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**OPERATIONAL STRATEGY OF
THE COMPETITION COUNCIL
2007 – 2009**

Riga 2006

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INTRODUCTION

The operational strategy of the Competition Council (2007 - 2009) is a medium-term policy planning document that has been developed in accordance with the requirements of the Cabinet Regulation No 111 of 12 March 2002 „Rules of Procedure of the Cabinet of Ministers”, subchapter 2.6.

The operational strategy of the Competition Council (2007 - 2009) has been developed to effectively ensure supervision of the Competition Law and the Advertising Law by implementing the functions and duties assigned to the institution.

The strategy defines the priority fields of activity and tasks of the Competition Council as well as defines the categories of results to be achieved:

- The competition policy results are positive changes in economy and society that are associated with implementation of the relevant programme and most directly expressed in terms of quality according to the defined fields of activity. It should be taken into account that they perform support functions primarily for the budgetary programmes of the Ministry of Economics and other line ministries by providing an environment that ensures a broader choice for consumers and an innovative performance of companies as a result of competition. Implementation of the competition policy fosters achievement of policy results included in other budgetary programmes.

- The performance results are the activities that are directly within the Competition Council's authority and competence.

1. INFORMATIVE PART

1.1. Authorisation of the Competition Council's Performance

The Competition Council is a direct administrative institution, which implements the state policy in the fields of development and protection of competition and is subordinate to the Ministry of Economics.

The duties and rights of the Competition Council are defined in the Competition Law, the Advertising Law, the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the Cabinet Regulation No 849 adopted on 12 October 2004 „By-laws of the Competition Council”, etc.

The duties of the Competition Council are:

1. To ensure a coherent application of the competition legislation so as:
 - 1.1. The market participants do not conclude prohibited agreements;
 - 1.2. There are no changes in the relevant market that could have a negative impact on consumers and other market participants in case of a merger of market participants;
 - 1.3. The market participants do not abuse their dominant position, thus negatively influencing other market participants and consumers;
 - 1.4. The market participants do not perform activities that are deemed unfair competition in the meaning of the Competition Law;
 - 1.5. The market participants do not disseminate misleading advertising.
2. Within the competence of the Competition Council, to promote competition in markets with no or limited competition.
3. To ensure that legislation developed by other state institutions ensures protection, maintenance and development of competition.
4. To ensure that society is broadly informed about the positive effects of competition on functioning of market and welfare of population.
5. To ensure that Latvia's interests are fully represented in the relevant institutions of the European Union (hereinafter - EU) and international organisations.

In order to perform these duties, the Competition Law delegates the following broad powers to the Competition Council:

1. To investigate violations of law using a broad choice of tools, for example, obtaining information from the market participants, accessing the premises of the market participants, withdrawing property and documents,
2. To impose legal obligations and fines,
3. To perform market assessments,
4. To prepare opinions regarding the conformity of activities performed by the market participants and officials with the Competition Law and the Advertising Law,
5. To prepare opinions regarding draft legislation.

According to the Competition Law, neither the Cabinet of Ministers nor the Minister of Economics, nor other persons can give directions to the Chairperson and members of the Competition Council regarding the initiation of investigation of a matter in a particular case as well as regarding the manner, in which investigation should be conducted or a decision should be taken.

In addition, the administrative liability applies in cases of not fulfilling the lawful requests of officials of the Competition Council within the specified time.

Even though it could give the impression that the powers delegated to the Competition Council are adequate, in order to achieve the goals, it is necessary to keep in mind that the Competition Council works in an unstable business environment, therefore it is necessary to constantly examine the conformity of legislation with the real situation as well as the proportionality of the institution's rights, duties and allocated funding.

1.2. Mission Statement of the Competition Council

The mission of the Competition Council is to promote a situation, where the market functions in the interests of consumers and a vigorous competition exists among fair practicing companies. It means promotion of the competitiveness of Latvia's national economy by developing a supportive business environment within the framework of which it is possible to ensure lower prices, better quality, new goods and a broader choice.

1.3. Fields of Activity, Objectives and Medium-term Priorities of the Competition Council

Taking into account the provisions of the Competition Law and the Advertising Law as well as the Cabinet Regulation No 849 of 12 October 2004 „By-law of the Competition Council”, three fields of activity can be identified, which, in general, ensure performance of all functions and duties delegated to the Competition Council.

The medium-term priorities in all three fields of activity have been defined by analysing the internal factors of Latvia and the external factors, which affect the Competition Council's performance, and by assessing the opportunities and risks.

In accordance with the objectives and list of the medium-term priorities of the strategy, it is planned to identify specific tasks and activities every year to achieve the goals. The annual work plan of the Competition Council will contain detailed information about the activities to be implemented in order to achieve the priorities defined in the strategy of the Competition Council, correspondingly planning the institution's performance results of the coming year.

1.3.1. First Field of Activity – Protection of Competition

It includes activities performed in the fields of protection of competition, especially regarding the most severe violations of the Competition Law – prohibited agreements and abuse of the dominant position, supervision of market concentration, supervision of conformity of advertising with the requirements of law and protection against unfair competition.

There are the following goals in this field of activity:

1. To ensure a coherent and uniform application of the Competition Law and the Advertising Law;
2. To decrease the number of violations of the Competition Law and the Advertising Law by implementing preventive measures.

The following medium-term priorities are defined for the first field of activity:

- Improvement of the system of prioritisation of markets to be supervised;
- Strengthening the proactive role of the Competition Council in detecting the most severe violations of the Competition Law;
- Improvement of the investigation methods;
- Optimising duration of investigation of matters;
- Improvement of the legislative basis;
- Improvement of the methods of analysis and supervision in order to ensure that, at the end of the planning period, a supervision approach based on assessing the effect, not the form (effect versus form), could be applied at least in respect of a part of market sectors.

1.3.2. Second Field of Activity – Promotion of Competition

This field of activity includes supervision of market sectors and development of a competition culture in the society.

There are the following goals in this field of activity:

1. To ensure collection and analysis of a targeted and comprehensive information about the competition situation in various markets;
2. To promote competition in markets with no or insufficient competition;
3. To raise public awareness about the positive effect of competition on welfare of population.

The following medium-term priorities are defined for the second field of activity:

- To improve the methods of market definition and analysis;
- To develop a system of data collection and storage;
- To develop a system of competition advocacy¹;
- To improve the procedure of providing the Competition Council's opinions about draft legislation developed by other public administration institutions.

¹ Competition advocacy includes two main elements – preparing and submitting recommendations to the government and administrative institutions and informing the society about the advantages of competition.

1.3.3. Third Field of Activity – Strengthening the Competition Council’s Role in Developing and Enforcing the EU Legislation and in International Organisations and Networks

The goal in this field of activity is to make full use of the opportunities offered by the Competition Council’s involvement in the EU and global networks of competition authorities.

The following medium-term priorities are defined for the third field of activity:

- To participate in developing legislation at the EU level and to ensure a timely transposition of requirements in the legal system of Latvia;
- To actively participate in discussions on documents, preparation of meetings and during meetings;
- To develop a system of adapting the good practice of the EU and global competition authorities at the Competition Council.

1.4. Assessment of the Competition Council’s Environment

Latvia is a small open economy and is completely dependant on the economic processes taking place at the EU and global levels. These processes influence both the supply of goods and services and the price level. When analysing processes taking place in the Latvian market, it is necessary to follow the trends in the global markets.

During the last years, the economic environment has significantly changed in Latvia, similarly as the market participants’ needs, knowledge and possibilities to increase competitiveness. The acquired experience and established practice of the Competition Council are good bases for the market participants as well as for the Competition Council itself to ensure the protection of rights of the Latvian companies as regards competition when working in the EU market and becoming increasingly involved in the global economic processes of market integration.

The majority of companies working in the territory of Latvia are micro and small enterprises, which have no significant influence in the market and work in the circumstances of a vigorous competition. However, there are one or several leading market participants in each sector, and it certainly facilitates development of the sector concerned, but at any moment when situation changes it can become a factor distorting competition. Since the business environment is changeable, it is necessary to perform a constant supervision of the market.

There still are several monopoly sectors in Latvia where possibilities of competition are limited due to the necessity of a complicated infrastructure to provide the offered services. Such a situation exists in the areas of energy supply, railway services, and water supply and sewerage services.

Although the increasing market liberalisation is a precondition of competition, various barriers to free entrance into the market still exist in some sectors. It restricts development of competition, and therefore it is very important to timely reveal these barriers and to find the right solution for ensuring a successful market functioning.

Additionally, the business activity is not the same in the whole territory of Latvia. Taking into account the regional structure of the state, it is necessary to assess the individual situation of every region. A regional analysis of the competition situation becomes as critical as the need for a balanced economic development in the whole territory of Latvia.

Taking into account the above-mentioned, the Competition Council must be able to receive information about situation in all sectors and different regions, to analyse information and to draw relevant conclusions. The risk, which could be caused by insufficient information when interpreting the market processes, must be significantly reduced, as it develops due to objective reasons because the market participants have broader information.

When drafting the Operational strategy of the Competition Council (2007 – 2009), it was found that the Competition Council does not have a comprehensive and systematic analytical information about situation in different markets, which would give the opportunity to fully assess its environment on the basis of statistical and other information. For that reason acquisition of such information and development of analysis system are included among the priorities of the Competition Council's performance and in its new policy initiatives.

Despite the lack of statistical information, the Competition Council's previous work experience provides the opportunity to identify internal and external factors, risks and opportunities having effect on its work.

1.4.1. Internal Factors of Latvia

- The growing number of companies increases competition, at the same time causing the market participants' desire to use unfair methods to decrease competition (prohibited agreements);
- In circumstances of growing competition, companies that have a dominant position in the market or are close to having such a position may start to abuse it wishing to maintain profit;
- Resources consolidation for ensuring technological development and volume effect encourages mergers of market participants;
- Production and services specialisation promotes changes in the market structures and companies' methods of work;
- Regardless of the fact that the business culture improves in Latvia, a rather large number of market participants continue unfair competition thus violating legislation and fair commercial practice;
- The number of administrative barriers to entry into the Latvian market remains high, and it hinders entrance of new companies and strengthening of competition;

- The business activity varies in different regions;
- Continuation of market liberalisation processes in the sectors of network infrastructure makes to pay special attention to both improving legislation and ensuring equal competition opportunities to newcomers;
- Public awareness of the issues of protection and development of competition is not sufficient;
- In some instances, protectionism and lobbying of interests of individual groups are observed, and it may become inconsistent with the interests of society.

1.4.2. External Factors

- Continuation of integration processes in the EU internal market promotes cross border cooperation of market participants;
- Economic globalisation and accessibility of the global market intensifies the competition pressure in some sectors, especially causing the small and medium-sized enterprises either to leave the market or to make their business more effective;
- Activities of different international organisations as regards promotion of innovative economic management processes and Latvia's participation in these activities facilitate the development of international co-ordination of protection of competition;
- The EU consumers' demands for quality, accessibility and competitive prices of goods and services determine the necessity to ensure an equal approach to implementing competition protection activities in Latvia and the rest of the EU market.

1.4.3. Risks

The above-mentioned internal and external factors of Latvia determine the necessity to make the performance of the Competition Council more effective by rapidly detecting and preventing the possible market deformations and more actively organising support activities to promote competition; otherwise:

- Achievement of the Competition Council's goals will be threatened thus causing harm to both the consumers and the market participants;
- It will not be possible to ensure a balance between the educational work and sense of inevitability of punishment in cases of violation;
- It will postpone the moment when the Competition Council is able to work equally as other institutions in the EU and OECD countries;
- Businessmen will continue to associate the competition policy and its regulator – the Competition Council – with punishments and repressions and not with such positive effects as innovations, productivity, growing profit;
- Consumers will not be able to evaluate the impact of competition maintenance activities on their welfare;
- It will not raise the public awareness of the positive impact of competition on competitiveness of the Latvian economy and increase in the living standard;
- Taking into account the fact that, in the EU context, promotion of competition plays a significant role and is one of the regulated spheres, insufficient capacity of

the Competition Council will hinder protection of sovereign interests of Latvia during adoption and enforcement of the EU legislation.

1.4.4. Opportunities

Regardless of the fact that, at the moment, problems and related risks are observed in the field of the competition policy, it is however possible to identify the following opportunities, taking into account the reforms implemented before 1 May 2004 and the fact that the budget of the Competition Council was significantly increased in 2006 as well as the preparatory work done in all fields of activity:

- Functioning legislation and institutional system for protection of competition are developed, the EU requirements are transposed;
- The Competition Council's investigation powers increase, the institution's resources are used appropriately and efficiently by focusing on investigation of the most severe violations of the Competition Law;
- Investigation of the potential violations becomes more effective thanks to more intensive cooperation with governmental, local and other institutions as well as with institutions conducting operational investigation and courts;
- Non-tax payments increase because the imposed fees increase the state budget revenue;
- As a result of activities promoting competition, the number of potential violations of competition preventively decreases;
- The area of protection and development of competition develops more effectively thanks to active public participation;
- Latvia can influence further development of the EU legislation;
- The Competition Council's as institution's implementing the competition policy national and international prestige strengthens.

1.5. Assessment of the Competition Council's Performance and Administrative Capacities

Since the establishment of the Competition Council till 2006, both the Competition Council's budget and the number of employees have increased, thus improving the institution's capacities to perform the assigned duties. At the same time a whole range of circumstances has not allowed to make full use of these capacities.

1.5.1. General Assessment of Performance

Protection of competition, including combating the most severe violations of the Competition Law, namely, conclusion of prohibited agreements and abuse of the dominant position, is a priority of the Competition Council's performance. However, a significant increase in the numbers of investigations and adopted decisions has not occurred during the last years.

It is explained by the following: on the one hand, regardless of the fact that the institution works in a changeable business environment, it has not always been able to adapt to the market demands. On the other hand, the flaws in the Competition Law have frequently proved to be hindering factors not permitting the Competition Council to effectively take action against the potential violations or forcing to intensively use the resources for examination of violations that are not essential for competition. It must be noted that the processes of detection of prohibited agreements and finding evidence are very complicated. Analysis and use of practice of the EU courts and the European Commission are very significant in examination of these matters.

The previous work of the Competition Council may be characterised as stable, but not dynamic. The activities mostly have not been proactive, but as a reaction to complaints submitted by the market participants. It must be concluded that, so far, the Competition Council has not sufficiently developed the preventive and analytical methods which would allow to identify the possibility of cartels in due time. One of the reasons has also been the fact that the Competition Council's available resources have not been sufficient to carry out broad sectoral researches regarding the competition situation in various economic sectors in order to purposefully direct market supervision on the basis of such researches.

Regardless of the problems, there are positive development trends. For example, the number of matters under investigation has significantly increased – 63 matters in the first six months of 2006, 36 matters at the end of 2005 (19 at the end of 2004), including 12 matters on the institution's own initiative.

It is important to mention that, alongside investigation of matters and adoption of decisions, the Competition Council ensures representation in court proceedings. In 2005, the Competition Council was involved in 22 court proceedings on appeal of the Competition Council's decisions by the market participants. The Competition Council's decision was reversed only in two cases.

New working methods have been introduced in the work of the Competition Council, and problems not directly related to the Competition Council's capacity were observed while applying these methods.

For example, with the amendments to the Competition Law that entered into force on 1 May 2004, a new tool was introduced in the legal system of Latvia – inspection of the market participants within the framework of the administrative procedure, which must ensure finding evidence in matters of most severe violations of competition.

Unfortunately, the court gave the first authorisation to use this right laid down by the Competition Law only on 2 September 2005. Thus the Competition Council did not have the opportunity to fully enjoy the rights given by the law to effectively investigate the matters of potential violations of the Competition Law for more than a year. The number of adopted decisions decreased in 2005 for that reason.

Alongside control of violations prohibited in the Competition Law and the Advertising Law, the Competition Council also performs the function of promotion of competition by revealing and analysing the impact of administrative obstacles on protection and development of competition. Unfortunately, during the process of drafting policy documents and legislation, the Competition Council has not always been able to persuade the sectoral policy makers of the necessity to minimise the negative impact of the above-mentioned documents on competition. It must be concluded that it is necessary to improve the methods of cooperation with administrative institutions, for example, through wide implementation of competition support activities, as well as to offer justified proposals and support to supervisors of corresponding sectors.

1.5.2. Assessment of Present Administrative Capacity

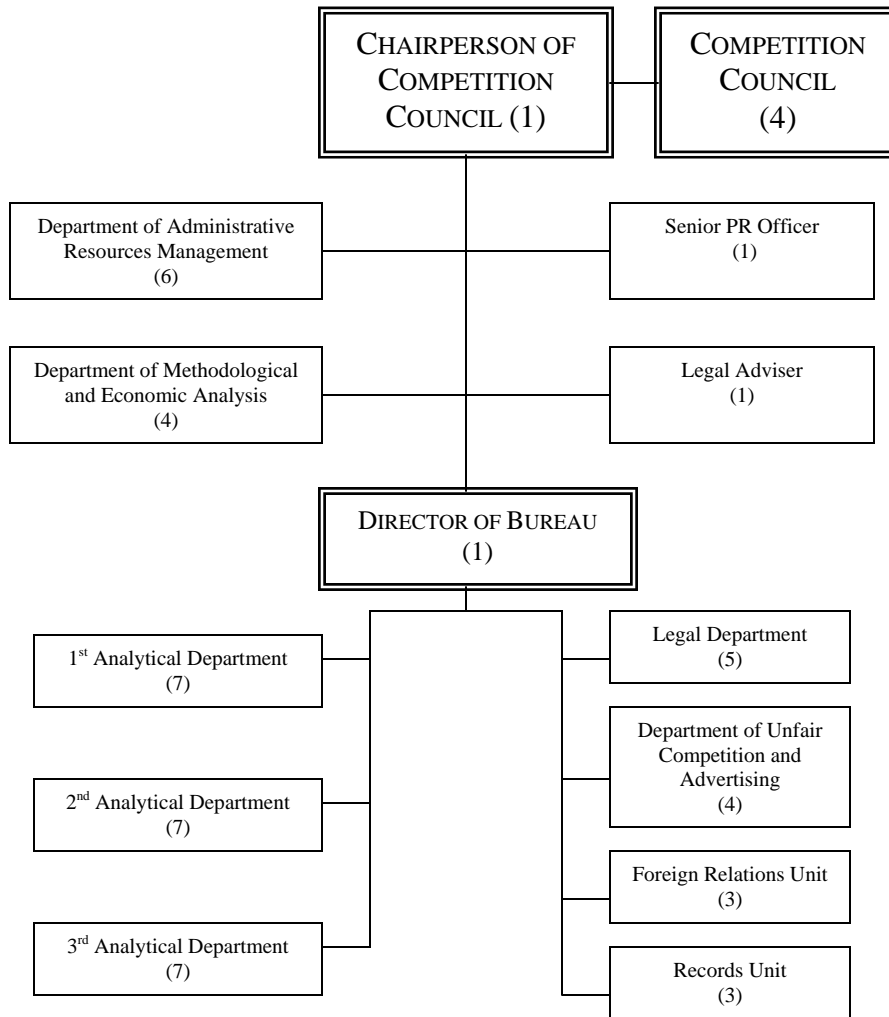
The available human, financial as well as technical and material resources build the administrative capacity of the Competition Council. These resources are combined in a joint system, which is administrated as a mechanism ensuring performance of tasks and duties defined by law.

Although the budget of the Competition Council has increased annually, up to 2006 the Competition Council's funding was not sufficient to perform all duties in an adequate and balanced way.

In accordance with the Competition Law, a decision-making body – the Council consisting of five members – and an executive body – the Bureau – have been established. On 1 June 2006, the organisational structure of the institution was reorganised. The Bureau now consists of seven structural units, five of them directly apply the legal provisions of the Competition Law and the Advertising Law, but the other two ensure support functions. The three analytical departments of the Bureau have been established corresponding to the classification of sectors defined in the EU statistical classification of economic activities (NACE), and each of them is responsible for performance of specific tasks in the relevant sector.

The internal regulations prescribing the institution's performance are improved on a regular basis, and the duties of civil servants and employees are adjusted. During the last years, the technical basis of the institution has been considerably improved and activities to improve the working environment have been implemented. The civil servants and employees of the Competition Council have the opportunity to improve their qualification in courses of the State Administration School and other training institutions. The main training courses are public administration, administrative law, EU issues, policy planning. Exchange of experience with competition authorities of the EU and other countries takes place.

The Structure of the Competition Council (since 1 June 2006)



After having assessed the Competition Council's administrative capacity, it must be concluded that **changes and improvements are needed in several areas during the planning period:**

1. The staff of the Competition Council, including the members of the Council, are civil servants and, under certain conditions, such a status might become contrary to Article 8(6) of the Competition Law according to which neither the Cabinet of Ministers nor the Minister of Economics, nor other persons can give directions to the Chairperson and members of the Competition Council, for that reason it is necessary to evaluate the possibilities and necessity of exit of the institution's officials from the civil service system.
2. The Competition Council's status of a direct administrative institution does not ensure complete independence. The Competition Council works in accordance with the Competition Law therefore it is necessary to consider reorganisation of the Competition Council into a derived public person having an autonomous competence defined by the Competition Law.

3. The annual staff turnover rate is 25 % at the Competition Council, and one of the reasons is that remuneration is not competitive with the private sector.
4. The internal control system needs to be improved according to the institution's duties and powers.
5. Since the Competition Council's funding has not been sufficient, so far attention has mainly been paid to protection of competition. Besides, the duties were performed using only the internal resources. The procedure of inviting external experts needed for investigation of matters is not adequate.
6. The institution's organisational structure that existed up to 1 June 2006 did not offer the opportunity to perform work in all fields of activity in a balanced way and to make an optimal use of the internal resources; it is necessary to analyse the effectiveness of changes and, if needed, to continue improving the structure.
7. Insufficient attention is paid to public information activities.
8. The Competition Council does not ensure implementation of a proactive competition policy. For that reason it is necessary to reorganise the Competition Council's methods of work planning and prioritisation as well as to review the procedure of visiting the market participants.
9. Provision of the Competition Council's employees with methodological materials is not sufficient at the moment, and it influences the performance results.
10. The competition policy and law are specific areas of both – law and economics, therefore it is important to ensure improvement of employees' qualification, particularly by ensuring training about the latest developments in methods of economic analysis and opportunities offered by information technologies.

2. PROGRAMME PART

To facilitate achievement of goals as well as to create favourable preconditions for their achievement, the Competition Council's duties and activities are planned within the framework of the budgetary sub-programme „Implementation of the Competition Policy”.

2.1. Description of Situation

The primary duty of the Competition Council is a coherent and uniform application of the Competition Law and the Advertising Law, including combating the most severe violations of the Competition Law – conclusion of prohibited agreements and abuse of the dominant position.

The Competition Council performs this function by examining the received complaints or constantly performing market supervision, initiating and investigating matters in cases of potential violations. After the Bureau of the Competition Council has carried out a detailed investigation of a matter, the Competition Council – a collegiate decision-making body – adopts a decision. The decisions of the Competition Council may be appealed to court in accordance with the Competition Law and the Administrative Procedure Law. It must be noted that the majority of the market participants, in respect of which decisions are made, use their right of appeal. Proceedings usually take place at three levels.

In 2005, five decisions were adopted concerning abuse of the dominant position and seven – concerning prohibited agreements. During the first six months of 2006, eight decisions were adopted concerning abuse of the dominant position and eight – concerning prohibited agreements. It must be noted that the amount of performed work is equivalent in cases when abuse of the dominant position or a prohibited agreement is found and in cases when it is not.

The matters concerning abuse of the dominant position and prohibited agreements mostly are complicated and accordingly their investigation is time-consuming, therefore examination of these matters lasts for more than a year at an average. However, according to the Competition Law, in matters, which require enduring fact-finding, the Competition Council may adopt a decision within two years from the day of their initiation.

The Competition Council examines and, within one to four months, adopts decisions concerning the planned mergers of the market participants. The Competition Council may decide to prohibit a merger if a dominant position strengthens or results from it. Since 1 May 2004, mergers may be restricted also in cases when they could significantly decrease competition in any relevant market.

When compared to the previous year, the number of the examined merger notifications doubled in 2005. 18 merger notifications were examined (9 in 2004). In two cases fines

were imposed on companies, which had submitted a merger notification to the Competition Council for examination already after the actual deal, thus breaking the requirement of the Competition Law to pre-notify a market participants' merger. During the first six months of 2006, decisions were adopted in 14 cases of mergers.

By ensuring a coherent and uniform application of the Competition Law, the Competition Council performs supervision of prohibition of unfair competition. Since adoption of the Competition Law, this type of cases constitutes a significant number of cases examined by the institution. In 2005, 23 decisions were adopted (19 in 2004) concerning activities of the market participants in various sectors – production and distribution of food and various commodities in the market, distribution of domestic chemicals in the market, distribution of the press in the market, the air transport market, the electronic communications market. During the first six months of 2006, six decisions were adopted as regards activities of unfair competition.

The Competition Council's final decision concerning unfair competition is adopted within four months at an average. The Competition Law provides that companies may defend their rights in court due to unfair activities of their competitors; however, this opportunity is very rarely used.

The Competition Council performs supervision of compliance of advertising with the legislative requirements since the Advertising Law entered into force in 2000. It is one of the areas, which requires ensuring effective co-ordination of supervision with other public administrative institutions, such as the Consumer Rights Protection Centre, the State Pharmacy Inspection and the National Radio and Television Council.

In 2005, the Competition Council adopted 16 decisions concerning supervision of potential violations of the Advertising Law (12 in 2004). During the first six months of 2006, decisions were adopted in 14 cases. By examining complaints regarding violations of requirements of the Advertising Law, the Competition Council has found that the requirements for comparative advertising and prohibition of misleading advertising are violated most frequently.

Matters concerning violations of the Advertising Law are examined within two months at an average.

Alongside the Competition Council's core activities as regards application of the Competition Law and the Advertising Law, supervision of the market sectors is also performed.

In this respect, within the allocated funding, the Competition Council carries out market surveys in order to identify the problems, which hinder functioning of markets, and to offer solutions for elimination of the potential administrative, legal and other barriers.

In 2005, the Competition Council provided opinions about the impact of legislative provisions on the competition conditions in such markets as postal services, professional

services, taxi services, property maintenance services, land surveying services, waste management, insurance services, electronic communications services, software provision, fuel trade, retail trade etc.

The Competition Council carried out surveys of several markets in 2005. Conclusions and proposals about the most important of them were submitted to the Cabinet of Ministers, namely:

- Assessment of the fuel market; developed proposals to improve the situation;
- Assessment of competition conditions in the retail trade; developed proposals for draft Law on Trade Organisation;
- Cement production and wholesale market.

Formation of the competition culture within society is regarded as a significant but, so far, insufficiently developed activity.

Up to now public awareness about implementation of the competition policy has been developed by distributing press releases to the mass media about the Competition Council's decisions concerning application of the requirements of the Competition Law and the Advertising Law as well as by explaining the competition conditions in various markets for goods and services.

In 2005, the institution's consultative, informative and public relations activities were reinforced. 231 consultations were provided on the issues of application of the competition legislation and 204 press releases were distributed to the mass media. The employees of the Competition Council participated in special educational activities organised for specific target audiences (judges, businessmen) and published articles in the press about the legal issues of competition. The employees of the Competition Council regularly offer consultations through e-mail to representatives of legal service offices, businessmen and other persons interested in the issues of competition. It is likewise possible to receive telephone consultations and to arrange a meeting with the officials of the Competition Council.

However, interpretation of separate economic problems in the mass media and the public attitude proves that the public awareness about the competition policy and the Competition Council's competence in its implementation is not sufficient.

Formation of the competition culture within society has not been one of the Competition Council's priority areas up to now, because the limited financial and human resources of the institution were used to perform the direct functions, namely, supervision of compliance with the competition law and application of the relevant legal requirements.

The appropriation for the sub-programme „Implementation of the Competition Policy” (code 2602) in the amount of 508 412 LVL, including 278 187 LVL for remuneration, which was included in the state budget for 2005, allowed the Competition Council to adopt 68 final decisions and to detect 16 violations of the Competition Law and the Advertising Law. After examination of information included in 42 complaints, the

Competition Council gave its resolution or opinion or forwarded the complaint to other competent authority.

The total amount of fees imposed by the Competition Council for the detected violations and to be transferred to the state budget was 104 384.96 LVL in 2005.

In 2005, the institution continued to develop practice of supervising the application of the EU law. Two cases were initiated concerning potential violations of the EU competition law.

To improve its performance, the Competition Council has started to develop a system of prioritisation of markets to be supervised and to improve the methods of market determination and market analysis. The structure of the Competition Council was changed in order to pay more attention to the economic aspects of promotion of competition. In 2006, the Competition Council started to develop a system of involving scientists in the market researches and independent experts in the investigation of matters.

In 2006, it is planned to do the preparatory work as regards implementation of the new policy initiative, in particular as regards the tasks, which will be performed within the framework of competition support activities.

The above-mentioned activities are planned within the budgetary appropriation allocated for 2006, however, in order to successfully achieve the goals of the programme, it is necessary to receive additional funding for new policy initiatives during the next years.

54 employees are involved in the programme implementation at present.

2.2. List of Legislation and Policy Documents

1. Declaration of the Cabinet of Ministers (paragraphs 14 and 15) (Decree of the Cabinet of Ministers No 446 of 21 July 2004).
2. Action Plan of the Cabinet of Ministers (paragraphs 4.14 un 4.15).

Policy planning documents

1. National Lisbon Programme of Latvia for 2005-2008 (Decree of the Cabinet of Ministers No 684 of 19 October 2005).
2. National Economic Strategy (Decree of the Cabinet of Ministers No 568 of 18 August 2004).
3. National Development Plan for 2007-2013.

EU legislation

1. Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

2. Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

Laws

1. The Administrative Procedure Law.
2. The Competition Law.
3. The Code of Latvia on Administrative Violations.
4. The Advertising Law.
5. The State Administration Structure Law.

Regulations of the Cabinet of Ministers

1. Cabinet Regulation No 699 of 16 December 2003 „Procedures by Which the Competition Council Permits Agreements referred to in Section 11, Paragraph One of the Competition Law”.
2. Cabinet Regulation No 434 of 27 April 2004 regarding Vertical Agreement Exemption from the Agreement Prohibition Specified in Section 11, Paragraph One of the Competition Law.
3. Cabinet Regulation No 608 of 20 July 2004 regarding Consumer Information to be Provided in Labelling and Promotional Publications on Fuel Consumption and CO₂ Emissions of New Passenger Cars.
4. Cabinet Regulation No 849 of 12 October 2004 „By-law of the Competition Council”.
5. Cabinet Regulation No 862 of 19 October 2004 „Procedures for Calculation of Fines for Violations referred to in Section 11, Paragraph one and Section 13 of the Competition Law”
6. Cabinet Regulation No 897 of 26 October 2004 „Procedures for Submission and Examination of Notification Regarding Market Participant Mergers”.
7. Cabinet Regulation No 317 of 25 April 2006 regarding Exemption of Certain Horizontal Cooperation Agreements from the Agreement Prohibition Specified in Section 11, Paragraph One of the Competition Law.

Other legal acts

Paris Convention for the Protection of Industrial Property of 20 March 1883 and other international treaties on intellectual and industrial property.

2.3. Objectives of the Programme

As the only institution implementing the budgetary sub-programme „Implementation of the Competition Policy” is the Competition Council, the objectives of the sub-programme correspond to the goals of the Competition Council and they are the following:

1. To ensure a coherent and uniform application of the Competition Law and the Advertising Law;
2. To decrease the number of violations of the Competition Law and the Advertising Law by implementing preventive measures;

3. To obtain comprehensive information about the competition situation in various markets;
4. To promote competition in markets with no or insufficient competition;
5. To raise public awareness about the positive effect of competition on welfare of population;
6. To participate in developing legislation at the EU level and to ensure a timely transposition of requirements in the legal system of Latvia;
7. To actively participate in discussions on documents, preparation of meetings and during meetings;
8. To develop a system of adapting the good practice of the EU and global competition authorities at the Competition Council.

2.4. Expected Medium-term Policy and Performance Results

2.4.1. Expected Policy Results

The programme is implemented to ensure conditions of fair competition in the territory of Latvia as well as to support maintenance of competition in EU in general. In the medium term, the programme is directed to improving the system of protection and promotion of competition as well as to raising business and public awareness about the advantages of effective competition.

Taking into account the specific character of the programme, at the moment, it is not possible to project and interpret in quantitative terms the annual indicators of policy results to be achieved in the medium term.

Up to now the Competition Council's available resources have not offered the opportunity to carry out broad sectoral researches in order to determine quantitative indicators characterising competition in certain significant sectors of Latvia's national economy and thus to outline the starting point for the long term analysis of competition situation. The first broad intersectoral research on competition situation in various market sectors will be carried out as a priority activity in 2007. A system of formulating measurable competition policy results will be developed based on the results of this research.

It is planned to measure the following indicators of policy results in the future:

- Price increase caused by excessive market concentration, abuse of the dominant position or prohibited agreements is reduced (excluding the regulated sectors);
- Price level of various goods and services is commensurate with the price level of these goods and services in Lithuania and Estonia;
- Market concentration level is decreased in markets with high concentration;
- Administrative institutions examine the impact of legislation on competition when drafting and enforcing regulatory provisions;
- Society, including businessmen and consumers, understands the importance of the competition policy as well as the role and duties of the Competition Council.

2.4.2. Expected Performance Results

No	Result	Achievement Indicators						
		2006	2007		2008		2009	
			A*	B**	A	B	A	B
1.	Investigations of the most severe violations of the Competition Law (prohibited agreements and abuse of the dominant position) carried out (maximum number of matters)	30	30	35	35	40	40	45
2.	Duration of investigation of the most severe violations of the Competition Law reduced (average number of months)	18	16	16	15	15	15	15
3.	Merger control performed (maximum number of cases)	18	18	18	23	23	23	23
4.	Investigations carried out in the field of supervision of advertising and unfair competition (maximum number of matters compared to the number of complaints)	25/45	30/50	30/50	35/55	35/55	40/60	40/60
5.	Analyses of markets for goods and services carried out (number)	4	6	12	6	12	6	12
6.	Proposals submitted to prevent restrictions specified in legislation in certain sectors (inelastic supply, network infrastructure, professional services, etc.) (number)	4	4	8	5	10	5	10
7.	Informative publications on competition policy prepared (number)			4		4		4

8.	Training courses, seminars and conferences on competition law in Latvia and EU organised for representatives of sectoral associations, local governments, businessmen and judges (number)	1	1	5	1	5	1	5
9.	Consultations provided in the field of competition law (number)	180	200	200	200	200	200	200
10.	Press releases distributed to the mass media (number)	220	200	200	200	200	200	200
11.	Public opinion polls and surveys conducted (number)			1		1		1
12.	Joint investigations in cooperation with the European Commission and competition authorities of other EU Member States (maximum number of matters)	4	2	2	2	2	2	2

* Option A reflects the expected results if the corresponding activity is performed without additional funding.

** Option B reflects the expected results if the corresponding activity is performed with additional funding.

2.5. Activities for Improving Performance Capacity in 2007

Priority activity	Approved in state budget for 2006	Needed in state budget for 2007; LVL	
		In addition to approved in state budget for 2006	In total
1. Strengthening the Competition Council's professional capacity			
Expenditure – in total		40 000	40 000
Maintenance expenditure		40 000	40 000
Current expenses		40 000	40 000
Including remuneration		20 000	20 000
<i>Number of staff</i>		1	1
<i><u>Brief explanation</u></i>			
<i>To ensure effective protection of competition, new and existing working methods will be developed. For example, every year, priority fields of activity will be defined and analytical working methods will be</i>			

improved thus increasing the amount of available information about various markets. Economic methods will be more widely used to assess the consequences of distortion of competition. A system of supervising implementation of the competition policy will be developed taking account of quantitative indicators. To perform the activities, the Competition Council needs to increase the number of employed economists as well as to invite external experts. It is planned to strengthen cooperation with state, local government and other institutions to obtain information more effectively and to introduce operational investigation methods.

Funding needed: LVL 40 000 in 2008, LVL 40 000 in 2009

Priority activity	Approved in state budget for 2006	Needed in state budget for 2007; LVL	
		In addition to approved in state budget for 2006	In total
2. Intersectoral research – competition situation (market concentration) in the market sectors producing/trading goods and services which affect inflation			
Expenditure – in total		50 000	50 000
Maintenance expenditure		40 000	40 000
Current expenses		40 000	40 000
Including remuneration			
Capital investment expenditure		10 000	10 000
Capital expenditure		10 000	10 000
<u>Brief explanation</u>			
<i>This activity will offer the opportunity to assess the impact of high concentration level in market sectors on increase in inflation. As a result of the research, it will also be possible to determine existence of unfair commercial practice in market sectors. On the basis of the research, it will be possible to draft proposals for amendments in sectoral policies as well as to take action against the most severe violations of competition – prohibited agreements and abuse of the dominant position, thus reducing the impact of these factors on increase in inflation.</i>			
<i>Funding needed: LVL 50 000 in 2008, LVL 50 000 in 2009</i>			

Priority activity	Approved in state budget for 2006	Needed in state budget for 2007; LVL	
		In addition to approved in state budget for 2006	In total
3. Strengthening protection of society – businessmen and consumers – against unfair cross-border commercial practice			
Expenditure – in total		24 100	24 100
Maintenance expenditure		23 100	23 100
Current expenses		23 100	23 100
Including remuneration		16 280	16 280

Capital investment expenditure		1 000	1 000
Capital expenditure		1 000	1 000
Number of staff		1	1
Brief explanation			
<p><i>As a result of implementation of this activity, a more timely and effective protection of consumer interests will be ensured as well as fair competition will be fostered in the EU internal market, thus ensuring achievement of objectives defined in the Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws. To carry out the tasks specified in the Regulation, one additional staff position is required at the Unfair Competition and Advertising Unit – Senior Officer whose main duties will be examination of complaints, requests and other documents regarding violations committed in the Community, investigation of such violations and other related functions. Implementation of this new policy initiative will ensure effective cooperation with the member states' competition authorities, which is directed towards termination or prohibition of consumer rights violations having a cross-border character.</i></p>			
<p><i>Funding needed: LVL 24 100 in 2008, LVL 24 100 in 2009</i></p>			

2.6. New Policy Initiative

Taking into account the fact that the strategy envisages several priority activities as well as plans to improve the current performance to a much greater extent, the Competition Council plans a new policy initiative for 2007 – 2008. The funding needed for implementation of the new policy initiative is not included in the total funding of the strategy.

No	New policy initiative	Objective	Year of implementation	Funding needed; LVL
1.	Development of a monitoring system to assess the impact of policy and legislation on competition (competition advocacy)	To influence the processes of policy-making and drafting legislation in order to ensure that they foster, not hinder competition. To educate and inform target audiences; to promote effective support for protection of competition within society	2007 2008	70 000 30 000

Explanation:

This new policy initiative is necessary because successful implementation of the competition policy cannot be achieved without public awareness about the legal aspects of competition and public support. Firstly, it can be ensured by reasonably explaining the necessity of competition to the interested parties. Up to now development of a targeted and well-considered competition support system has not been one of the priority fields of

activity of the Competition Council because the institution's limited financial and human resources have been used to perform the core tasks, namely, supervision of competition law and enforcement of legislative provisions. For that reason it is planned to implement a set of systematic and broad activities for various target audiences directly related to the legal and economic aspects of competition, such as representatives of public administrative and local government institutions as well as market participants and consumers.

The activities planned within the framework of this new policy initiative will quantitatively and qualitatively affect the performance indicators related to promotion of competition (see *Expected Performance Results*, indicators 5 – 10) and will improve implementation of activities in the field of protection of competition (*ibid.* indicators 1 – 4).

2.7. Main Draft Laws

1. Draft Law „Amendments to the Competition Law“.
2. Draft Law „Amendments to the Advertising Law“.

2.8. Tools and System of the Programme Implementation

The Competition Council as an integrated organisational structure ensures implementation of the programme on the basis of its rights defined by the Competition Law.

It must be noted that a coherent implementation of the competition policy is not possible without work of and cooperation with other public administrative institutions, local government institutions, market participants, consumers and law enforcement bodies. Therefore implementation of the competition policy to a great extent depends on effectiveness and benefit of activities planned by the Competition Council in the field of promotion of competition.

2.9. Funding of the Programme

	Financial resources available in 2006	As a percentage of the total budget of the Ministry of Economics
Resources to cover expenditure	1 024 796	1,69
General revenue subsidy	919 366	1,71
Foreign financial assistance	105 430	3,02
Total Appropriations	1 024 796	1,68
Maintenance expenditure	1 010 796	1,68

Current expenses	1 010 796	4,28
Remuneration	588 858	6,26
Other current expenses	421 938	2,97
Capital investment expenditure	14 000	1,64
Capital expenditure	14 000	1,64

Additionally Needed Funding

To ensure implementation of the programme, additional funding in the amount of LVL 184 100, including LVL 70 000 for the new policy initiative, will be necessary in 2007; LVL 144 100, including LVL 30 000 for the new policy initiative, – in 2008; LVL 114 100 – in 2009.

Number of institutions – 1

Administrative capacity – 54

3. ANNEXES

3.1. New Policy Initiative Necessary for the Programme Implementation

	2007	2008
Development of a monitoring system to assess the impact of policy and legislation on competition (competition advocacy)	LVL 70 000	LVL 30 000

3.2. Additional Funding Necessary for Improving the Competition Council's Performance Capacity

	2007	2008
Strengthening the Competition Council's professional capacity	LVL 40 000	LVL 40 000
Intersectoral research – competition situation (market concentration) in the market sectors producing/trading goods and services which affect inflation	LVL 50 000	LVL 50 000
Strengthening protection of society – businessmen and consumers – against unfair cross-border commercial practice	LVL 24 100	LVL 24 100

3.3. List of Main Draft Laws to Be Developed for the Programme Implementation

1. Draft Law „Amendments to the Competition Law“.
2. Draft Law „Amendments to the Advertising Law“.

3.4. Changes in Results Indicators Defined in the Competition Council's Programme for 2006

The programme performance results and their medium term resultative indicators are reviewed according to the performance goals of the Competition Council for 2007 – 2009. Therefore the resultative indicators, which were approved in 2006 by the Cabinet Regulation No 314 of 25 April 2006, are corrected according to the institution's new strategy. Starting from 2007, titles of the resultative indicators will be changed or other changes will be introduced (**), a part of indicators will lose topicality (*).

	Titles of Results and Resultative Indicators	Number in 2006
Implementation of Competition policy		
	Draft legislation developed *	2
	Draft legislation examined from the aspects of competition and EU treaty *	18

	Strategy developed for competition development and supervision *	1
	Investigations and inspections performed in the field of supervision of the Competition Law **	90
	Supervision of market for goods and services (competition development trends, market liberalisation, etc.) **	4