Council invited entrepreneurs and other public members to participate in **the Authority's campaign "Most Preposterous Obstacle to Competition"** and submit unjustified obstacles that have been included in procurements by public administrative bodies. The Authority, together with the Procurement Monitoring Bureau, assessed the submitted obstacles for competition, and the award in the nomination "Competition Advocate 2020" was received by the Artistic Guest House "Ārpus laika", the Society "Latvian Building Information Modelling Society" and the company SIA "ZEMGUS LB".

In honour of World Competition Day, the Competition Council, in cooperation with the Procurement Monitoring Bureau, held **the discussion event "Point of Contact: Competition"**, which was dedicated to the topic of public procurements. Representatives of the Competition Council and the Procurement Monitoring Bureau looked for a common point in the competencies of both supervisory authorities in the sector of public procurements. They collectively discussed the responsibility of organizers of public procurements in ensuring fair competition.



For the second year in a row the Competition Council organized campaign "Most Preposterous Obstacle to Competition" and awarded the best initiatives with nomination "Competition Advocate"



The Competition Council participated in the conversation festival “LAMPA”

Activities for ensuring more extensive public involvement

Alongside education of various target groups, the Competition Council organised or participated in public activities implemented by other organizations – conferences, forums, thematic events, etc.

The Competition Council **participated in the conversation festival “LAMPA”** for the third time, this time to discuss the values instilled in families and gained during life, which promotes public involvement in nationally significant events, incl. reporting infringements.

The Authority also engaged in **education of pupils and students**, telling about the competition law within the framework of the Shadow Day and reading lectures to students of the University of Latvia and Turība University.

Alongside joint educational activities, the Competition Council had **71 cross-institutional cooperation meetings** on various topics.

Competition Council develops digital communication

In 2020, the Competition Council continued active use of various communication tools for reaching new audiences – in total **19 recordings of the Competition Council podcast and videos** have been prepared. In the podcast, experts offer to find out about topicalities of the competition law, decisions adopted or market inquiries carried out by the Authority, as well as about other topics, for example, in relation to promotion of the competition culture, for example, reporting of infringements, in an easily comprehensible manner in audio format and through video messages.

The podcast on competition can be listened to on the website www.kp.gov.lv and on the channel of the Competition Council on SoundCloud and Spotify platforms.

Public participation

The Competition Council held **29 meetings with entrepreneurs and non-governmental organizations** to discuss competition development and problem issues in various sectors and promote observing of principles of fair competition. In addition, the Authority ensured for these target groups informative seminars on various aspects of observing of the competition law, including prevention of prohibited agreements among competitors or within associations.

The Competition Council prepared **three self-assessment tools**, out of which two documents are targeted to public administrative bodies, and one – to market participants. One of these self-assessment tools was developed for entrepreneurs to be able to recognise possible bid-rigging risks in their activities. The second self-assessment tool was developed for state administration authorities to assess, whether establishment of their capital companies will not cause harm to competition. Whereas the third tool is intended for procurement organizers to be able to identify bid-rigging features in their procurements. In 2020, the Competition Council also started working on a self-assessment tool concerning vertical agreements of companies.

International activities

In 2020, representatives of the Competition Council promoted recognition of Latvia and strengthened the position of the Authority in the international environment, **taking the floor in 24 events abroad**, incl. events organised by the Organization of Economic Cooperation and Development (OECD), the International Competition Network and the European Competition Network. ■

MANAGEMENT OF THE COMPETITION COUNCIL

Performance indicators of the Competition Council

In general, the Competition Council has fulfilled the planned performance results in 2020, which were defined for the Authority in the sub-programme "Introduction of Competition Policy". In several items of performance results, incl. in relation to application of URTPPL, legal proceedings, provision of opinions and proposals, education of the public and international cooperation, the planned value has been exceeded.

Indicator name / Measure name	Planned value	Implementation
Preventive measures and investigation of alleged infringements, as well as market inquiry have been carried out <i>Total number of measures/number of high priority measures</i>	25/11	21/11
incl. investigation of alleged infringements/market inquiry in relation to application of URTPPL has been carried out <i>Total number of measures</i>	2	4
incl. research and promotion of competition issues on the markets, where free and fair competition (incl. competition neutrality) is negatively affected by involvement of public administrative bodies <i>Total number of measures</i>	3	3
incl. identification of obstacles for access to digital services by consumers and market participants, and competition promotion measures, ensuring elimination of these obstacles <i>Total number of measures</i>	1	1
Impact of consequences of planned mergers and agreements of market participants on the competition environment has been assessed <i>Number of cases/number of high priority cases</i>	16/6	11/2
In-depth analyses of data (e-evidence) obtained during inspections were carried out <i>Number (calculated once per year)</i>	8	9
Representation in legal proceedings (physical representation and written representation) <i>Quantity</i>	18	30
Proportion of completed administrative proceedings in the court and Authority decisions left effective in favour of the Authority <i>Percentage (calculated once per year)</i>	>80	100%
Provided explanations, opinions, proposals, ensured development of regulatory enactments and guidelines <i>Number of documents</i>	230	259
incl. provided explanations, opinions, proposals, ensured development of regulatory enactments and guidelines in relation to application of URTPPL <i>Number of documents</i>	12	15
incl. in relation to application of Section 88 of SASL <i>Number of documents</i>	120	72
Eliminated restrictions imposed by public administrative bodies (achieved positive proportion to the total number of implemented measures) <i>Percentage (calculated once per year)</i>	20%	24%
Raising of public understanding of free and fair competition <i>Total number of measures</i>	20	34
incl. in relation to application of URTPPL <i>Total number of measures</i>	3	5
Positive evaluation of activities by the Competition Council from entrepreneurs (% proportion of survey answers to the respective question was "positive" and "rather positive") <i>Percentage (calculated once per year)</i>	Not calculated in 2019	Not calculated in 2020
The role and recognition of the Competition Council in the international environment has been strengthened (number of publications and events with taking the floor) <i>Total number of measures</i>	34	55
Personnel turnover (number of employees who have left against the total number of employees) <i>Percentage (calculated once per year)</i>	<20	28%
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) <i>Percentage (calculated once per year)</i>	>85	Not calculated in 2020
Public benefit from the operation of the Competition Council	>20	24.1

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).

The financial resources (total) planned at the start of the reporting period comprise 1,304,484 euros, their execution – 1,303,132 euros, incl. reallocated funds equal to 13,642 euros. In 2020, the Competition Council acquired 99.9 % of the financing allocated to the Authority.

No.	Financial indicators	In the previous year (actual execution)	In the reporting year	
			plan	actual execution
1.	Financial resources for covering costs (total)	1 387 629	1 304 484	1 303 132
1.1.	grants	1 387 629	1 304 484	1 303 132
1.2.	paid services and other own revenue			
1.3.	foreign financial assistance			
1.4.	donations and gifts			
2.	Expenditure (total)	1 379 900	1 304 484	1 303 132
2.1.	maintenance expenditure (total)	1 351 523	1 290 484	1 290 484
2.1.1.	current expenditure	1 351 523	1 290 484	1 290 484
2.1.2.	interest expenditure			
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	28 377	14 000	12 648

IMPROVEMENTS IN THE MANAGEMENT OF THE AUTHORITY

To ensure successful and consistent operation of the Authority, the Competition Council improved several internal processes and developed respective internal regulatory enactments in 2020.

The Authority **revised and updated the document management system** to make internal circulation of documents successful and efficient, and to ensure that the management procedure is implemented according to the current situation.

Management documents – the rules of procedure of the Authority and one individual department – **were updated**. The procedure of organisation of business trips was improved, and a new procedure of organisation of procurements was developed. The conflict of interest reporting procedure and restricted access policy was updated. The Authority revised and improved the accounting documents circulation scheme.

Ensuring conformity of the Authority's operation to the **legal framework on the protection of personal data**, competencies for cooperation with the supreme authority were specified, one impact assessment was carried out and the composition of the established incident commission was updated. Also, the **state secret and anti-corruption internal control system was improved**, incl. updating of the list of positions exposed to the

corruption risk, and revision of the anti-corruption plan.

In 2020, the Competition Council strengthened its investigation capacity, acquiring **new electronic evidence gathering, processing and analysis software and equipment**, thus starting improvement of the technical provision of the Authority, intended for more efficient investigation of infringements of the competition law.

During the year, employees of the Competition Council **attended 59 training courses held by external lecturers**, thus raising their professional competence on fraud prevention, data visualization, anti-corruption measures, processing of personal data, entrepreneurship and economics, as well as other topics.

To ensure exchange of good practice in the organization and institutional memory, **two internal events** took place at the Competition Council in 2020, incl. training activities that were implemented through assistance by the Authority employees.

Considering the fact that the year 2019 is the final stage of the Competition Council 3-year strategy, the Authority **developed a new operational strategy**, which will cover the period from 2020 to 2022.

PRIORITIES AND TASKS IN 2021

The year 2021 was the second year of implementation of the 3-year (2020-2022) operational strategy of the Competition Council. The Competition Council has defined three priorities for achieving the set overarching goal of the authority:

1. **More efficient** protection of competition;
2. **Professional, engaged and development-** and cooperation-oriented employees;
3. **More comprehensive** education of the public and competition promotion.

Based on the aforesaid main priorities, the authority has defined three main operational directions.

1. Support to market participants in operating under conditions of fair competition

According to the results of the public opinion survey, there are two significant problems in the competition area of Latvia: prohibited agreements in procurements and activities of state and local governments that create conditions of unequal competition or discriminate entrepreneurs; moreover, the Competition Council pays particular attention to competition

distortions caused by public administrative bodies since 2020, when amendments to the Competition Law came into effect.

In addition to that, the Competition Council has to monitor and prevent infringements of abuse of the market power by the dominant companies, market concentration that is harmful for competition, unfair trade practice and inclusion of groundless competition restrictions in laws and other regulatory enactments.

Therefore, in the year 2021:

- ▶ The Competition Council will ruthlessly turn against the most severe infringements of the competition law, also concluding investigation of the alleged infringements in the construction and waste management sectors.
- ▶ In order to timely identify administrative obstacles or obstacles created by market participants for free and fair competition, during the market surveillance, the Competition Council will focus on the sectors with significant influence on the national economy, as well as the markets that experience rapid growth or introduce innovations that may increase the market influence in the nearest future; among other things, the authority will pay attention to competition conditions in retail sales, insurance and finance,

and heat supply areas, and the impact of digital platforms on customers and competitors.

- ▶ Considering that Section 141 of the Competition Law came into effect in 2020, extending the authority's powers in surveillance of public administrative bodies and their capital companies, and that in 2020 and 2021 majority of state and local government capital companies have to carry out reassessment of their activity on markets in accordance with Section 88 of the State Administration Structure Law, the Competition Council will continue consulting and education of public administrative bodies with the aim to prevent groundless competition obstacles and ensure fair competition conditions; however, if necessary, the authority will immediately use its powers stipulated in the Competition Law, conducting an in-depth investigation of priority cases.
- ▶ The Competition Council will actively address inclusion of groundless competition restrictions in the regulatory framework of different sectors, and will participate in the process of improvement and development of the regulatory framework of the competition law in order to achieve closer harmonisation of the Latvian and European competition laws, also integrating into the national regulatory enactments the ECN+ Directive, which determines that all European competition authorities shall be provided with resources required for work, and the Directive on prohibition of unfair trade practice in the entire food supply chain, and will eliminate the identified shortcomings in the effective regulatory enactments concerning the competition law, based on the accumulated experience.

2. Strong, independent and influential state administration authority, the opinion of which is taken into consideration

In order to provide as efficiently and qualitatively an opportunity for every market participant to carry out the economic activity under free and fair competition conditions, and to facilitate development of competition in all sectors of the national economy, the Competition Council needs to constantly develop and strengthen the capacity of the authority according to the current trends.

Under the influence of various factors, mainly the economic globalisation and new digital tools, markets and behaviour of market participants experience rapid changes. Detection of infringements of the competition law, bid-rigging in particular, becomes increasingly more complicated due to the complexity of infringements, as well as technical and technological development. The technical equipment of the Competition Council for obtaining and processing of digital evidence is insufficient and is lagging behind those solutions that are available to market participants for concealing the evidence. As a result, detection of competition distortions from specialists of the authority requires not only new knowledge and methods of analysis but also specific technical solutions, including automated tools that can record and analyse information that may indicate to alleged competition deformation on the market.

The necessity to strengthen the capacity of the authority is stressed both by recommendations of the Organization of

Economic Cooperation and Development (OECD), and the ECN+ Directive.

Therefore, in the year 2021:

- ▶ The Competition Council will develop the HR management policy, making its formulation clear and understandable for employees, so that every employee could see their opportunity for growth in this policy.
- ▶ The Competition Council will take care of development of competencies, facilitating personal growth of employees.
- ▶ The Competition Council will strengthen the capacity of information technology, establishing an IT laboratory and ensuring an opportunity for employees to use the latest IT technical equipment for obtaining and processing of electronic evidence, paying particular attention to the possibilities of development of automated tools for identification of features of cartel agreements.

3. Education of the public, strengthening cooperation with partners on a national and international scale

For entrepreneurs to understand the benefits of fair and free competition and act in good faith, the Competition Council needs to implement its communication activities not only in its direct target group (entrepreneurs, public administrative bodies), but also at the secondary level, for example, developing targeted communication activities at the level of societies of business communities (societies representing entrepreneurs), at the level of organizations, i.e., cooperating with other state administration authorities that deal with education of market participants, and at the political level, timely following changes to regulatory enactments and stimulating their compliance with the principles of fair competition.

Therefore, in the year 2021:

- ▶ Market participants, especially those who represent the sectors that are most frequently "cartelised" and affected by other infringements of the competition law, as well as public administrative bodies, will be educated in a way that is convenient for them: in seminars, webinars and individual consultations.
- ▶ In case of less important competition restrictions, the Competition Council will preventively warn and educate both companies and public administrative bodies, using the "Consult at first" principle.
- ▶ The authority will continue to develop tools that encourage entrepreneurs and public administrative bodies to control their conduct and participate in prevention of competition infringements themselves, for example, through developing convenient self-assessment tools and promoting the opportunities offered by the Leniency Programme.
- ▶ Considering the rapid development of information technology and habits of the public in using information, the Competition Council will strengthen its digital ecosystem as a unified whole, using different tools of digital communication (podcasts, video messages, infographics) and also actively addressing new audiences on social media platforms. ■

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