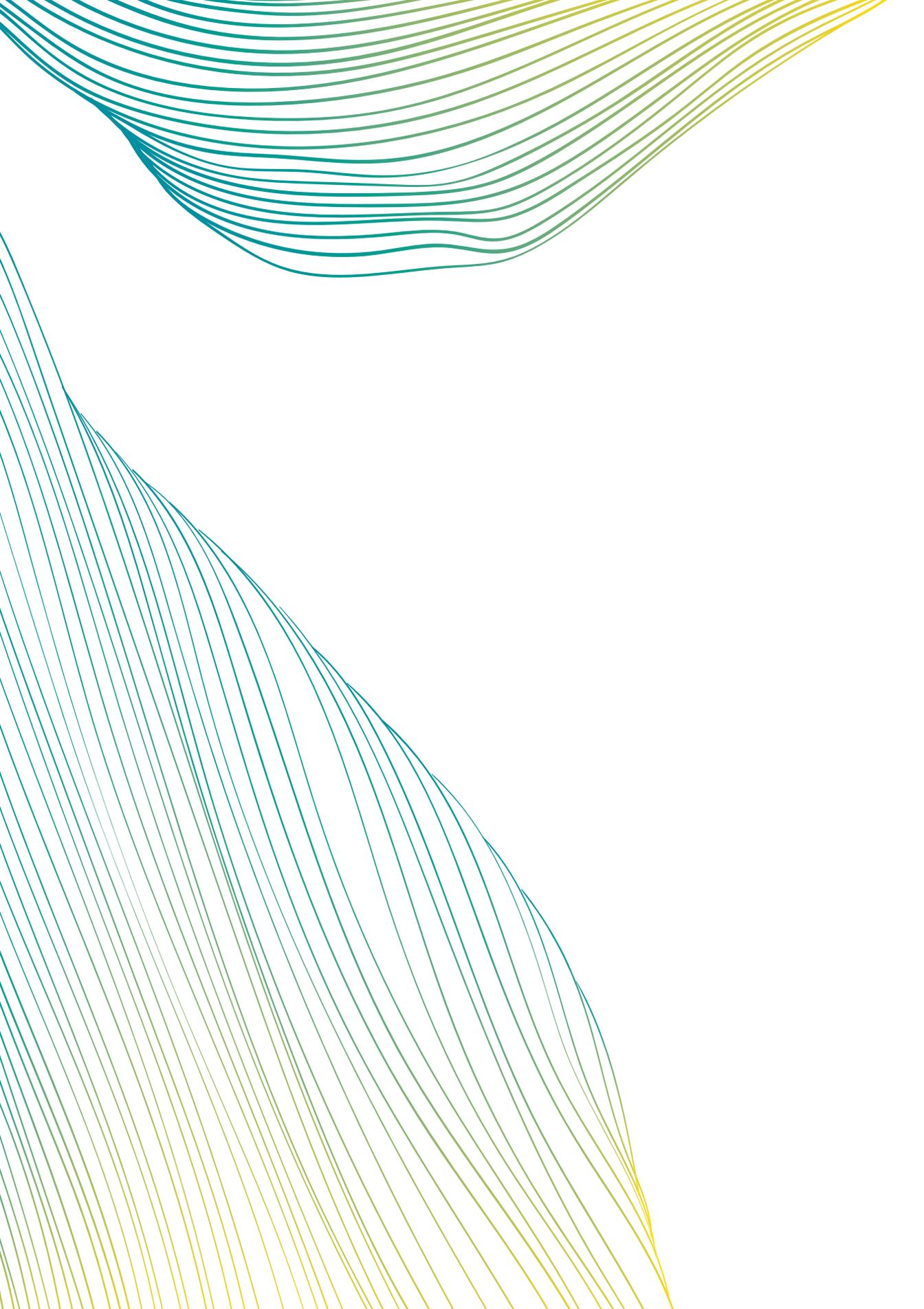




Competition Council  
Republic of Latvia

**ANNUAL  
REPORT  
2022**



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# FOREWORD BY THE CHAIRMAN

## FOCUSED PATH TOWARDS GROWTH



In 2022, the Competition Council celebrated its 30th anniversary. Has it been long enough to instill in Latvian society an understanding of the importance of fair competition in the development of a free market economy? And how deeply ingrained is it in the minds of business that only by acting with integrity do we all, as one society, get both better-quality products and services and a country that encourages innovation, invests in quality, and provides consumers with competitive prices? And how should the Competition Council evolve in the future so that we can grow and bring even more benefits to society? These are the questions on my mind when I think about what the Competition Council has achieved in 30 years and what lies ahead.

During these 30 years, the Competition Council has changed and grown from a small Committee with no more than ten employees to the Competition Council we see today. It is strong, independent, development-oriented and with a clear vision, where we have identified the necessary improvements in the governance of the institution and, most importantly, embarked on this necessary growth path. A significant leap forward has taken place in the last few years since I have had the honor to lead and be part of the strong family of the Competition Council.

We are a small but effective competition authority. What is done in these 30 years? We have taken around 500 decisions on distortions of competition such as cartels and abuses of dominant position, and we have examined more than 400 mergers. We have organised numerous preventive measures, such as the “Consult at first” principle, warning businesses and public entities (state, municipalities and their capital companies) as well as systematic educational events and activities to promote fair competition.

How can we know if the work we have done has been meaningful and borne fruit? In order to objectively assess the performance of the Competition Council, the Competition Council analyses two factors – the public opinion (entrepreneurs, public administrative bodies, non-governmental organisations, law firms) towards the implementation of competition policy in Latvia, as well as the society benefits of the work of the Competition Council, calculated according to a methodology recommended by the OECD.

The 2022 opinion poll shows that public perceptions of competition law have improved, including a better understanding of what constitutes a competition law infringement and what activities are prohibited. Three quarters of respondents also consider that the authority's decisions have a positive impact on the market, highlighting the clarity of the legal basis for decisions and the positive impact of decisions on the market.

In terms of public benefit, which is calculated by measuring the financial benefits to businesses and consumers from the authority's activities in preventing distortions of competition, taking preventive action, monitoring markets and supervising large mergers, 2022 showed the highest calculated public benefit in the authority's history. On average, society has benefited financially from the work of the Competition Council, totaling of more than EUR 51 million per year in the period 2020-2022.

Taking into account both the positive growth in public opinion towards fight against competition infringements and the estimated substantial public benefits, which are more than double the authority's expected public benefits, I would like to thank every Competition Council employee who has contributed to achieving these results through their perseverance, commitment, diligence and love for their work.

But we do not intend to bask in the last year's sun or to curl up on the sofa in contentment. On the contrary, we are seeing the challenges that companies are currently facing in a changing economic environment, including the energy crisis and the shortage of raw materials caused by the Russian-led war in Ukraine, inflation and others. We also face the challenges posed by the development of digital markets and the lack of regulation to supervise them.

That is why the Competition Council needs to invest more than ever in the development of the authority so that, like our businesses, we can adapt to changing circumstances and effectively fulfil our mission.

Already in 2022, the Competition Law was amended to strengthen the authority's powers, independence and resources. The authority's decision-making body, the Council, was also strengthened by increasing the number of its members from three to five and by increasing the Council's powers, which will enable it to play a more active role in the authority's internal deliberations, with all Council members having equal status, thus ensuring continuity, transparency and the rule of law in the authority's work. In order to pro-

mote public participation and cooperation with its strategic partners (ministries, local governments and business associations) as an independent institution, as well as to develop closer and more effective mutual cooperation in the development and application of competition policy, the Consultative Council of the Competition Council was established.

In 2022, we have also developed our IT technical and technological capacity to ensure more effective investigations of competition infringements, such as the development of an IT lab to process the e-evidence and extensive staff training in the use of the IT lab planned for 2023. Also in 2022, a special focus was on the development of an automated cartel screening tool to enable the authority to automatically identify suspicious tenders that could be indicative of possible competition law infringements. At the same time, work will continue on the introduction of a digital e-case, allowing parties to access case files remotely.

Also, we are developing the authority in other dimensions. Currently, when developing the Competition Council's strategy for the next planning period from 2023 to 2029, we make sure that every employee sees the importance of their daily work and their individual contribution to the achievement of the authority's strategic objectives. Staff also have individual development plans in place which are systematically updated to ensure development of competences. We believe that strong staff is a strong institution. That's why we make sure that everyone grows individually, so that we can grow together!



**JURIS GAIĶIS**  
Chairman of the Competition Council

# THE COMPETITION COUNCIL. PASSPORT OF THE AUTHORITY

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

The Competition Council (hereinafter - the CC) is a direct administrative body under the supervision of the Cabinet of Ministers, which operates in accordance with the Competition Law and other regulatory enactments. The Competition Council is established by the Cabinet of Ministers and its institutional oversight is exercised through the Minister of the Economy.

The main activity of the CC is the implementation of competition policy, which can be divided into two sub-activities - protection of competition and the development of a competition culture, in which the financial and human resources of the institution, as well as cooperation in the international environment, play a key role. The independence of the CC in conducting investigations and taking decisions is a core value of the institution, which is also enshrined in the Competition Law.

The tasks and rights of the CC are laid down in the Competition Law, the Advertising Law, Prohibition of Unfair Trading Practices Law, European Council Regulation No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty establishing the European Community and other laws and regulations.

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

## Mission

To protect and promote free and fair competition in all areas of the economy between market players and to prevent public authorities - state and local governments - from unduly interfering in free competition.

## Objective

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

## Operational tasks

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

## Our resources



State financing

2 285 015 euros



30

years of operation of the Authority



56 knowledgeable and motivated employees

2022 is the last year of implementation of the three-year (2020-2022) operational strategy of the CC. The CC has defined three priorities to achieve its overarching objective:

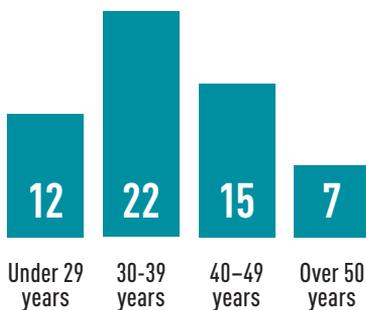
1. more effective protection of competition;
2. professional, committed, development-oriented and collaborative staff;
3. more inclusive public education and competition.

# TEAM OF THE COMPETITION COUNCIL

The CC consists of a decision-making body - the Council - and an Executive Body. At the end of 2022, the Institution had 56 staff members, 50 of whom were civil servants and six of whom were employees.

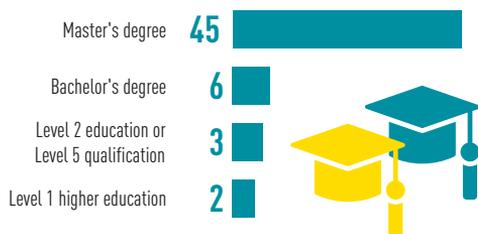
Staff turnover reached 12% in 2022. 7 individuals left the civil service and employment, while 7 entered it.

## Age:



The average age of CC staff is 38 years.

## Education:



## 4 Council members

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

## 1 Executive Director

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

## 28 investigators

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

## 8 lawyers

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

## 6 economists

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

## 9 support staff members

Manage communication with the public and coordinate international cooperation, budget management, personnel management and document management, IT user support for the Executive Body's departments, and implementation of internal audit recommendations. Participate in the Authority's planning processes, organizes the economic support and other activities of the Authority. The IT Project Manager develops the authority's data processing and analysis and strengthens its investigative capacity by implementing information technology development projects.

# YEAR 2022 IN FIGURES

<b>Prohibited agreements</b>	<b>2</b>
Infringement detected	2
<b>Abuse of a dominant position</b>	<b>1</b>
Settlement with legal obligation and payment of a fine	1
<b>Mergers and notified agreements</b>	<b>18</b>
Merger cleared	13
Extension of merger	3
Merger cleared with binding terms	1
Cleared agreement notified by undertakings	1
<b>Procedural infringements</b>	<b>1</b>
Infringement detected	1
<b>Total number of decisions</b>	<b>22</b>

## Other relevant figures

### Infringement statistics

- ▶ EUR 502,805.85 fines imposed on businesses
- ▶ EUR 9,030,729.39 fines paid to the state budget
- ▶ 7 companies fined
- ▶ 4 inspections in 9 undertakings
- ▶ 5 terminated legal proceedings, 5 decisions of the institution upheld



For the eight year in a row, the CC has been ranked among the world's best competition authorities in the Global Competition Review Rating Enforcement.

**There are now more than 140 competition authorities in the world, but only 32 of them are ranked by the GCR.**

### Prevention and "Consult First"

- ▶ 11 warnings to 16 persons for alleged coordination
- ▶ Negotiation procedure used in 4 cases to remedy breach of competitive neutrality

### Submissions and opinions

- ▶ 344 submissions received on competition law issues, including
  - ▶ 288 submissions received on public administrative bodies issues
- ▶ 311 opinions given on competition law, including
  - ▶ 34 submissions examined with a subsequent Council decision, providing protection against possible infringements of competition law
  - ▶ 169 opinions on public administrative bodies participation in a capital company (Section 88 of the State Administration Structure Law (hereinafter - SASL))
  - ▶ 72 opinions given on other acts of public administrative bodies
- ▶ 49 opinions given on sectoral regulatory proposals, including
  - ▶ In 25% of cases, the opinion of the CC has been taken into account in order to remove restrictions on competition

### Consultations, guidelines, and market inquiries

- ▶ 22 pre-merger consultations
- ▶ Completed surveillance in 8 markets
- ▶ 2 self-assessment tools to improve the competition environment
- ▶ 2 guidelines to improve the competition environment

# PUBLIC BENEFIT

The CC has summarised the 2022 performance and calculated that the average public benefit from competition policy implementation in Latvia over the period 2020-2022 exceeds EUR 51.5 million per year. Taking into account the budget of the Authority during this period, each euro allocated to the Authority generates on average a public benefit of EUR 26.73.

To calculate the public benefit, the CC relies on the methodology recommended by the Organisation for Economic Co-operation and Development (OECD), adapted to the specific features of the Latvian economy and supplemented by the recommendations of the European Commission and the practical findings of other highly-regarded competition authorities around the world.

According to this methodology, the public benefit calculation took into account the decisions taken by the authority in the period 2020-2022, assessing the immediate benefits accruing to businesses and consumers from the CC's actions in the public interest in preventing collusion and abuse of dominance. At the same time, the calculation includes merger control, which prevents the concentration of market power to the detriment of undertakings, and the authority's preventive actions, or warnings and negotiation procedures with undertakings that have committed minor infringements of competition law. Fines imposed by the CC and paid by undertakings are not included in the calculation, as their primary purpose is to deter undertakings from committing similar infringements in the future.

In 2022, not only the markedly increased willingness of market players to merge, strengthening their market positions, and the binding rules imposed on them by the CC to prevent significant adverse effects on competition, but also the significant preventive work of the CC in warning market players and conducting negotiation procedures, contributed significantly



**Māris Spīčka,**  
the Head of the  
Executive Body:

"At the Competition Council, all employees in all departments work every day with the aim that our work in detecting and preventing restrictions and infringements of

competition benefits everyone in society - consumers and businesses alike. In the three-year strategic period 2020-2022, the public benefits achieved from competition policy implementation were as high as ever, even more than double our target of EUR 23 million per year. In the next strategic period, we intend to make the public benefit of the Competition Council's work to protect fair competition our key performance indicator, rather than the number of cases handled or the volume of fines imposed."

to the public benefit. In cases of less significant potential infringements, 11 preventive actions were implemented, alerting a total of 16 legal entities of potential infringements of the Competition Law, thus implementing the "Consult First" principle.

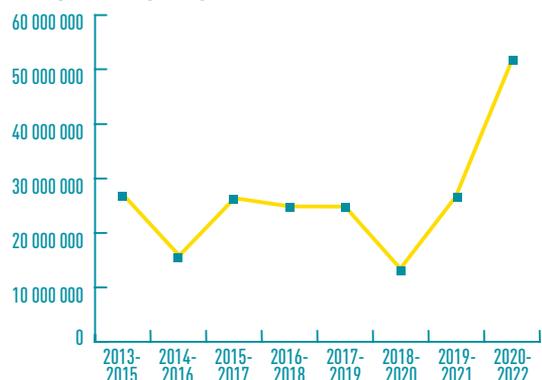
In order to reduce the variability of the public benefit indicator resulting from the different number and amount of infringements detected each year, the public benefit is calculated as a three-year average. The three-year period analysed coincides with the period of the CC's operational strategy. ■

## EUR 51,6 million in 2022

Public benefits from the CC's activities in preventing distortions of competition, monitoring markets and instigating changes to promote competition, and overseeing the implementation of large mergers. Taking into account the Authority's budget, each euro allocated to the CC last year generated a public benefit of around EUR 26.73.



## Three-year average public benefits of competition policy in Latvia



# PROHIBITED AGREEMENTS

In 2022, the CC detected **two prohibited agreements**, both in procurement. In one case, 11 municipal procurements were affected, while in the other a private procurement was affected. In total, five undertakings were fined €262,142. **Three new infringement** investigations were also opened during the period.

In 2022, based on the Authority's prioritisation strategy and the "Consult First" principle, 16 legal entities were **warned and simultaneously educated** on competition law issues.

In 2022, the infringement investigations carried out extensive **procedural actions**, inspecting a total of 11 legal entities. The purpose of the investigations was to obtain evidence of possible infringements of the Competition Law. These proceedings have resulted in the acquisition of extensive electronic evidence, copies of a number of media, email accounts and other types of information.

## Prohibited agreement in private procurement

The CC found **three construction companies** colluding on the conditions of participation in a private procurement in Latvia. The infringement was found in the activities of PK Serviss LLC, KORO BŪVE LLC and TAVS LAIKMETS LLC.

PK Serviss LLC and TAVS LAIKMETS LLC cooperated with the CC both within the framework of the Leniency Programme and entered into settlement agreements with the CC, so the fines of both companies were reduced. The companies were fined a total of EUR 233,791 for the competition law infringement.

PK Serviss LLC had agreed with the private client Lyngson LLC on a pre-negotiated victory in the procurement. In turn, the construction companies agreed among themselves on the terms of participation in the tender, which was manifested by PK Serviss LLC preparing financial bids for both KORO BŪVE LLC and TAVS LAIKMETS LLC, which were submitted as cover bids without a genuine desire to compete and win the tender.

The infringement not only affected the contract, which was more than €2 million, but also the co-financing of €780,733.12 from the European Union Structural Funds. The evidence obtained during the proceedings was handed over by the CC to the European Public Prosecutor's Office, which led to criminal proceedings and full reimbursement of the EU co-financing received by the contracting authority.

## False information in the Leniency Programme

In 2022, the CC **fined two companies involved in the field of festive decoration** - Alpha Baltic Media LLC and Smart Solutions Europe LLC - for participating in a cartel. The infringement was committed between 2020 and 2021 when companies submitted coordinated bids in three tenders organised by local municipalities for

festive decoration, including the supply, installation and dismantling of decorations.

The tenders submitted were comparable in terms of content and the way they were filled in. They were prepared by an employee of Smart Solutions Europe LLC.

Both parties in the case wished to make use of the possibilities offered by the Leniency Programme - reduction of the fine. The companies admitted the existence of an agreement in one procurement and provided additional information on another negotiated procurement episode. However, both parties did not provide complete and truthful information, as the cartel existed not for these two procurements, but for nine other similar procurements. The reduction of the fine obtained under the Leniency Programme was not applicable in the present case.

The companies were fined more than €28,351 for collusion.

## Prevention - an alternative approach to formal case investigation

In 2022, the CC issued **warnings to a total of 16 persons** in 11 cases of alleged collusion.

The companies alerted in 2022 represent activities such as food sales and catering, car rental, heating, surveying and geodesy, other postal services (advertising), residential and non-residential construction, etc. In all these cases, the CC found suspicions of collusion in public tenders.

## Signal List to recognize cartels

In order to prevent and successfully detect collusion, it is also essential that contracting authorities or tendering authorities, who are the first to spot suspicious coincidences in tenderers' bids, are proactive in reporting possible irregularities. That is why in 2022 the CC **developed the Signal List**, or recommendations for contracting authorities on how to identify possible signs of a cartel in procurement.

## Education on vertical agreements

At the same time, vertical agreements are considered a serious infringement of competition law. A fine of up to 5% of an undertaking's turnover is imposed for involvement in a prohibited vertical agreement.

In order to raise awareness among market participants and possibly also to encourage reporting of possible infringements of vertical agreements, the CC launched a series of educational seminars for retailers and wholesalers in 2022, which will be continued for targeted audiences in 2023. ■



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

"There's a saying for a reason: *"If you want to go fast, go alone, but if you want to go far, go together."* The 2022 cartel in the private procurement case is certainly an example of positive cooperation between authorities, thanks to which the European Public Prosecutor's Office was able to successfully prosecute the client and recover the embezzled EU funds. So, the key for any successful investigation remain the team we build, first among ourselves and secondly with stakeholders."

# ABUSE OF A DOMINANT POSITION

In 2022, the CC identified **abuse of dominant position in one case**. Also in 2022, the CC assessed the conduct of Rezekne Bus Station LLC in complying with the **legal obligation imposed on it by the CC in 2016 to stop abusing its dominant position** and charging carriers excessive fees for entry to Rezekne Bus Station.

## Settlement with “Rīgas siltums”

In 2022, the CC concluded an abuse of dominance case and signed a **settlement agreement with JSC “Rīgas siltums”**, which provided that the company would cease its exploitative practices by demanding repayment of debts deemed irrecoverable in case of death or insolvency from the building managers and successively from other apartment owners.

The problem of shifting the burden of irrecoverable debts to housing managers, who then collect debts from other apartment owners instead of their neighbours, has been an issue for years, which is why the regulatory framework was changed in 2014 to allow the cancellation of irrecoverable debts. Taking into account the amendments to the law, “Rīgas siltums” started clearing irrecoverable debts, but only those debts incurred after the amendments to the law were adopted, i.e. after 15 January 2014, were cleared.

The parties to the case - the CC and “Rīgas siltums” - agreed to end the dispute by concluding a settlement. The administrative agreement stipulated that “Rīgas siltums” would write off the uncollectible debts, while information on this practice would be published on its website [www.rs.lv](http://www.rs.lv) and sent to housing managers, who would have the opportunity to inform “Rīgas siltums” about the uncollectible debts within one year.

According to the settlement agreement, “Rīgas siltums” had to pay a fine of €201,329.64 to the state budget.

## Limited competition in the bus terminal sector

In 2016, the CC adopted a decision imposing a fine and remedies on **Rezekne Bus Station LLC, which abused its dominant position** and charged bus carriers an excessive fee for entering Rezekne Bus Station. Despite the decision, the charge for buses entering the bus station was still not commercially justified, thus, in 2022 the CC started monitoring the compliance of Rezekne Bus Station LLC with its legal obligation.

The CC analysed the bus entry charges set by Rezekne Bus Station Ltd, as well as the cost-effectiveness of the entry charges for the period from 2016 to 2021. The CC finds that, in substance, the rent may have been more expensive during the period in question and thus had a negative impact on the level of entry charges at Rezekne Bus Station.

The CC also obtained information on the rental fees of other Latvian bus terminals, from which it concluded that none of the surveyed bus terminals charged as high a rent for a building as Rezekne and that the average rent was at least twice as low. Although the owners of the bus station building and grounds are not restricted from charging for the use of the property that is not in line with market conditions or is not generally in line with the value of the property, the CC considers that there should be instruments to restrict a bus station operator in a dominant position from fully passing on these charges to the calculation of the entry charge. ■



**Ieva Dāboliņa,  
the Head of  
the Analytical  
Department:**

“In 2022, the Analytical Department concluded one investigation case and several preventive procedures, thus preventing possible infringements without

formally initiating proceedings and achieving the objective of a fair competitive environment more quickly and efficiently.

Given that the Analytical Department, in addition to investigating abuses of dominance, conducts market studies to assess the level of competition in important sectors of the economy, several large market surveillances were concluded in 2022. It was a special year with an increasing number of complaints about digital platforms and their abuse of market power. This is why one of the largest market surveillance on online digital platforms was concluded, to enable the CC to analyse market power in the digital sector and to keep abreast of competition developments in digital markets in Europe.”

# MERGERS AND NOTIFIED AGREEMENTS

One of the tasks of the CC is to assess mergers and notified agreements between undertakings in order to prevent possible negative effects on competition and consumers.

In 2022, the CC **adopted 14 merger decisions** and three successive decisions extending the deadline for the owner of "Apollo Kino", which acquired OÜ "Forum Cinemas Latvia" in 2021, to comply with the legal obligation set by the CC to transfer the "Citadele" Cinema to the control of a third party. There was also one **decision on a notified agreement** in 2022.

During the year, the market players involved in merger reviews **paid €54,000 in fees** to the State budget. To make it easier for companies to submit merger reports, the CC provided **22 pre-merger counselling sessions**.

The majority of mergers were assessed by the CC within one month, with additional focus on mergers requiring in-depth assessment. In 2022, such **in-depth studies were carried out on five occasions**.

## Merger of JSC AB CITY with JSC Olainfarm

The CC found that the merger is expected to result in an increase in JSC "AB CITY's" market shares of between 1 % and 5 % in a number of markets, such as the wholesale market for pharmaceuticals, the production and wholesale of food supplements, the retail market and others, but that this increase is not significant enough to allow the market participant to strengthen its dominant position. Thus, the CC concluded that the merger would not lead to a significant reduction in competition without creating or strengthening a dominant position of the merged entity in any of the affected markets.

At the same time, in order to prevent possible risks to competition and negative consequences of the merger in the retail market of pharmaceutical products, the merger is permitted by binding regulations providing for the disposal of shares in LLC "LATVIJAS APTIEKA" to a third party unrelated to JSC "AB CITY".

## Merger of JSC Dobeles Dzirnavnies and AB Baltic Mill

The CC authorised JSC "Dobeles dzirnavnieks" to acquire AB "Baltic Mill", a Lithuanian grain processing company, which owns several grain processing and food production companies in the Baltic States, such as JSC "Rīgas dzirnavnieks" in Latvia and others. Although the merger of JSC "Dobeles Dzirnavnies" and JSC "Rīgas Dzirnavnies" will significantly reduce competition in several markets for flour, oatmeal and other products, the CC decided to clear the merger in view of the high probability that JSC "Rīgas Dzirnavnies" will go bankrupt and exit the market if it is not taken over by another company.

## Merger between LLC Tet and LLC Telia Latvija

The CC decided to authorise LLC "Tet" to acquire a decisive influence over LLC "Telia Latvija". The parties to the agreement have overlapping activities in the markets for voice telephony over fixed electronic communications networks, Internet and data transmission and leased line services. The merging parties are also active in the IT outsourcing market, including data centre and cloud services, web hosting and IT security services.

The CC concluded that the merger would not lead to a significant change in the market structure, lessen competition or create or



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

"2022 has been an intense year for mergers, with the CC assessing a number of complex transactions requiring in-depth legal and economic analysis. For the first time in the history of the Authority, protection for a failing company was granted and confirmed. 2022 will also mark the beginning of more active merger cooperation between the Baltic competition authorities, facilitating the exchange of knowledge and experience, as well as a more complete merger review at the Baltic level."

strengthen a dominant position in the affected markets in Latvia in which the merging parties are active. The merger is therefore cleared.

## Merger of JSC TAK investīcijas and LLC Zaļā josta

The CC found that the merging parties JSC "TAK investīcijas" and LLC "Zaļā josta" are active as competitors in the market for extended liability management of packaging waste and disposable tableware and cutlery manufacturers, as well as in the markets vertically related to the merger. After further investigation, the CC decided to clear the merger, concluding that the merger would not result in a strengthening of the dominant position of JSC "TAK investīcijas" and would not significantly impede competition in any of the affected markets.

## Merger of JSC CleanR Grupa and LLC RSC Noma

The CC assessed the intention of JSC "CleanR Grupa" to acquire LLC "RSC Noma". The merger affects the construction waste management market in Riga and the Baltic Sea Region, which includes the collection, transportation, sorting and treatment of construction and industrial waste, but excludes the disposal of construction waste from the relevant market. The CC did not find any significant harm to competition and therefore decided to clear the transaction.

## Agreement on the electric car charging market

The CC carried out an in-depth assessment of an agreement notified by the undertakings and authorised cooperation between JSC "Latvenergo", JSC "Road Traffic Safety Directorate" and JSC "Unifiedpost" on the electric car charging market.

As a result of the agreement, customers of JSC "Latvenergo" Elektrum Drive charging network will be able to charge in the e-mobile network of JSC "Road Traffic Safety Directorate" using JSC "Latvenergo" authentication tools and payment procedures, and vice versa. This will ensure smooth user authentication, payment and related services. ■

# PREVENTING UNFAIR TRADING PRACTICES

On 1 November 2021, the Prohibition of Unfair Trading Practices Law entered into force, implementing the Unfair Trading Practices Directive 2019/633, which aims to prohibit unfair trading practices throughout the supply chain of agricultural and food products, as well as the use of purchasing power by non-food retailers against suppliers. Enforcement of the law is monitored and controlled by the CC.

## Advise and educate

In 2022, the CC provided more than **30 consultations on the application of the law** to promote traders' and suppliers' understanding and implementation of fair trade principles in practice. The most frequently asked questions concerned the application and interpretation of the law, including settlement deadlines, possible breaches of the law, and pricing or discount policies.

In addition, **12 opinions** were issued to both market participants and the European Commission on the application and implementation of the law.

At the beginning of the year, the CC developed **guidelines on the application of the Prohibition of Unfair Trading Practices Law**, which are useful for all market players in the agri-food supply chain: retailers, food processors, wholesalers, cooperatives, organisations and individual producers, as well as public purchasers of agricultural food products.

In 2022, the CC also prepared a **self-assessment tool** for food and drink suppliers who produce, sell food and drink products to consumers, so that they can easily check whether traders are implementing fair trade practices.

## Warning for unfair cooperation with a supplier

In 2022, **18 submissions were assessed** for possible breaches of the law. The most frequent requests were for an assessment of the market operator's conduct and for clarification as to whether the conduct was compatible with the law.

Among other things, applications concerning the conduct of a market operator at agricultural level were also examined. The in-depth investigation revealed that the market operator actions did not qualify as an infringement of the Prohibition of Unfair Trading Practices Law. At the same time, the market operator included a penalty clause in the default invoices, which would be calculated for each day of delay in payment of the invoice, although the parties had not agreed on such a penalty in the contract. The CC **implemented a preventive measure** and invited the market participant to cease its current practice and warned that the conduct did not comply with the principles of fair practice.

## Sanctions imposed by retailers on suppliers

In 2022, the CC carried out a **market inquiry** assessing the sanctions stipulated in retailers' contracts and imposed on their suppliers. The CC found that in most cases there is a cap on penalties for any breach of contract, including for non-delivery of both promotional and non-promotional goods. Although the retailers' contracts indicate that the circumstances of the infringement will be assessed, they do not contain clear rules on which circumstances will be taken into account when assessing these breaches of contract and, consequently, the fairness and reasonableness of the sanctions to be applied. The CC notes that the upper limit of contractual penalty for any breach of contract cannot be considered fair and reasonable, despite the fact that it formally complies with the provisions of the law. Similarly, the sanctions to be applied in contracts and the circumstances in which the level of sanctions will be assessed must be clearly defined for both parties involved.

The amount of the sanctions imposed on the suppliers can, in the view of the CC, be assessed as economically significant. Depending on the size of the supplier, the value of the penalties imposed can be tens of thousands or even millions of euros. Where retailers impose unfair and unjustified penalties for breach of contract, this leads to situations where retailers "enrich" themselves at the expense of agricultural and food suppliers. The CC considers such conduct to be incompatible with the Prohibition of Unfair Trading Practices Law.

At the same time, the market monitoring found incomplete definitions of contractual penalties, as well as inconsistencies regarding possible communication in case of non-performance.

To address the shortcomings, the CC developed six successive prevention activities to be implemented in 2023, inviting retailers to improve their internal sanctioning processes so that future cooperation with their suppliers would eliminate potential risks of non-compliance with the Prohibition of Unfair Trading Practices Law. ■



## Sanita Uljane, the Head of the Unfair Trading Practices Prevention Unit:

"2022 has shown that it is not easy for producers (farmers), suppliers and often traders or their representatives to understand and adapt the provisions of the Prohibition of Unfair Trading Practices Law to their daily operations. This is illustrated by the risks of breaches of the law identified in the market study of retailers' application of penalties, such as incomplete definitions of contractual penalties, retailers' different approaches to penalties for promotional and regular goods, and the lack of clear communication in cases of breach of contract. It is therefore especially important to provide the public with high-quality and accessible information on the interpretation and application of the provisions of the law."

# IMPACT ON COMPETITION OF PUBLIC ADMINISTRATIVE BODIES

## State and local government involvement in business

In total, the CC received **288 applications** in 2022 related to the activities of public administrative bodies - state, municipalities and capital companies owned by them, including possible distortion of competition and revaluation of shareholdings in capital companies.

In order to avoid the risks of a public administrative body unduly engaging in commercial activities and thereby distorting competition by making it more difficult or even impossible for private undertakings to operate on the market, public administrative bodies are required to carry out an assessment of their planned activities when establishing new or reassessing their holdings in existing capital companies in accordance with Section 88 of the State Administration Structure Law.

According to the Law such an assessment, including an assessment of the impact on competition, should be carried out at least every five years. Thus, in 2022, substantial resources were devoted to the preparation of opinions on the involvement of public entities in business activities through the companies they own. A total of **169 opinions were issued** in 2022.

For advisory purposes, the CC has started and will continue to produce **summaries by sector or industry**, highlighting the key findings and issues arising from the institution's opinions on revaluations of holdings in capital companies by state and local governments. For example, conclusions on public involvement in the health and public transport sectors have been published in 2022.

## Respect for competitive neutrality

The Competition Law requires public entities to respect competitive neutrality.

In 2022, the CC received 85 complaints about the conduct of public administrative bodies. During the reporting period, the CC carried out in-depth competition neutrality investigations in nine cases. Including in **four cases** the CC implemented negotiation procedures to prevent non-compliance with competition neutrality, where a public entity has discriminated private market players or has created advantages for its own capital companies. The implementation of the negotiation procedure is set out in Article

14.<sup>1</sup> of the Competition Law and is aimed at timely elimination of deficiencies in the conduct of municipal capital companies, municipal institutions and other public administrative bodies.

Potential non-compliance with competition neutrality was addressed in cities like Ventspils, Liepāja, Jūrmala, Rīga, Jelgava, etc. The affected markets include the real estate rental market, the publishing market, residential management, as well as trade regulation in municipalities and public procurement.

## Public transport ticket e-platforms evaluated

The CC's **market study** concludes that in 2023, SLLC "Autotransporta direkcija" will ensure fair competition between market players by introducing a single public transport ticketing e-system. The system will bring together all transport providers and bus stations that sell tickets, as well as ticket offices at railway stations.

Until the introduction of the system, public transport ticketing in Latvia had a number of shortcomings, for example bus tickets were often not available online or cost more than at the ticket office or from the bus driver. LLC "Mobilly" complained that the State capital company had caused restrictions of competition for the company, as amendments to the existing cooperation rules prevented "Mobilly" from providing train ticketing services without the company suffering losses.

## Pro-competitive laws and regulations

In 2022, the CC **issued 49 opinions to legislators** in more than eight economic sectors to address potential restrictions to competition that could be facilitated by regulatory frameworks. In 2022, views were also expressed on the compatibility of draft laws with the principles of free competition and distortions of competition in areas such as waste management, health, passenger transport, trade, public procurement, pharmaceuticals, insurance, education, electricity and others.

To promote the adoption of pro-competitive regulatory framework, representatives of the CC **defended the principles of fair competition at 55 events**, including the Cabinet of Ministers, the Parliament, etc.

**25%** of all measures taken to prevent restrictions on competition by public administrative bodies took account of the CC's views. ■



### Antis Apsītis, The Head of the Competition Promotion Department:

"In 2022, significant resources were devoted to the provision of public administrative bodies participation in companies, with a 48% increase in the number of submissions received from public administrative bodies, and a 77% increase in the number of opinions issued on state and local government involvement in business during the reporting period. On the positive side, there has been an increased awareness among public administrative bodies of the need for a full assessment of their holdings in companies, allowing them to identify problematic areas of activity, as well as an increased understanding of the competition neutrality aspects."

# SECTOR INQUIRY

In 2022, the CC concluded its monitoring of **eight markets**, including assessing and proposing remedies to competition constraints, such as digital markets, the fuel market, the woodchip market and others. Market surveillance aims to provide in-depth insights into different sectors of the economy, as well as to identify the competitive situation and find ways to improve it.

## Investigating fuel price increases

In market study the CC found that the increase in **retail fuel prices** is not based on a breach of competition law, but on objective circumstances resulting from the Russian invasion of Ukraine.

The CC notes that the retail fuel market is oligopolistic and easily transparent, and is therefore characterised by intelligent adaptation, i.e. competitors monitor the prices offered by other market players and react to price changes. Such adaptation, if it takes place independently, by evaluating the offer of competitors without assistance and setting their own price, does not constitute a violation of competition law.

The CC found that the increase in the retail price of fuel in 2022 was essentially correlated with the increase in the purchase price of fuel. In addition, there was a correlation with exchange rate movements (USD vs EUR) and oil price movements.

## Exploring the market for wood chips in Latvia

In view of the significant increase in the price of wood chips in 2021 and 2022, the CC carried out an investigation into the **market of wood chips** in order to identify the reasons behind the significant increase in wood chips prices.

The CC found no evidence of the existence of a possible cartel and established prima facie that no market participant was in a dominant position on the market for wood chips in Latvia. However, the CC points out that heat producers need to carefully assess each requirement they impose on woodchip suppliers. Imposing disproportionate requirements may restrict competition in the procurement of wood chips, thus also reflecting in heat tariffs and negatively affecting heat consumers.

The reasons for the price increase are, first of all, the general increase in energy prices, as well as geopolitical circumstances, including restrictions on imports of wood chips and other timber from Belarus and Russia as a result of Russia's war in Ukraine. At the same time, the chip production process has also been affected by inflation and chip companies have not invested enough in chippers and other equipment needed for chip production. In the CC's view, all of the above factors have contributed to the increase in the price of wood chips.

## Neighboring countries explore online trading platforms

In 2022, the Latvian and Lithuanian competition authorities launched parallel market studies to assess the impact of **online trading platforms** on the development of e-commerce in the Baltic region.

Latvia and Lithuania analyzed online trading platforms, which provide e.g. food deliveries, various consumer goods, gift vouchers to consumers, to assess their cooperation with companies willing to offer goods or services to consumers via the platform. The authorities also surveyed businesses that use online sales platforms to reach consumers. The conclusions of the market surveillance are expected to be published in 2023.

## Additional regulation needed for online platforms

In addition, the CC also carried out market surveillance in 2022, which investigated the functioning of online platforms, focusing on **market definition criteria** in the context of competition law, as well as assessing market power criteria for online platforms.

The CC's concluded that ensuring fair competition in Latvia requires a discussion on the introduction of additional regulation governing the operation of online platforms and related obligations at national level. At the same time, the competition law tools currently existing for the digital market may not be sufficient to identify the relevant market and the dominant position of online platforms.

## Clarify the risks of participation in procurement by related companies

In 2022, the CC carried out market study aimed at obtaining information on the **participation of related companies in tenders** organised by JSC "Latvijas valsts meži". For example, their interconnectedness or how they position themselves on the market, how they keep their commercial secrets and ensure independent bids for tenders. The market study clarified the term "related undertakings" within the frame of the Competition Law and made recommendations to both the contracting authority and the undertakings on what to do in situations where tenders are submitted by both formally and informally related undertakings and how to ensure independent submission of tenders to the contracting authority. ■

# LITIGATION

In 2022, significant resources were devoted to the representation of the in courts, including at the launch of the "Construction Cartel" hearings. During the reporting period, the CC was represented in a total of 25 active legal proceedings related to the actions or decisions of the CC.

**Five proceedings** relating to decisions taken by the CC were **concluded** in 2022. In all cases, the CC's decision was upheld. In 2022, the legal proceedings brought by the "Moller Group" companies were concluded in the Volkswagen car dealers cartel case. The companies paid more than €7 million in fines imposed by the CC to the state budget. The Court also upheld the decision of the CC on the cartel in the land reclamation sector, as well as the decision of the CC to prohibit LLC "RIMI LATVIA" from using retail premises in the "DOMINA Shopping" centre, which had been in litigation since 2017. In the case of procedural infringement of the "Liepājas autobusu parks", the proceedings were terminated by concluding a settlement agreement and reducing the imposed fine.

In 2022, companies fined for infringements of competition law, including after the conclusion of legal proceedings and the entry into force of the CC's decision, or after reaching a settlement with the authority, **paid more than €9 million to the state budget.**

## Volkswagen dealer cartel case is closed

In 2022, the Administrative District Court terminated the proceedings regarding the appealed decision of the CC from 2014, which established a prohibited agreement in the activities of the dealers belonging to the "Moller Group", which are engaged in the distribution of Volkswagen cars.

In 2014, the CC found that Volkswagen dealers in Latvia had systematically coordinated their participation in tenders organised by private companies, state administration authorities and agencies, municipalities, schools, nursing homes, and others for at least five years. Dealers regularly informed each other of their plans for a procurement, asking others not to compete, e.g. not to participate at all or not to offer lower prices. The CC concluded that such an agreement by its very nature, i.e. by its object, hindered competition between dealers of the same brand of car. An infringement was therefore found and a fine was imposed.

## Cartel in the reclamation sector

With the decision of the Supreme Court of 30 August 2022 not to initiate cassation proceedings, the decision of the CC of 2021, which fined two land reclamation companies - LLC "Valkas meliorācija" and LLC "Agromeliorators" - on the submission of coordinated tenders in procurement organised by the State LLC "Ministry of Agriculture Real Estate".

The CC imposed a fine of EUR 208,837.15 on LLC "Valkas meliorators" and EUR 13,132.45 on LLC "Agromeliorators".

## The ban on RIMI to use DOMINA Shopping premises

The Supreme Court, by deciding not to initiate cassation proceedings, upheld the CC's 2017 decision to prohibit Plesko Real Estate LLC from granting RIMI the right to use retail premises in the DOMINA Shopping centre in Riga.

In 2017, the CC found that RIMI's entry into DOMINA Shopping, where Prisma Latvija JSC previously operated, would increase and strengthen RIMI's market power and leading position in both the multi-functional shopping centre segment and the relevant retail market for everyday consumer goods.

## Protection of the communication made under the Leniency programme and the settlement procedure

In 2022, the Supreme Court issued important findings in relation to the proceedings before the Administrative District Court concerning the obligation of the CC to provide a settlement agreement and its offer to a market participant who is not a party to the settlement agreement.

Information provided by companies under the Leniency Programme or the Settlement Agreement includes voluntary admissions of facts and wrongdoing by the offender, or self-incriminating statements. Such admissions can lead to increased civil or criminal liability for companies that cooperate with the Authority and to worse conditions than for co-offenders who do not cooperate with the Competition Authority.

The Supreme Court therefore concluded that, in order to ensure the willingness of undertakings to cooperate voluntarily with the competition authority within the framework of the Leniency Programme and the Settlement Agreement, statements made by market participants cannot be subject to an evidentiary inquiry, such communications must be afforded the greatest legal protection and are excluded from the scope of information that may be made available to other persons.

## No infringement during inspection

In 2022, the European Court of Human Rights case Naumenko and LLC Rix Shipping v Latvia was concluded. Both applicants, relying on Article 8 of the European Convention on Human Rights, considered that the CC's conduct in searching the premises and seizing documents and electronic information during the proceedings was unjustified and disproportionate. However, the European Court of Human Rights found that there had been no violation of the individual's right to respect for private life and correspondence during the CC's proceedings, as the applicants had access to adequate procedural safeguards. ■



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

"In 2022, litigation added significantly to competition law case law on procedural issues. The Senate confirmed the importance of the Leniency Programme and the Settlement Procedure in effectively detecting the most serious competition law infringements and bringing market players to justice. The Senate brought legal certainty to the offer of settlement and the specific legal protection of communications made under the Leniency Programme, eliminating the risk of them being used outside the institution's investigation case. The European Court of Human Rights upheld the compliance of the CC procedural actions with the right to respect for private life and correspondence guaranteed by the European Convention on Human Rights. A positive judgment of the European Court of Human Rights is the highest level of confirmation of the quality of the legal work of the CC, ensuring the legality and legitimacy of the actual exercise of the investigative powers conferred on the institution by law."

# CHANGES IN THE LEGAL FRAMEWORK

In order to fully transpose the requirements of **Directive (EU) 2019/1 of the European Parliament and of the Council or the so-called ECN+ Directive** into national legislation, amendments to the Competition Law, the Civil Procedure Law, the Law on State Budget and Financial Management and the Cabinet of Ministers Regulation for procedure for determining a fine for infringements of Competition Law and Prohibition of Unfair Trade Practices were adopted in 2022.

## Strengthening the independence and powers of the Competition Council

In 2018, the **ECN+ Directive** was adopted, which requires national competition authorities to be provided with the necessary powers, independence safeguards and resources to be able to effectively detect and prevent competition law infringements.

The amendments to the Competition Law adopted in 2022 foresee that the CC will be supervised by the Cabinet of Ministers. The Law strengthens the financial as well as the operational independence of the authority, including by providing for the full independence of the CC in dealing with the Authority's internal organisational matters. At the same time, closer cooperation with business NGOs, sectoral policy makers and the legislator through the newly established Consultative Council is envisaged.

At the same time, the amendments increase the capacity of the Council, the decision-making body of the CC, from three to five members. On 25 October 2022, the Cabinet of Ministers approved one of the two members of the Council, thus Kārlis Piļēns joined the CC as the fourth member of the Council. Another seat on the Council remains vacant until the end of 2022.

The amendments also harmonise the powers of competition authorities at EU level to effectively investigate, detect and enforce competition infringements. The amendments will have a positive impact on the authority's investigative processes and decision-making, including changes to the fines applicable. For example, the liability of a competition law offender for infringements of EU competition law will now be determined by its worldwide turnover, and for infringements of restrictive agreements and abuse of dominant positions, the maximum fine threshold for market players will be set at 10% of their worldwide net turnover for the last financial year.

The amendments also provide for changes to the procedural steps to be taken by the authority, i.e. inspections of market operators. The changes clarify the procedures for carrying out inspections, including by increasing the time the CC has to seal a market operator's prem-

ises in order to obtain and preserve evidence. The right to receive support from other state administration and law enforcement authorities in the framework of procedural (inspection) activities has also been clarified, including the right of the CC to authorise officials of competition authorities of other EU Member States to actively assist in the implementation of procedural activities when the CC carries out procedural activities on behalf and on behalf of a competition authority of another EU Member State.

At the same time, the amendments extend the scope of the Leniency Programme by exempting or significantly reducing fines for competition law infringers cooperating with the CC not only in prohibited agreements, but also in the detection of prohibited vertical agreements on resale price fixing or passive restraint of sales.

In order to fully implement the requirements of the ECN+ Directive in 2022, the Cabinet of Ministers has also finalised the Cabinet Regulations on the procedure for calculating fines for violations of the Competition Law, the Treaty on the Functioning of the European Union and the Unfair Trading Practices Prohibition Law, setting out more detailed provisions on the methodology for calculating fines and the application of the Leniency Programme. ■

# COMMUNICATION AND COOPERATION

In 2022, representatives of the CC participated in 36 educational events organised by the institution or other organisations. In addition to joint fair competition awareness-raising activities, the CC held 80 inter-institutional cooperation meetings on various topics.

The CC held 45 meetings with businesses and NGOs to discuss competition developments and challenges in different sectors and to promote fair competition principles. In addition, the authority provided seminars to these target groups on various aspects of competition law enforcement, including the prevention of collusion between competitors or within associations.

## Educating priority target groups

Taking into account the results of the 2022 public opinion poll, the two most important competition law problems in Latvia are cartels in public procurement and distortions of competition caused by public entities - state, municipalities and their capital companies, thus these two groups are the priority target groups of the CC where it is necessary to raise awareness about free and fair competition.

### ► Entrepreneurs

To prevent major competition law infringements, such as collusion, educational seminars and webinars for businesses were organised.

In 2022, the CC developed a new series of seminars on vertical agreements, explaining to businesses the boundaries of permitted and prohibited cooperation. The first two vertical agreement seminars for retailers and distributors were held in 2022 and similar events are planned for 2023.

*The first two vertical agreement seminars for retailers and distributors were held in 2022, and similar events are planned for 2023.*

At the same time, the CC carried out educational activities in large Latvian companies such as Latvijas Pasts, Rīgas siltums, Latvijas Valsts ceļi, etc.

In order to promote discussions on fair business practices between market monitoring institutions and entrepreneurs, the CC in cooperation with the Corruption Prevention and Combating Bureau, the Register of Enterprises, the Financial Intelligence Service and the Latvian Chamber of Commerce and Industry organised a discussion on fair and responsible business environment at the "Lampa" festival.

## Procurement organizers and stakeholders

In order to promote the development of the procurement environment, the CC provided seminars for public procurement organizers and European Union fund monitors, thus strengthening the competences of this target group and their ability to identify signs of cartel agreements between bidders. Among others, the CC educated procurement professionals in cooperation with the Procurement Monitoring Bureau, the Procurement Academy, the Economic Crimes Combating Directorate of the Main Criminal Police Directorate of the State Police, etc.

In 2022, not only procurement authorities but also cooperation authorities were trained to identify cartels and help the CC to prevent collusion. Cooperation activities took place with the Economic Crimes Combating Directorate of the Main Criminal Police Directorate of the State Police, the European Public Prosecutor's Office, the Corruption Prevention and Combating Bureau, the Financial Intelligence Service, the Central Financial Contracts Agency, etc.

### ► Public administrative bodies

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

In 2022, the CC actively promoted public awareness of competition neutrality by joining forces with other institutions, e.g. the CC spoke at events organised by the largest business association in Latvia, on the health sector, education sector, aimed at discussing fair competition between private and public market players. The CC also participated in events organised by the Latvian Association of Local Governments,

*Participation of the Competition Council, the Corruption Prevention and Combating Bureau, the Register of Enterprises, the Financial Intelligence Service and the Latvian Chamber of Commerce and Industry in the "Lampa" festival*





*The winner of the Student Research Papers Contest will receive a cash prize of EUR 1,000 and an internship at the Competition Council.*

where the main target audience is local governments. The CC also actively participated in discussions on the restrictions imposed by the State on private market players, such as the Healthcare Employers' Association (HEA) event on current developments in healthcare and the conference on COVID-19 restrictions on private market players.

In 2022, the CC joined the joint initiative of public administration employees and businesspeople to promote fair competition between private, public and municipal companies in the medical sector. Representatives of the CC, together with representatives of the Ministry of Economics, visited the digestive diseases centre "GASTRO" to get acquainted with the work of the clinic and to seek solutions to the problems of competitive neutrality highlighted by the entrepreneurs.

## Fostering a culture of competition in young audiences

The institution is also involved in **educating the younger generation - the pupils and students.**

In the spring, the CC **organised a "Shadow Day"** to introduce students to the daily work of the institution.

On the occasion of the 30th anniversary of the authority in 2022, the CC, in cooperation with the law firm Eversheds Sutherland Bitāns, organised a **video competition "Is There A Place for Competition?!" for pupils** in grades 7 to 12, aimed at raising pupils' awareness of the economic processes in the country and fair competition.

The best entries received paid language courses worth €500, as well as gift vouchers from the electronics store Capital and the Jānis Roze bookshop. On 20 December, the competition's closing ceremony took place, where students from Rezekne, Jekabpils, Druva, Engure and Riga were awarded.

The CC also participated in the **"Business Fairy-tales" competition organised** by Junior Achievement Latvia as a jury, judging the Business fairy-tales submitted by students, which highlighted the importance of fair competition in market development.

In 2022, the CC also educated **future competition law professionals and students** from the University of Latvia, Turība University and Riga Graduate School of Law by giving lectures. The CC experts also participated with three research papers in the **Scientific Research Conference** organised by the University of Latvia, followed by the publication of the experts' scientific articles in the journal "Jurista Vārds".

In May 2022, the **Competition Law Contest for Research Papers of Students** organized by the CC, Law Firm ZAB PricewaterhouseCoopers Legal, and Riga Graduate School of Law was concluded. A total of eight entries were submitted. After evaluating all the submitted papers and presentations, the competition committee unanimously agreed to award the first place and the main prize - EUR 1,000 and an internship at the CC - to Linda Lielbriede, 1st year student of the Professional Master's degree programme at the University of Latvia. The topic chosen by the student was the use of evidence obtained in competition infringement cases in civil and criminal cases. A new Research Paper Contest was launched in autumn 2022, and the winners will be awarded in 2023.

*On the occasion of the 30th anniversary of the authority, the Competition Council in cooperation with the law firm Eversheds Sutherland Bitāns organised a video competition for schoolchildren "Is There A Place for Competition?"*



## The CC develops digital communication

In 2022, the CC continued to actively use different communication channels to reach new audiences.

A total of **103 press releases** were issued. In total, the CC has been mentioned in the media 1,572 times. Social networks such as Facebook, Twitter and LinkedIn have a total of **140-170 posts** each in 2022. As a result, in 2022, the CC gained 331 new followers on Facebook, 114 new followers on LinkedIn and 85 more followers on Twitter.

In order to reach new target groups and strengthen its image, the Competition Council also developed its communication in the digital environment during the reporting period by **producing eight podcasts and videos on competition**. For example, an educational podcast explains the new guidelines for the application of the Unfair Trading Practices Prohibition Law, video materials explain in a short format the issues related to the involvement of public administrative bodies in the transport and health sectors, and the CC produced videos on both the Cartel Self-Assessment Tool for procurements organizers and the possibility to attend vertical agreement seminars,

as well as news related to the decisions taken and the use of the Leniency Programme.

## Self-assessment tools

In addition, to promote fair competition, a **self-assessment tool** for contracting authorities to identify collusion in procurement, was developed in 2022.

In 2022, the CC also developed recommendations for businesses on what they can and cannot do when cooperating with each other to tackle the challenges of war, including the shortage of raw materials. The CC also prepared **guidelines for undertakings** on how to divide fines and an additional financial self-assessment tool, as well as a self-assessment tool for traders and suppliers on unfair trading practices.

## International activities

In 2022, the representatives of the CC have promoted the visibility of Latvia and strengthened the position of the institution in the international environment by attending **74 international events**, which

*On 14 and 15 November, the Baltic Competition Conference was dedicated to the 30th anniversary of the authority.*



*The Heads of the Baltic Competition Authorities discussed the actualities of competition law in the Baltic States.*





*33 representatives of competition authorities took part in the experience exchange seminar on Hub&Spoke cartels organised by the Competition Council and the OECD in Riga.*

is almost twice as many as in the previous year, and by making presentations or speeches on 36 occasions, for example at events organised by the Organisation for Economic Cooperation and Development (OECD), International Competition Network (ICN), European Competition Network (ECN) and other partners.

One of the most important activities in strengthening international cooperation and exchange of experience in the Baltics. The Baltic Competition Authorities held a meeting and exchange of experience in Vilnius, as well as a new practice of information exchange on merger cases in the Baltics was established at expert level and joint market studies were launched.

The CC has also shared its knowledge at other international events, for example, from 14 to 16 June, the CC, in cooperation with the OECD, conducted training on the application of temporary restraints in competition law for Eastern and Balkan countries in Budapest. The CC had the opportunity to educate experts from competition authorities from other non-OECD countries, such as Bulgaria, Croatia, Georgia, Romania, on Latvia's experience with interim resolution.

In addition to educational activities, in 2022 the CC prepared or contributed to **49 international documents** sharing its experience in applying competition law.

## International events in Riga

### ► Baltic Competition Conference

The 18th Baltic Competition Conference, dedicated to the 30th anniversary of the CC, took place in Riga on 14 and 15 November. The conference focused on the involvement of public administrative bodies - state and local governments - in entrepreneurship,

as well as today's competition law challenges related to the development of the digital market and recent case law on competition law.

The event took the form of both panel discussions and separate expert working groups on mergers, collusion and abuse of dominance, digital markets and other topics.

### ► OECD experience exchange seminar

On 11 and 12 May, the Competition Council in cooperation with the OECD organised an experience exchange seminar on cartel enforcement (Hub&Spoke) for competition law experts in Riga, which is the first event of this level organised by the OECD in the Baltic States.

The seminar was attended by 33 competition authority experts from the United States, India, Turkey, Sweden, Poland, the United Kingdom, Mexico, Romania, Colombia, Austria, Hungary, Germany, Portugal, Ireland, Israel, Croatia, Lithuania, Estonia and Latvia. ■

# PERFORMANCE INDICATORS OF THE COMPETITION COUNCIL

In 2022, the CC has overall achieved the planned performance indicators set for the institution under the budget sub-programme "Implementation of Competition Policy".

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

Name of the indicator / Name of the measure	Planned value	Execution
<b>Preventive measures and investigation of possible infringement cases, market research</b> <i>Total number of measures</i>	25	33
including high priority areas for market research - construction, transport, digital financial services, pharmaceuticals, public procurement, relationship between retailers and food suppliers <i>Number of high priority actions</i>	11	11
including investigative measures (case and monitoring) to ensure competitive neutrality <i>Total number of measures</i>	8	9
including monitoring measures to ensure fair trade practices in the agricultural and food supply chain <i>Total number of measures</i>	3	3
<b>Assessment of the impact on the competitive environment of mergers and agreements proposed by market participants</b> <i>Number of cases/high priority cases</i>	16	17
including in-depth merger investigations <i>Total number of measures</i>	6	5
<b>In-depth analysis of data (e-evidence) from inspections</b> <i>Number (to be calculated annually)</i>	8	85
<b>Restrictions removed from the activities of public administrative bodies (percentage of positive result achieved in relation to total number of measures taken)</b> <i>Percentage (to be calculated annually)</i>	25 %	25 %
<b>Completion of administrative court proceedings and percentage of decisions upheld</b> <i>Percentage (to be calculated annually)</i>	82 %	100 %
<b>Actions taken in response to notifications to protect against possible infringements of competition law</b> <i>Assessed submissions on which a Council Decision has been adopted</i>	30	34
<b>Public partners' support in promoting competition ideas and coverage of target audiences ensured (explanations, opinions, proposals, drafting of legislation and guidelines)</b> <i>Number of documents</i>	220	327
<b>Awareness-raising activities to ensure fair trade practices in the agricultural and food supply chain</b> <i>Total number of measures</i>	4	6
<b>Positive assessment of the functioning of the CC by entrepreneurs (% of "positive" and "rather positive" responses to the survey)</b> <i>Percentage (to be calculated annually)</i>	60 %	74 %
<b>Strengthened role and international visibility of the CC (number of publications and events taking the floor)</b> <i>Total number of measures</i>	45	58
<b>Staff turnover (number of employees who have left the Authority to total number of employees)</b> <i>Percentage (to be calculated annually)</i>	15 %	12 %
<b>Staff loyalty (% of staff who responded to the survey that they will continue their legal employment with the Authority for the next two years)</b> <i>Percentage (to be calculated annually)</i>	85 %	96 %
<b>Public benefits from the operations of the Competition Council</b> <i>Millions of euros (average over three years)</i>	> 23	51,6

# FUNDING ALLOCATED TO THE COMPETITION COUNCIL

Through its activities, the authority implements the sub-programme "Implementation of competition policy" (26.02.00) of the budget programme "Ensuring fair competition, internal market and consumer protection" (26.00.00).

No.	Financial indicators	Previous year (actual implementation)	Reporting year		
			approved by law	approved by law (with changes)	actual implementation
<b>1.</b>	<b>Financial resources to cover expenditure (total)</b>	<b>1 946 106</b>	<b>2 337 931</b>	<b>2 285 015</b>	<b>2 075 051</b>
1.1.	grants	1 946 106	2 337 931	2 285 015	2 075 051
<b>2.</b>	<b>Expenditure (total)</b>	<b>1 946 106</b>	<b>2 337 931</b>	<b>2 285 015</b>	<b>2 075 051</b>
2.1.	maintenance expenditure (total)	1 862 897	2 266 131	2 237 849	2 027 885
2.1.1.	current expenditure	1 862 897	2 266 131	2 237 684	2 027 720
2.1.2.	interest expenses				
2.1.3.	subsidies, grants and social benefits	0	0	165	165
2.2.	capital expenditure	83 209	71 800	47 166	47 166

# IMPROVEMENTS IN THE MANAGEMENT OF THE AUTHORITY

In order to ensure a successful and development-oriented functioning of the Authority, the CC improved a number of internal processes in 2022, took care of the development of individual competences of staff and strengthened the IT capacity of the Authority.

In 2022, in order to strengthen the **technical and technological IT capacity** of the authority to ensure more effective investigations of competition infringements, few activities were implemented to develop an IT laboratory for processing the e-evidence, and further training of staff on the use of the IT laboratory is planned. Also in 2022, particular attention was paid to the development of an automated cartel screening tool and an automated merger report submission tool. At the same time, work has continued on the development and implementation of a digital e-case and, in order to streamline procedural activities, the audio-recording process at the institution has been improved and implemented in 2022, including training the case handlers.

In 2022, the authority also underwent **structural changes** to strengthen its capacity. The amendments to the Competition Law strengthen the Authority's decision-making body by increasing the Council's capacity from three to five representatives. As a result of the entry into force of the Unfair Trading Practices Prohibition Law, an additional post was created in 2022 to monitor unfair trading practices and an Unfair Trading Practices Prevention Unit was established from 2023 to monitor and control unfair trading practices.

During the reporting period, the new **By-Laws of the CC** were drafted and entered into force on 23 December. The aim of drafting the By-Laws was to clarify the procedure for the functioning of the CC by extending the powers of its decision-making body in line with the amendments to the Competition Law. The CC's By-Laws provides for the Council, in addition to taking decisions in competition cases, to play a more prominent role in deciding on general administrative matters affecting the functioning of the institution. The Council will also decide on pay arrangements, the salary range and the budget request under priority actions. By contrast, individual decisions on personnel matters, as well as the disbursement of financial resources and the preparation of the annual budget request, will remain the responsibility of the Chairperson of the Council.

Based on studies carried out within the institution, a working group was set up in 2022 with the aim of developing solutions to improve the effectiveness of **internal communication** within the CC, which

led to the development of solutions to promote internal communication, strengthen staff loyalty and communication culture, and foster an innovation-oriented environment.

During the year, **58 external trainings were attended by CC staff**, enhancing their professional competences through conferences, international forums, courses organised by the School of Public Administration and training and skills coaching by other professionals.

In order to ensure the exchange of best practices within the organisation and to ensure institutional memory, **3 internal training events** on the organisation of inspections and procedural features of competition law enforcement, as well as training on the processing of personal data, as well as staff sharing experience on topical competition law enforcement issues, such as amendments to the Competition Law and other topics, were held in 2022.

In order to ensure the development of staff competences, Lumina Spark **psychological profiling and counselling has been carried out** for executive staff, with the aim of identifying staff strengths and talents and promoting the personal development of CC staff. The tool will also be used to establish an individual competency development plan.

In addition, **professional coaching sessions** were provided to staff in 2022 supporting new approaches, new habits, ways of adapting to change and circumstances, so that employees can move more successfully through organisational or personal transformation.

In 2022, Authority started on the development of the **CC's Operational Strategy (2023-2029)** and the authority's **Case Prioritisation Strategy**. ■

# IMPLEMENTING THE THREE-YEAR STRATEGY

The Competition Council set out three main lines of action in its 2020-2022 Operational Strategy, ensuring that the planned performance indicators are exceeded in most of the defined tasks, which relate to competition protection, strengthening the Authority, public education and international cooperation.

## The national budget allocated to the authority for 2020-2022.

	2020. gads	2021. gads	2022. gads
Total expenses (EUR)	1 304 484	2 143 139	2 285 015
Expenses on remuneration (EUR)	1 194 358	1 705 133	2 053 965

## 1. DIRECTION OF ACTIVITY

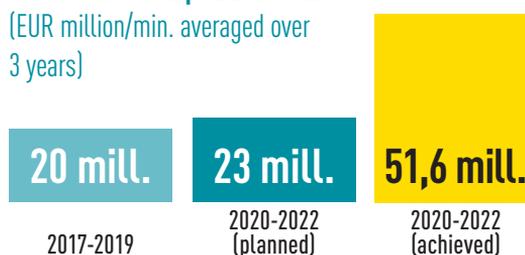
**Detection and prevention of serious competition infringements** and market distortions and prevention of adverse effects of market concentration

### 1. PURPOSE

**Supporting market players to operate in a fair competitive environment.**

## Planned and achieved public benefits from the work of the Competition Council

(EUR million/min. averaged over 3 years)



Action to achieve the objective	Indicator	2020 (planned)	2020 (achieved)	2021 (planned)	2021 (achieved)	2022 (planned)	2022 (achieved)
Detecting <b>serious infringements</b> or promoting competition in priority areas	Investigation of alleged infringement cases (number)	25	21	25	30	25	33
	High priority market investigations (number)	11	11	10	10	11	11
Effective monitoring of the principle of <b>competitive neutrality</b> of public entities – monitoring the activities of public entities and their capital companies	Investigative measures (case and monitoring) to ensure competitive neutrality	3	3	4	6	8	9
	Restrictions removed from the activities of public entities (% of positive result achieved out of total number of measures taken)	20%	24%	22%	24%	25%	25%

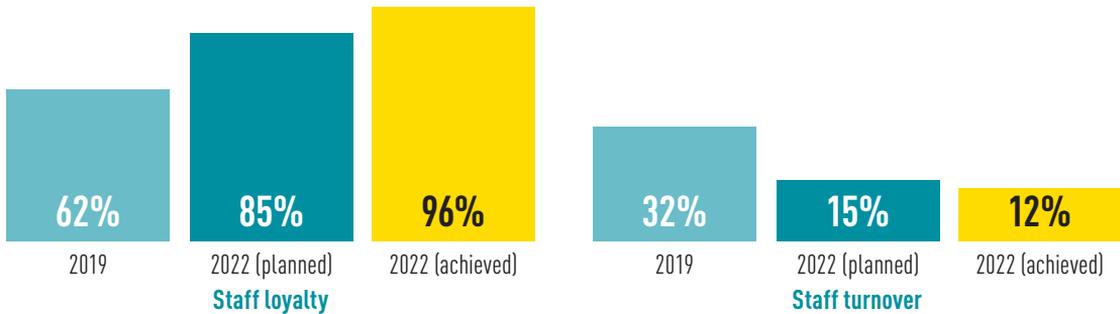
## 2. DIRECTION OF ACTIVITY

Strengthening and growing the capacity of the Competition Council.

### 2. PURPOSE

A strong, independent and influential public administration whose views are taken into account.

Staff loyalty and turnover (planned and achieved results)



## 3. DIRECTION OF ACTIVITY

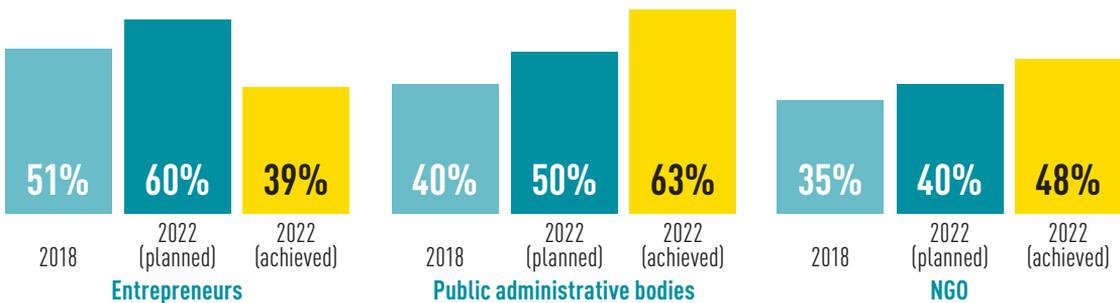
Promoting awareness of free and fair competition among industry players and public authorities, and shaping competition policy and culture at national and international level.

### 3. PURPOSE

Public education by strengthening cooperation with public administrations, national and international partners and the general public.

Positive public opinion on the activities of the Competition Council in general

(results of the public opinion poll conducted by the Competition Council)



Action to achieve the objective	Indicator	2020 (planned)	2020 (achieved)	2021 (planned)	2021 (achieved)	2022 (planned)	2022 (achieved)
Thoughtful and comprehensive awareness-raising activities to promote competition, with a particular focus on market players and public figures	Events to promote competition ideas (number of events)	100	Not measured	200	283	220	327
Promoting competition more effectively through cooperation with other institutions at national and international level	Competition Council publications and events in the international environment (number)	34	55	45	52	45	58

# PRIORITIES AND TASKS FOR 2023

2023 is the first year of operation of the Competition Council as an independent authority, strengthening existing resources and developing technological investigative tools to ensure more effective investigations of competition infringements.

The Competition Council will continue to work in the three main areas defined so far:

- ▶ Detecting and preventing significant restrictions of competition and market distortions, and preventing the adverse effects of market concentration.
- ▶ Strengthening and growing the capacity of the Competition Council.
- ▶ Promoting awareness of free and fair competition among market players and public authorities, and shaping competition policy and culture at national and international level.

In line with these lines of action, the Competition Council has set a number of priority tasks for 2023.

## 1. Fair competition in public procurement

According to the data of the public opinion poll conducted in 2022 and the practice of the Competition Council, there are two major problems in the field of competition in Latvia: collusion or cartels in procurement and distortions of competition created by public entities or state and local governments, which create unequal conditions of competition, discriminate or exclude entrepreneurs from the market.

In 2023, the Competition Council will pursue the most serious infringements of competition law in public procurement in various sectors with a significant impact on the economy, including by continuing and concluding investigations launched in 2022.

In 2023, the Competition Council will also devote significant resources to preventing distortions of competition in public procurement. On 1 January, amendments to the Public Procurement Law entered into force, obliging the Competition Council to support public procurers in recognizing cartel elements in applications received from tenderers. If the contracting authority suspects that tenderers have colluded and at the same time the contracting authority has consulted the Competition Council and confirmed its suspicions, the tendering authority will be able to take a decision to exclude the tenderer from participation in the specific procurement, thus preventing the negative consequences of collusion at an early stage.

## 2. State and local government involvement in the market and respect for the principle of neutrality

The Competition Council will devote significant resources to the supervision of public entities - state and local governments - which has been on the agenda of the Competition Council since 2020, when amendments to the Competition Law entered into force, giving the Competition Council broader powers to address distortions of competition caused by public entities. The Competition Council will continue to use the negotiation procedure to remedy breaches of neutrality, which ensures an immediate change of behavior and immediate benefits for society. At the same time, the Competition Council will not shy away from imposing fines if public administrative bodies choose not to change behaviour that distorts fair competition.

In order to educate public entities and provide them with recommendations for market conduct, the Competition Council will produce summaries by sector or industry, highlighting the key findings and issues arising from the Authority's opinions on public entities' holdings and involvement in various markets, for example, in 2023 it is planned to produce a summary on public entities' involvement in the building management and waste management sectors.

## 3. Monitoring unfair trading practices, digital markets and other markets with a significant impact on the economy

In 2023, the Competition Council plans to monitor markets with a significant impact on the economy and markets that are experiencing rapid development or innovation, such as digital markets. Last year, the Digital Market Act (DMA) adopted new rules for a fair and competitive digital industry at EU level. The new rules regulate and restrict the activities of large digital platforms, ensuring a level playing field for users and consumers. Already in 2022, the CC devoted significant resources to participating in the European Commission's Digital Market Act Working Group, and systematic cooperation, including exchange of information on potential infringements with the European Commission and national competition authorities, is expected in the period ahead.

At the same time, the Authority will intensify its focus on competition conditions in trade. In 2023, the Authority has established a separate Unfair Trading Practices Prevention Unit, one of the tasks of which will be to actively educate market players about the Prohibition of Unfair Trading Practices Law and to prevent unfair practices in the food supply chain.

## 4. Developing IT capacity for more effective investigation of competition infringements

One of the Authority's objectives is to ensure the application of Directive 2019/1/EU of the European Parliament and of the Council, the so-called "ECN+ Directive", in order to prevent and effectively investigate competition law infringements in the long term.

Strengthening the Authority's IT technical and technological capacity to ensure more effective investigations of competition infringements, the establishment of an IT laboratory for processing e-evidence will be completed in 2023 and staff will be trained to use IT technical equipment for obtaining and processing e-evidence. In 2023, particular attention will be paid to the development of an automated cartel screening tool, taking advantage of artificial intelligence to detect infringements. The Authority will also continue to move towards the introduction of an e-case for easier management of investigated cases, including facilitating the exercise of rights of participation during investigations.

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

In order to ensure that businesses and public figures understand the benefits of fair and free competition, the Competition Council needs to conduct extensive communication activities both at national level and internationally to encourage fair competition.

The Competition Council has defined the education of market players on fair competition as one of the main priorities of the institution; therefore, in 2023 the Competition Council will continue to actively educate market players by organizing seminars, webinars and consultations.

At the same time, for minor infringements, market players will be warned and educated using the "Consult First" principle. Encouraging entrepreneurs and public administrative bodies to monitor their own behaviour and participate in the prevention of competition infringements, the Competition Council will continue to develop new and improve existing self-assessment tools; among other things, the authority will develop a self-assessment tool on abuse of dominance, and will continue its ongoing work on the development of a digital merger notification submission tool for undertakings that need to obtain merger clearance from the Competition Council.

In order to learn and exchange the best practices of competition law experts in competition monitoring and competition culture building, the Competition Council will intensify its cooperation with other competition monitoring authorities and organisations worldwide, adopting the best practices in Latvia, as well as strengthen cooperation with national competition authorities in detecting and investigating competition restrictions. ■

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