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Republic of Latvia

Cabinet

Regulation No. 799

Adopted 29 September 2008

Procedures for Submission and Examination of a Notification Regarding Agreement Between Market Participants

*Issued pursuant to
Section 11, Paragraph three of the
Competition Law*

1. These Regulations prescribe the procedures by which a notification regarding the agreement, which is referred to in Section 11, Paragraph one of the Competition Law, (hereinafter – notification) is submitted to and examined by the Competition Council (hereinafter – Council).
2. The notification shall be submitted by market participants or an authorised person thereof.
3. The documents referred to in the Annex to these Regulations shall be appended to the notification.
4. The requirements of Section 26.¹ of the Competition Law shall be applied for specification of the restricted access information included in the notification.
5. The notification shall be signed by authorised officials.
6. The day for submitting the notification shall be the date when all the information referred to in Annex to these Regulations is received at the Council. The Council shall inform a submitter of the notification (hereinafter – submitter) in writing regarding receipt of the referred to information.
7. If the Council determines that all of the information referred to in the Annex to these Regulations has not been submitted, the Council shall inform the submitter in writing thereof within 10 days from the date of receipt of the notification.
8. The Council shall publish information regarding receipt of the notification on the website thereof (<http://www.kp.gov.lv>) and indicate the participants of the agreement and the date of receipt of the notification.
9. After receipt of the notification the Council shall evaluate the submitted information and, if necessary, request additional information from the submitter.

10. The submitter shall inform the Council without delay regarding changes in circumstances or facts, which become known after submission of the notification. If the respective changes may affect the evaluation of the agreement, the Council may specify that the day of submitting the notification is the day when complete information regarding the respective changes was received and shall, within 10 days, inform the submitter in writing thereof .

11. The Council shall assess the conformity of the agreement with the conditions referred to in Section 11, Paragraph two of the Competition Law.

12. The Council shall examine the notification within one month after submission thereof. If additional examination of the notification is necessary, the Council shall take a decision regarding an extension of the referred to term for a period of time not exceeding four months from the date of submission of the notification and shall inform the submitter thereof.

13. In order to ensure hearing of the opinions of market participants regarding the impact of the agreement on competition, the Council may publish an invitation for the market participants to provide a justified opinion regarding the impact of the agreement on competition on the website <http://www.kp.gov.lv> after commencement of additional examination of the notification. The market participants, the type of agreement, the economic sectors affected by the agreement, the deadline for the submission of an opinion and type thereof shall be indicated in the invitation. The Council may ignore an opinion that is received without respect to the deadline indicated in the invitation.

14. If the Council deems that the agreement does not correspond to the conditions referred to in Section 11, Paragraph two of the Competition Law, it shall inform the submitter regarding the opinion thereof in relation to the notified agreement prior to taking a decision. The submitter has the right to submit proposals regarding conditions, upon existence of which the agreement would correspond to Section 11, Paragraph two of the Competition Law.

15. The Council is entitled to repeal a decision regarding permitting an agreement if at least one of the following conditions is in effect:

15.1. the actual and legal circumstances, upon existence of which at the time of taking the decision the Council might not have taken such decision, have changed and the continuation of the decision being in force affects significant interests of the society (significantly hinders, restricts or distorts competition in the territory of Latvia);

15.2. the conditions specified in the decision have not been fulfilled, have not been duly fulfilled or have not been fulfilled in due time; or

15.3. a participant of the agreement has held back information which might have affected the evaluation of the agreement or has provided false information, which served as grounds for taking the decision.

Prime Minister

I. Godmanis

Minister for Economics

K. Gerhards

Notification regarding the Agreement Referred to in Section 11, Paragraph One of the Competition Law

1. Information regarding each participant of the agreement:
 - 1.1. name, registration number in the Commercial Register or – for foreign merchants – in a register equivalent to the Commercial Register;
 - 1.2. legal address, telephone and fax number, e-mail address, address of the Internet site;
 - 1.3. actually implemented and planned types of activity;
 - 1.4. authorised person;
 - 1.5. net turnover during the last two financial years in the territory of Latvia;
 - 1.6. the market participants or natural persons who have a decisive influence within the participant of the agreement (the information referred to in Sub-paragraphs 1.1, 1.2 and 1.3 of this Annex shall be indicated for market participants; given name, surname, actual address of the place of residence, telephone and fax number, e-mail address – for natural persons);
 - 1.7. the market participants, within which the participant of the agreement has a decisive influence if they are situated in the territory of Latvia or if their goods are sold in the territory of Latvia (the information referred to in Sub-paragraphs 1.1, 1.2 and 1.3 of this Annex shall be indicated);
 - 1.8. the market participants, within which the market participants referred to in Sub-paragraph 1.6 have a decisive influence if they are situated in the territory of Latvia or if their goods are sold in the territory of Latvia (the information referred to in Sub-paragraphs 1.1, 1.2 and 1.3 of this Annex shall be indicated); and
 - 1.9. the market participants, within which the participant of the agreement and any of the market participants referred to in Sub-paragraphs 1.6, 1.7 and 1.8 of this Annex have a joint decisive influence, if they are situated in the territory of Latvia or if their goods are sold in the territory of Latvia (the information referred to in Sub-paragraphs 1.1, 1.2 and 1.3 of this Annex shall be indicated).
2. Information regarding a joint authorised representative of the participants of the agreement (if any):
 - 2.1. given name, surname, position; and
 - 2.2. address, telephone and fax number, e-mail address.
3. Information regarding the agreement:
 - 3.1. the subject-matter of the agreement;
 - 3.2. the purpose of entering into the agreement;
 - 3.3. provisions, which hinder, restrict or distort competition and due to which this agreement is subjected to the prohibition of the agreement referred to in Section 11, Paragraph one of the Competition Law;
 - 3.4. the provisions, due to which this agreement is not exempted pursuant to the Cabinet provisions prescribing individual agreements between market participants, which are not subjected to the prohibition of the agreement referred to in Section 11, Paragraph one of the Competition Law; and

3.5. the time of entering into effect and operation of the agreement.

4. Information regarding particular markets:

4.1. the particular market (markets) which is affected or may be affected by the notified agreement, justification thereof;

4.2. the market participants referred to in Sub-paragraphs 1.6, 1.7, 1.8 and 1.9 of this Annex who:

4.2.1. operate in the particular market;

4.2.2. operate in a market that is vertically related to the particular market;

4.3. the volume of the particular market according to the turnover (in lats) and volume (in units) if there is such information at the disposal of the submitter;

4.4. the turnover of the previous two years (in lats) of each participant of the agreement and the market participant indicated in Sub-paragraph 4.2.1 of this Annex and the market share according to both the turnover (in lats) and volume (in units) in each particular market;

4.5. the market share of the previous two years (in lats) of each participant of the agreement and the market participant indicated in Sub-paragraph 4.2.2 of this Annex according to both the turnover (in lats) and volume (in units) in each vertically related market;

4.6. the five main competitors of the participants of the agreement in each particular market, in which the total market share of the participants of the agreement exceeds 15%. If there is no accurate information regarding the market shares of competitors at the disposal of the participants of the agreement, an evaluation of the possible market shares of competitors shall be provided in the notification;

4.7. the five main suppliers and clients of the participants of the agreement in the particular market, legal address and registration number thereof in the Commercial Register;

4.8. factors which at present affect entering in the particular markets and the market participants who have entered during the previous two years; and

4.9. an evaluation of the opportunities for the development of competition.

5. Documents to be appended to the notification:

5.1. powers of attorney, specifying the right of authorised persons to represent one or all the participants of the agreement during examination of the notification;

5.2. an agreement – a contract, a decision of the association of market participants or a draft thereof;

5.3. articles of association of the participants of the agreement;

5.4. annual reports on the last financial year of the participants of the agreement;

5.5. other information (if such is at the disposal of the submitter) regarding particular markets, existing and potential competitors and market conditions (for example, market research carried out by the participants of the agreement or prepared upon their order);

5.6. a draft public notification regarding the agreement (containing a short description of the essence of the agreement); and

5.7. a certification that complete and true information has been submitted and all the participants of the agreement have been informed regarding the submission of the notification.

Minister for Economics

K. Gerhards