



Competition Council
Republic of Latvia

**ANNUAL
REPORT
2019**



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FOREWORD BY THE CHAIRWOMAN

REFLECTING ON THE LAST YEAR:
THE STATE AND LOCAL GOVERNMENTS – COMPETITION ALLIES OR FOES?



Free market

Definition: an economic system, which is based on demand and offer, and stipulates low or non-existent involvement of the public power.

One of the key elements of free market is fair competition, which ensures a possibility for entrepreneurs to manufacture and sell their goods, and provide their services. The stronger is competition among entrepreneurs, the more benefit it brings to the state, among other things, developing its economy and strengthening its competitiveness on a global scale. While seeking for regularities in theory, public administrative bodies, i.e., local governments and the state, should be interested in promoting growth of entrepreneurship. Everybody knows this axiom. However – does it happen so in practice?

No matter, how strange it sounds, but, briefly describing the work of the Competition Council in 2019, we observed groundless obstacles to development of fair and healthy competition in several fields, caused exactly by public administrative bodies.

In spring, we detected bid-rigging by several companies in price quotations on acquisition of nanotechnology chemicals, organised by the local government owned public transport company SIA "Rīgas satiksme". Bid-rigging is the most severe infringement of the competition law; however, the Competition Council identified the role of SIA "Rīgas satiksme" in this infringement as particularly severe harm – an official of the company not only was aware of competition non-conformities, but even initiated the bid-rigging process.

In another case the Competition Council identified attempts by Riga City Municipality to destroy competition on the household waste collection market. Instead of the previously operating four market participants the municipality had planned to entrust provision of this service to one company for a disproportionately long 20-year period. Approximately a half of all waste generated in Latvia is collected in Riga, which makes the capital city an enormously significant share of the waste management market and a potential field of operation for private entrepreneurs. To prevent causing of irreversible harm to competition, the Competition Council shortly after initiation of the infringement case decided on interim measures for the first time – a prohibition to continue market monopolization – until the Authority completes its investigation.

However, not only local governments tend to adopt decisions that are unfavourable for competition and the public. In 2019, continuing a series of inquiries in the pharmacy sector, the Competition Council compared pricing mechanisms of reimbursable and non-reimbursable medicinal products in all Baltic states. The conclusions made as a result of this inquiry were unfavourable for Latvia: we have the most consumer-unfriendly medicinal products pricing mechanism in the Baltic states, due to which Latvian residents have to pay more. The proposals of the Authority have been discussed among authorities responsible for the pharmacy sector, incl. the Ministry of Health, which has undertaken to revise the existing mechanism to ensure that medicinal products become more accessible for Latvian residents.

These are only the most notable decisions or actions of public administrative bodies, the negative effect of which on the public welfare we have dealt with last year. Although the development of Latvia is based on the free market economy almost for 30 years, intentional or unintentional desire of public administrative bodies to implement competition distortions is still a worrying everyday phenomenon. Up until the year 2019 the Competition Council did not have any disciplinary instruments to prevent and discourage public administrative bodies from competition distortion and to ensure the level playing field. The amendments to the Competition Law that came into effect on 1 January 2020 now impose an obligation on public administrative bodies to observe the principle of competitive neutrality and give more efficient powers to the Competition Council, if the committed infringement is not eliminated.

I really hope that this regulatory framework will serve for public administrative bodies not only as a strict reminder of the necessity to allow development of entrepreneurship, but also will change the competition morale, reinforcing the belief that competition is the foundation stone of growth.

At the same time, this Annual Report is the last for me in the position of the Chairwoman of the Competition Council. I am pleased that in the course of approximately eight years of working with my colleagues – true peers – we have managed to transform the Competition Council into an open, efficient, internationally highly appreciated and development-oriented authority. And, although in the next stage of my life I will follow processes concerning application of the competition law and activities of the Competition Council from aside, I can assure: a person, who has related own life with bringing the idea of fair competition for a long period of time, never loses the loyalty to the path once chosen. It is my conviction and the motto of my life also in the future.



SKAIDRĪTE ĀBRAMA
Chairwoman of the Competition Council

THE COMPETITION COUNCIL. PASSPORT OF THE AUTHORITY

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

The tasks and rights of the Competition Council are specified in the Competition Law, the Advertising Law, the Unfair Retail Trade Practices Prohibition Law, the European Council Regulation No.1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the Cabinet of Ministers

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

Regulations No. 795 "Regulation of the Competition Council" of 29 September 2008 and other regulatory enactments.

Mission:

The mission of the Competition Council in implementation of competition policy is protection and stimulation of free and equal competition within all fields of national economy among market participants, and prevention of unjustified involvement of public administrative bodies – state and local governments – in free competition.

Aim:

The aim of the Competition Council is to provide possibility to each market participant to conduct business activities under free and fair competition conditions and to ensure favourable conditions for protection and development of competition for the public benefit.

Operational tasks:

- ▶ **Detection of prohibited agreements:** undertakings do not engage in cartels or implement any other prohibited agreements.

- ▶ **Aversion of abuse of dominant position:** large and dominating companies do not abuse their market power.
- ▶ **Merger control:** mergers that create concentration of companies on the market and which may have a negative impact on the interests of consumers and cooperation partners do not occur.
- ▶ **Control over legislation:** legislation, regulations and any other state or local government decisions or actions do not restrict the development of free and fair competition.
- ▶ **Promotion of competition:** competition is promoted on markets, including the regulated ones, where it is limited or non-existent.
- ▶ **Raising public awareness:** society receives comprehensive information about the positive effects of fair competition on the market functionality and social welfare.

Our resources:

State financing
 1 304 484 euros

 27 years of operation of the Authority

 41 knowledgeable and motivated employees

In accordance with the operational strategy of the Competition Council for 2017 - 2019, the Authority had determined the following priority directions in 2019:

- ▶ Capacity strengthening, based on professional and responsible employees.
- ▶ Detection and prevention of severe competition infringements and market distortions, non-allowance of negative effects on the market concentration.
- ▶ Promoting of understanding of market participants and public administrative bodies regarding free competition, development of competition policies and cultures.
- ▶ Strengthening of the Authority's role and recognition in the international environment.

Key values of the Competition Council are **legality, professionalism and independence.**

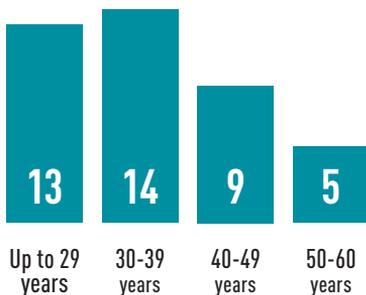
TEAM OF THE COMPETITION COUNCIL

The Competition Council consists of a decision-making body - the Council - and the Executive Body. The Authority had 41 employees at the end of 2019, out of whom 33 had the status of officials, and six - the status of employees.

There were 49 positions in the list of positions, 42 of which were official positions and seven employees' positions.

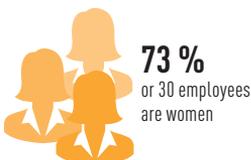
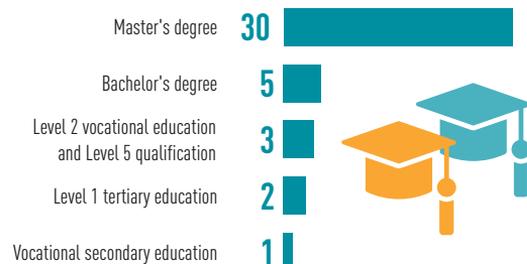
In 2019 the personnel turnover of the Competition Council reached 32% due to insufficient financing, which prevented full-fledged operation of the Authority. Namely, 15 persons terminated the state civil service relations and legal employment relations, while 10 persons - commenced such relations.

Age:



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

Education:



3 Council members

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

1 Executive Director

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

20 Investigators

Conduct investigation of infringements, analyse market processes, assessing competition distortions in regulatory enactments and activities of public administrative bodies, implement preventive education and provide consultations to various target groups, also by holding lectures and seminars.

3 Lawyers

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

3 Economists

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

1 Competition Policy Advisor

Ensures improvement and development of the competition policy, regulatory framework and rule of law, as well as provides consultations to the state/local government authorities, market participants, non-governmental organisations and natural persons regarding the application of regulatory enactments in the area of the competition law.

10 Support staff members

Establish communication with the public and coordinate international operation, take care of personnel management, quality management, accountancy and organization facilities, as well as financial management, management of documents, introduction of internal audit recommendations and IT support for structural units of the Executive Body. Develops and improves procedures of the authority and organises economic provision of the authority operation.

YEAR 2019 IN FIGURES

Prohibited agreements	4
Detected infringements	1
Terminated investigations	3
Abuse of a dominant position	1
Decision on interim measures	1
Mergers and notified agreements	18
Cleared mergers	16
Cleared agreements	1
Infringement established (failure to provide information)	1
Procedural infringements	2
Detected infringement	2
Total number of decisions	25

Other relevant figures

Infringement statistics

- ▶ Fines imposed on undertakings 3 152 549 euros
- ▶ 5 undertakings fined
- ▶ 2 dawn-raids at 13 persons
- ▶ Fines paid into the state budget 147 927 euros
- ▶ 5 terminated legal proceedings, in all the decision issued by the Authority has been upheld

Prevention and “Consult at first”

- ▶ 6 warnings to 13 persons for alleged coordination of activities

Applications and opinions

- ▶ 302 applications received regarding matters associated with the competition law
- ▶ 75 applications received regarding competition distortions created by public administrative bodies
- ▶ 52 opinions regarding proposals for the regulatory framework

Consultations, guidelines and market inquiries

- ▶ 27 pre-merger consultations
- ▶ Completed inquiries in 10 markets
- ▶ 3 guidelines for improvement of the competition environment



For the fifth year in a row the Competition Council maintained its position in the *Global Competition Review Rating Enforcement* among the world's best competition authorities.



The Competition Council wins the Competition Advocacy Contest organised by the World Bank Group and the International Competition Network for the solution proposed by the Authority to open the vehicle technical condition control market for free competition.

24.8 million euros annually

The average public benefit from the operation of the Competition Council, preventing competition distortions, conducting sector inquiries and encouraging changes for competition promotion on these markets, as well as control over mergers of large companies.

This means that in the Authority's strategic period 2017-2019 one euro allocated for implementation of the competition policy from the state budget generates public benefit equal to 19.32 euros on average. The calculated public benefit considerably exceeds the amount of financing allocated to the Competition Council in this period.



PROHIBITED AGREEMENTS

In 2019, the Competition Council adopted four decisions in relation to alleged conclusion of prohibited agreements. The case investigation was terminated without confirmation of infringement by three decisions, whereas the Authority detected the most severe infringement of the competition law, i.e., bid-rigging – by one decision.

Organizer's initiated bid-rigging – a particularly severe infringement

On 12 April, the Competition Council adopted a decision on **a prohibited agreement implemented by six tenderers and supported by the organizer of the procurement**. The Authority concluded, that bid-rigging was carried out in price quotations on supply of nanotechnology chemicals organized by a local government owned public transport company SIA "Rīgas satiksme". The evidence obtained during the case investigation confirms that the parties involved in the infringement have coordinated their tenders in two price quotations of the local government company, implemented from 2012 to 2014 with the total contract sum exceeding 800 thousand euros.

The tenderers coordinated participation conditions and documentation to be submitted in both price quotations, and also agreed on the planned winner. Having assessed the mutual communication of case participants, the Competition Council concluded, that all tenderers were aware of their involvement in prohibited activities and the competition imitating nature of such activities.

The information obtained by the Authority shows that the official of SIA "Rīgas satiksme" who was responsible for purchase of the specific product, actively engaged in the preparation and coordination of tenders, and preliminary determination of the winner. The involvement of the organizer in facilitation of bid-rigging is also confirmed by the fact that the tenderers were mutually informed about participation in price quotations before they were announced.

The Competition Council imposed a fine of 2 417 000 euros on SIA "Rīgas satiksme" and 700 euros on SIA "Sava arhitektūra" for deliberate competition distortion. The other five bid-rigging participants have been liquidated; therefore, no fines were imposed on these companies by the Authority.



Ieva Šmite-Antoņenko, the Head of the Cartel Department:

"Cases, when companies agree on exclusion of mutual competition in public procurements, are harmful to the environment of fair competition. In case of bid-rigging, the customer is not only misled regarding the actual market situation, but also is prevented from investing limited budgetary funds efficiently. Particularly critical and upsetting are the cases, when the customer itself is the conductor of this competition imitation by initiating and promoting bid-rigging, at the same time wasting the money of taxpayers. Such situations only confirm the role of procurement organisers and the necessity for educational activities, as well as for close cooperation among law enforcement institutions, which the Competition Council plans to implement also in the future."

Warnings for improvement of the environment of public procurements

In cases, when the Competition Council detects signs of a prohibited agreement, but they do not indicate to a significant harm for competition, the Authority can issue a warning. Warnings do not provide for initiation of formal case investigation, which is a time-consuming and resource-intensive process, and a fine is not imposed on the companies being warned.

In 2019, **the Competition Council issued a warning to 13 persons in total in six cases of detecting signs of alleged prohibited agreements**. Majority of warnings were received for alleged prohibited mutual communication of competitors in public procurement procedures, which is one of the risk areas of fair competition in Latvia.

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

Construction companies under close surveillance of the Competition Council

In August 2019, the Competition Council initiated **investigation regarding alleged bid-rigging among at least ten leading companies in the construction sector**. The case investigation was commenced after the Authority became acquainted with the information provided by the Corruption Prevention and Combating Bureau, which indicated to an alleged infringement of the Competition Law.

The initial information shows that for several years the involved construction companies have allegedly coordinated their conduct and concluded prohibited agreements on market distribution and conditions for participation in procurements of public and private customers all across Latvia. In order to make obtaining of evidence more efficient, the Competition Council together with the Corruption Prevention and Combating Bureau carried out joint and extensive investigation activities.

Further investigation is conducted by both authorities independently within the framework of their competence. ■

ABUSE OF DOMINANT POSITION

Stop button against monopolization of the waste management market

On 14 June 2019, Riga City Municipality, capital company SIA "Getliņi EKO", which is owned by the Municipality, and AS "Tīrīga" concluded a concession agreement on the change of waste management system in the capital city. The new system stipulated that within the framework of public-private partnership the previously operating four market participants, which provided waste management services in Riga, will be replaced by a single market participant for a period of 20 years.

The Competition Council indicated to Riga City Municipality risks in various stages of household waste management tender, which may occur, if public-private partnership would be implemented, based on such principles. Considering that more than a half of all waste of Latvia is collected in Riga, this significant market monopolization for a period of 20 years not only would have negative impact on consumers, who would not be protected from disproportionate increase of prices in the future, but also would critically affect competition on the market. Already since 2016 the Authority raises alarm about the increasing involvement of local government companies on the waste management market, which restricts possibilities of private waste management companies to operate on the market. If the significant waste management market of Riga would be closed, motivation of private entrepreneurs to offer their services in Latvia would decrease or disappear completely.

Since the Competition Council sees significant risks for competition and consumers in this waste management plan, **on 18 July, the Authority initiated a case against Riga City Municipality and SIA "Getliņi EKO" on alleged infringement under Article 102 of the Treaty on the Functioning of the European Union (TFEU) – abuse of dominant position.**

In order to stop the harm caused to competition until completion of investigation, the Competition Council adopted a decision on interim measures on 9 September. The interim measures imposed several obligations on Riga City Municipality and SIA "Getliņi EKO", including immediate termination of implementation of the concession agreement on collection and transportation of unsorted and separately collected household waste. The Municipality appealed the decision of the Authority on interim measures in the court, and the proceedings ended in favour of the Competition Council.

The interim measures are effective until the moment, when the Competition Council will adopt the final decision regarding the alleged infringement of Article 102 of TFEU. ■



**Rūta Šutko,
the Head of
the Analytical
Department:**

"By its decision on interim measures the Competition Council currently retains the existing competition on the waste management market and prevents emergence of monopoly situation. This decision allows merchants to continue their operation and consumers to continue receiving services in accordance with the terms agreed under competition conditions."

MERGERS AND NOTIFIED AGREEMENTS

Among other tasks, the Competition Council controls merger transactions of large companies and notified agreements to prevent possible negative impact on competition and consumers. In 2019, **the Competition Council adopted 18 decisions regarding this direction of operation.**

Market participants involved in mergers paid fees equal to 50 000 euros into the state budget in 2019 for reviewing merger notifications. To facilitate submission of merger notifications by companies, the Competition Council provided 27 pre-merger consultations.

Companies merge and strengthen their competitiveness

In 2019, the Competition Council adopted in total **16 decisions on mergers**, in all cases not detecting any possible threats to competition and allowing these merger transactions.

The reviewed transactions were implemented in various sectors, incl. priority sectors of the Competition Council. For example, in September 2019 the Authority adopted a decision to allow SIA "Lāčplēša alus" to acquire its competitor SIA "Bauskas alus". Although both companies are dealing with production and distribution of several popular brands of beverages, the Competition Council concluded that the overall market share of both companies after the merger transaction on the beer wholesale market in various retail channels will increase marginally and the increase of market concentration will be insignificant. The Competition Council also did not detect negative impact on competition on the market of non-alcoholic carbonated beverages and beer wholesale market in the sector of hotels, restaurants and cafés; therefore, it was decided to allow this merger.

Obligation of merger participants – to submit full information requested by the Authority

In 2015, the Competition Council adopted a positive decision for the Estonian company OÜ "MM Grupp" to acquire the Latvian news agency service provider SIA "LETA". Before submission of the merger notification, the Estonian company owned competitors of SIA "LETA" – SIA "BNS-Latvija" and SIA "Mediju Monitorings" – which would mean that in case of implementation of this merger the only two news agencies in Latvia would merge, thus creating a monopoly. Therefore, OÜ "MM Grupp" structurally segregated SIA "BNS-Latvia" and SIA "Mediju Monitorings", selling these companies to a third party – Estonian company OÜ "AMP Investeeringud".

Despite segregation of SIA "BNS-Latvija" and SIA "Mediju Monitorings", SIA "LETA" recruited majority of employees of SIA "BNS-Latvija" and SIA "Mediju Monitorings" while the merger was under review. The Competition Council concluded that the employees of news agencies represent the most significant resource of economic activity, which is essential for competitiveness and existence of news agencies.

In merger notification it is obliged to submit entire information, which fully reveals the nature and most significant stages of merger, so that the Authority can adopt a decision, which is most favourable for preserving of the market structure. The Competition Council concluded that by not reporting about changes to the conditions and facts of the merger OÜ "MM Grupp" prevented the Authority from making objective considerations about preserving of the market structure of the news agencies service market in Latvia. Consequently, **OÜ "MM Grupp" implemented a merger contrary to the positive decision of the Authority, adopted in 2015**, on acquisition of SIA "LETA", for which a fine equal to 32 200 euros was imposed on the company registered in Estonia.

In late 2019, OÜ "MM Grupp" admitted the committed infringement and concluded an administrative agreement with the Competition Council.

Notified agreement for more efficient operation of companies

On 28 March, the Competition Council **allowed AS "Kreditinformācijas Birojs" to agree with AS "CREFO Birojs" on the procedure, according to which the companies will ensure mutual exchange of credit information of natural persons.**

The agreement between these credit information bureaus is concluded observing amendments to the Consumer Rights Protection Law, which came into effect on 1 January 2019. According to these amendments a credit information bureau, which a creditor has concluded an agreement with, requests and receives from other credit information bureaus information on the consumer or guarantor, which is stored in their databases.

The Competition Council concluded that the agreement notified by AS "Kreditinformācijas Birojs" and AS "CREFO Birojs" will improve provision of services, creating a possibility for customers of both market participants to obtain more comprehensive credit information on natural persons. Since this agreement will allow both companies to meet requirements of regulatory enactments on protection of consumer rights and will not create a possibility to liquidate mutual competition, the Authority decided on allowing conclusion of this notified agreement. ■



Artūrs Kuka, the Head of the Economic Analysis Unit:

"In general, both in 2019, and in the previous two years market participants have merged very actively. And it is logically. An old principle works in the market economy – a company has to grow in order to survive. A merger is one of the fastest ways to achieve growth; however, mergers are not always desirable for competition and consumers. As shown by studies carried out across the ocean, mergers may create additional profit opportunities for market participants, without generating any benefit to consumers. Although the year 2019 was mainly notable for extension of smaller companies, vertical integration or extension of the service portfolio on various markets, the competition Authority paid in-depth attention to several mergers concerning fuel and beer markets. Such an in-depth analysis allowed gaining confidence that healthy competition will be still retained on these markets also as a result of these transactions. Certainly, also in 2020 there will be many significant merges, and the Competition Council will continue to pay particular attention to them."

UNFAIR RETAIL TRADE PRACTICES PROHIBITION LAW

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

To ensure compliance with the URTPL, the Competition Council provided 13 explanations and opinions in relation to application of the law in 2019. The Competition Council also implemented four educational activities, incl. consultations for non-governmental organizations – the Latvian Traders Association, Latvian Federation of Food Companies, etc.

Retail sales area at the cash register exposed to interpretations by merchants

In summer of 2019, the Competition Council concluded **sector inquiry** regarding additional placement of goods at special places in daily consumption goods retail stores.

Analysis of information obtained during the inquiry shows that **retailers have different understanding of application of charge to suppliers** for placement of products in areas located near the cash register in daily consumption goods retail stores. Some retailers consider the area near the cash register as a place for basic shelves, whereas some others – as a special place for additional placement of goods, respectively applying or not applying a charge to suppliers for placement of goods at this area.

To observe consistency on the market, the Competition Council indicated – if the area near the cash register is a place for basic placement of goods, a charge shall not be applied for placement of goods at this area as at special places for additional placement of goods. Setting a charge for placement of goods at the area near the cash register, only based on certain exclusivity criteria and availability of limited space, is inadmissible and does not comply with requirements of the URTPL. Moreover, application of charge for additional placement of goods at special places is admissible only in case, when the retailer and the supplier have agreed on such conditions in writing before provision of service.

Updated guidelines for application of the URTPL

Considering the conclusions made by the Competition Council in relation to the different interpretation of retailers regarding additional placement of goods at the area near the cash register, the Authority **updated the guidelines for application of the URTPL**. The document is supplemented with criteria, which the Authority will follow to assess compliance of conduct by retailers with the law.

These criteria are: 1) whether a written agreement is concluded with clearly formulated types of special places for additional placement of goods (additional stands, pallets, baskets, end cap, etc.); 2) whether the agreement is concluded before provision of service and application of charge; 3) whether the agreement lists specific goods, for additional placement of which a charge is applied; 4) whether conditions regarding the applicable charge are formulated in the agreement clearly and unambiguously.

Prohibitions of unfair trade practice will be extended

In 2018, the European Parliament, the Council and the Commission agreed on a new set of conditions, which will ensure protection of the European Union (the EU) farmers and the EU companies of agricultural food products against unfair practices and trade.

Latvia is among a few EU Member States, where a similar legal framework already exists. Unlike the URTPL, which protects in particular interests of suppliers against market power of retailers, this Directive refers the types of unfair trade practice to the entire food products supply chain – from the manufacturer to the retail store.

Within a period of two years – until 2021 – the EU Member States have to integrate a legal framework similar to this Directive in their national laws, which in the case of Latvia provides for extension of the existing URTPL. In 2019, the Ministry of Agriculture, which is the responsible institution for adoption of the Directive, established a working group, which also involved the Competition Council. **Draft Unfair Trade Practices Prohibition Law was transferred for public discussion** at the end of the year. ■

PROCEDURAL INFRINGEMENTS

In 2019, the Competition Council adopted two decisions in relation to procedural infringements committed by market participants, and in both cases the involved companies failed to provide the Authority with information to the required extent or in a timely manner.

The Authority prevented from timely implementation of control of fulfilment of legal obligations

In 2016, the Competition Council imposed a fine of 4 026.53 euros and a legal obligation on SIA "Rēzeknes autoosta" for abuse of dominant position, requesting an excessive charge from carriers for entering Rēzekne Bus Station. The decision of the Authority, adopted in 2017, came into effect after termination of legal proceedings.

In 2019, the Competition Council carried out surveillance of fulfilment of legal obligations imposed on SIA "Rēzeknes autoosta", during which the Authority sent a request for information to the company. Taking into consideration that SIA "Rēzeknes autoosta" failed to provide the requested information neither within the initially set term, nor the extended term, thus delaying surveillance of fulfilment of legal obligations for a period of three months, **the Competition Council imposed a fine of 838 euros on SIA "Rēzeknes autoosta"**.

The decision of the Authority on a procedural infringement has come into effect.

Failure to provide complete information during investigation

In the period from 2015 to 2017, the Competition Council investigated a prohibited agreement of four building materials traders and two building materials manufacturers. In 2017, the Authority adopted a decision, detected long-term price coordination and maintaining of artificially set price level, and imposed fines in total of 5.8 million euros.

During the case investigation, SIA "DEPO DIY" provided explanations in relation to the evidence obtained by the Competition Council. After completion of investigation and adoption of the final decision, the Authority established that the explanations provided by the company were incomplete. Namely, during the investigation, SIA "DEPO DIY" were unable to comment on specific e-mail correspondence of the company due to its oldness, but several years later provided detailed explanations regarding this correspondence during court proceedings. During the case investigation, the company also had not used the option to specify

and respectively supplement the explanations initially provided to the Authority.

The Competition Council imposed a fine equal to 701 811 euros on SIA "DEPO DIY" for the procedural infringement, namely, failure to provide complete information required for investigation. ■



Author: iTresthas

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

"Regardless the investigated case, size or type of activity of market participants, it is significant for the purpose of efficient detection and prevention of competition restrictions that market participants respect the investigation powers of the competition Authority during each stage of investigation procedure. This ensures comprehensive investigation of competition cases and objective clarification of circumstances of the case."

LITIGATIONS

Five legal proceedings were completed in 2019 in relation to decisions adopted by the Competition Council. In all cases legal proceedings ended in favour of the Authority. In total, representatives of the Competition Council ensured legal representation in 29 court hearings.

In 2019, companies that were penalised for infringements of the Competition Law, incl. after termination of legal proceedings and coming into effect of decision adopted by the Competition Council, paid 147 927 euros into the state budget.

The first decision on interim measures under the competition law of Latvia remained effective

On 9 September 2019, the Competition Council adopted the first decision on interim measures. The purpose of the interim measures is to retain the competition structure on the household waste management market in Riga until the Authority adopts the final decision in the case initiated against Riga City Municipality and its owned SIA "Getlīņi EKO" on alleged abuse of dominant position.

Riga City Municipality **appealed the decision of the Competition Council in the court, which considered the necessity to retain the competition situation** on the market of household waste management until adoption of the final decision by the Authority **as correct and substantiated**.

Administrative agreement provides for certainty on the market

In 2018, the Freeport of Riga Authority and the Freeport of Riga Fleet addressed the Competition Council with a call to revise the prohibition to provide tug services at the Freeport of Riga, imposed on both organizations in the administrative agreement concluded in 2015. The Competition Council rejected revision of the agreement, explaining that the structural legal obligations agreed on by the parties are directed to ensuring of fair and equal competition on the market on a long-term basis. Having assessed the information provided by applicants, the Authority did not detect that the actual market conditions have changed, which would indicate that the Freeport of Riga Fleet should resume provision of tug services at the Freeport of Riga. The Freeport of Riga Fleet appealed the decision of the Authority in the court.

The Administrative Regional Court refused to accept the application, substantiating such a decision with considerations that an

administrative agreement of settlement nature can be revised in the court only in exceptional cases – if there is a basis for doubt about the true will of the parties in conclusion of a settlement. Revision of settlement in the court in other cases is not allowed. By concluding a settlement the parties certify that they do not want to continue their legal dispute, and agree that their relations are not revisable after the settlement. In case of allowing a possibility that one party can withdraw from the agreement, the settlement would make no sense. The Regional Court also did not establish that the Freeport of Riga Fleet would be misled regarding consequences of conclusion of the administrative agreement. The Freeport of Riga Fleet appealed this decision in the Senate of the Supreme Court.

The Senate of the Supreme Court agreed with the Regional Court, rejecting the ancillary claim of the Freeport of Riga Fleet. The Senate of the Supreme Court also explained that the Freeport of Riga Fleet has itself assumed obligations to refrain from provision of tug services, which requires observing this commitment. In addition, structural obligations shall be such that create long-term consequences on the market. The considerations provided by the Freeport of Riga Fleet also do not give a basis for concerns that refraining from provision of tug services would lead to significant negative consequences on the market or would infringe rights of any persons. Whereas the Freeport of Riga Authority as a subject of public law has no basis to refer to its generally held rights to perform economic activity, which can also be done by private persons, to substantiate repeated entering of the market.

A decision on bid-rigging of 26 energy construction companies comes into effect

In 2019, **almost six years long court proceedings were completed regarding a decision adopted by the Competition Council in 2013, according to which bid-rigging of 26 energy construction companies was detected**.

The Authority established that in the period from 2006 to 2011 26 energy construction companies distorted competition in total in 322 procurements organised by several customers on performance of construction works of electric facilities and installation.

The Competition Council imposed fines in total of 2 862 187 euros on the involved companies for causing harm to competition. Moreover, the Authority imposed so far the highest percentage fine – 7.5 % of the turnover of the previous year on three infringers. ■



Valentīns Hitrovs, the Head of the Legal Department:

“The decision adopted on a prohibited agreement among energy construction companies serves as a significant example of application of the competition law in an extensive and long-term bid-rigging case. This case encouraged transformation of the procurement system of public service providers, ensuring competition and lower costs for ordered electricity infrastructure construction projects in the future. Verifying the legality of the decision after receiving 22 applications, the Administrative Court carefully assessed and multiple times confirmed legality of the decision, and came to several important conclusions, making their contribution to development of the case law of application of the competition law.”

SECTOR INQUIRY

In 2019, the Competition Council concluded inquiries into ten markets. The purpose of markey inquiries is to obtain in-depth insight into various sectors of the national economy, identify the competition situation and find solutions for improving the situation.

Transparent car insurance market

In 2017, after significant increase of price of compulsory civil liability insurance of owners of land transport vehicles (OCTA), the Competition Council commenced sector inquiry in order to identify, what circumstances promoted such price changes and whether prohibited coordinated action has not occurred among market participants.

In 2019, the Competition Council concluded inquiry, coming to a conclusion that **the average range and amount of the increase of OCTA prices differs for each insurance company. However, not for all companies such changes have been substantiated with the economic situation and individual OCTA financial indicators.**

The Authority detected as an uncharacteristic feature for markets under competition conditions that competitors on OCTA market have free access to essential individual commercial information, which gives benefits and explanations regarding OCTA market trends in particular to insurance companies, not consumers. This situation makes OCTA system excessively transparent, allows insurance companies to monitor the market and adjust their activities to the behaviour of their competitors.

Among the most significant factors that promote market transparency the Competition Council identified OCTA information system, which is used by insurance companies in their day-to-day operation, incl. when determining OCTA offers. Also OCTA price calculators, which serve for convenience of consumers and are generally positive, pose a high risk that insurance companies and brokers can in an uncontrolled and automated manner access individual data and obtain information about offers of competitors, incl. price trends, which creates adjustment and coordination risks.

In order to mitigate the possibility of further increase of OCTA prices, the Authority encouraged the responsible institutions to make significant corrections. The

Authority prepared specific proposals to the Ministry of Finance, the Financial and Capital Market Commission, and the Motor Insurers' Bureau of Latvia.

Latvian consumers have an unfavourable pricing mechanism for medicines

In 2019, the Competition Council concluded inquiry on reimbursable and non-reimbursable pricing mechanisms for medicines, comparing the situation in the Baltic states. The Competition Council concluded: **even when manufacturers in Latvia set lower prices for medicines than in Lithuania or Estonia, medicines may be more expensive for Latvian consumers due to the existing pricing mechanism.**

When comparing wholesale and pharmacy mark-ups in the Baltic states for non-reimbursable medicines, Latvia does not have the highest mark-up only for the cheapest medicines that cost up to 3.50 euros in pharmacies. When the price increases, the overall mark-up difference also increases in Latvia. The most sensitive segment of medicines is non-reimbursable non-prescription medicinal products. Also when comparing the effect of the pricing mechanism on the prices of reimbursable medicines, the Authority detected that the highest wholesale and pharmacy mark-ups in Latvia are observed for reimbursable medicines that can be obtained in a pharmacy at a price up to approximately 35 euros.

Although markets of the Baltic states are relatively similar and prices of medicines should not differ significantly, medicines are financially less accessible for Latvian consumers due to the pricing mechanism. In Lithuania and Estonia, the so-called ceiling is set for wholesale and pharmacy mark-ups upon reaching a specific amount, which prevents significant increase of final prices upon increase of the manufacturer price. In Latvia, mark-up ceiling is set only for pharmacies regarding state reimbursed medicines – starting from wholesale price 71.14 euros, the pharmacy mark-up remains constant – 6.05 euros.

In order to make medicines financially more accessible for Latvian consumers, prevent the negative impact of vertical integration, and to raise benefits from parallel import, the Competition Council prepared several proposals to the responsible institutions, suggesting to revise the pricing mechanism, also analysing, at which levels and due to what reasons the system allows possible overpayment. ■

CHANGES IN THE LEGAL FRAMEWORK

Competitive neutrality is an obligation for a public administrative body

On 28 March, after several years of discussions, **the Saeima supported amendments to the Competition Law**, which stipulate that public administrative bodies – the state, local governments and their established capital companies – are prohibited from hindering, restricting or deforming the competition.

Competition distortions caused by public administrative bodies are one of the most widespread problems of the competition environment in Latvia, which is confirmed both by the practice of the Competition Council, and public opinion studies. Harm caused to competition by public administrative bodies can manifest itself in various ways. However, most frequently observed infringements involve ignoring of the principle of competitive neutrality and discrimination of private entrepreneurs. For example, a public administrative body, using its administrative power, is particularly favourable towards its own capital company, thus groundlessly limiting possibilities for private entrepreneurs to offer equivalent services.

In order to improve environment of fair and equal competition, a new provision is included in the Competition Law, which imposes a prohibition on public administrative bodies and their capital companies:

- ▶ to discriminate private companies, creating different competition conditions;
- ▶ to create advantages for a capital company, in which the public administrative body has direct or indirect participation;
- ▶ to implement activities, due to which another market participant is forced to leave any particular market or which burden entering or operating on the market by a potential market participant.

If the Competition Council identifies any competition distortion in the future, first it will carry out negotiations with the specific public administrative body in order to eliminate the alleged infringement. If the infringement will not be eliminated, the Competition Council will be entitled to impose a legal obligation and a fine on the capital

company owned by the public administrative body, which may reach up to 3% of the net turnover of the capital company in the previous financial year.

To facilitate for public administrative bodies the application of the new provision of the Competition Law in practice, the Competition Council **prepared competitive neutrality assessment guidelines** in 2019.

The amendments to the Competition Law came into effect on 1 January, 2020.

Resources required for all competition authorities in Europe

Competition authorities of the EU Member States have different rights and powers to investigate infringements of the competition law. To harmonise investigation and operation of competition authorities, the European Parliament and the Council adopted the so-called ECN+ Directive in 2018 following a proposal by the European Commission, which states that national competition authorities shall be provided with the required powers and resources, so that they could implement efficient operation.

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

The Directive came into effect in 2019, and a 2-year transition period is given to the EU Member States to integrate the Directive into their national laws. In 2019, the Competition Council in cooperation with the Ministry of Economics and after consultations with the European Commission **assessed compliance of the existing legislation with the Directive and identified, what legal framework is required for strengthening of independence, resources and powers of the Competition Council**, so that the Authority could apply Article 101 and 102 of TFEU successfully. ■



Dita Dzērvīniece, the Competition Policy Advisor:

“ECN+ Directive: it is the way to even more harmonised application of the competition law in the European Union. Considering the different amount of rights, powers and available resources of European competition authorities, adoption of the Directive into national laws, including in Latvia, is a significant step towards more uniform application of the competition law and strengthening of the status of competition authorities. The Competition Council relies on the assumption that the requirements set under ECN+ Directive will serve as a sufficiently significant reason for the Competition Council finally to be provided with sufficient resources, required for successful operation of the Authority and maintaining healthy competition environment.”

IMPACT ON COMPETITION OF PUBLIC ADMINISTRATIVE BODIES

Involvement of the state and local governments in entrepreneurship

According to Section 88 of the State Administration Structure Law (the SASL) public administrative bodies are allowed to engage in entrepreneurship in three cases: 1) if private entrepreneurs are unable to provide specific products or services; 2) if strategically important products and services have to be provided; 3) if strategically important properties have to be managed.

To prevent unjustified involvement of the state and local governments in entrepreneurship, Section 88 of the SASL states that public administrative bodies are required to receive an opinion of the Competition Council prior to establishment of a new capital company, and once every five years, reassessing participation in an existing capital company. In 2019, the Competition Council issued 12 opinions.

In 2019, the Competition Council detected that VAS "Latvijas autoceļu uzturētājs" has not carried out the required activity assessment procedure before provision of new services – tyre repair, assembly works and turning services. At the same time, the Authority indicated that only the main type of economic activity of VAS "Latvijas autoceļu uzturētājs" complies with requirements of Section 88 of the SASL and no legal basis can be identified for extension of economic activity of the capital company.

To facilitate the assessment process for public administrative bodies in relation to **participation in a capital company**, the Competition Council **prepared an informative material** in 2019.

In 2019, the Competition Council received in total 75 applications in relation to activities of public administrative bodies, incl. alleged competition distortion.

Competition promoting regulatory enactments

To prevent possible competition restrictions, which may be facilitated by the regulatory framework, the Competition Council **prepared 52 opinions concerning approximately 20 sectors of the national economy** for legislators in 2019. In nine cases the Competition Council achieved development of regulatory framework that is favourable for competition.

The Competition Council assessed the draft Regulations of the Cabinet of Ministers on amendments to the pricelist of public paid services of the National Library of Latvia and made several objections, also in relation to advantages granted to members of the Latvian Publishers' Association in terms of ISBN (International Standard Book Number) pricing. To ensure application of the regulatory framework according to competition



**Antis Apsitis,
the Head of the
Competition
Promotion Unit:**

"When the state, local governments and their capital companies engage in entrepreneurship or work with issues that may affect the competition situation on the market, competitive neutrality is an especially important concept. This means not only ensuring of equal competition conditions on the market, but also promotion of entrepreneurship development in Latvia. The Competition Council expects that since adoption of amendments to the Competition Law public administrative bodies will be more responsible in observing competitive neutrality and the competition environment will improve in Latvia."

principles, the annotation of the respective regulatory enactment was supplemented, partially preventing a situation, where the Latvian Publishers' Association has a more privileged position compared to other market participants.

At the same time, the Saeima continued examination of the draft law "Amendments to the Law "On Local Governments"", which stipulates legal framework for informative publications of local governments. In the opinion of the Competition Council, it is very significant that examination of this draft law was resumed after a longer period of time and the intended legal framework for informative publications of local governments was supported in the Saeima in the second reading, thus raising hopes that it may be adopted in the nearest future and to a large extent solve the problems related to involvement of public administrative bodies on the media market.

To facilitate adoption of regulatory framework that is favourable for competition, representatives of the Competition Council **defended the principles of fair competition in 65 events**, incl. in the Cabinet of Ministers, the Saeima, etc. ■

COMMUNICATION AND COOPERATION

In 2019, representatives of the Competition Council ensured participation in 48 events organised by the Authority or other organizations.

Education of target groups for improvement of competition environment

Considering the priorities of the Competition Council and topicalities of the competition law, the Authority directed the most significant educational resources towards education of procurement organizers and public administrative bodies in 2019.

To promote development of procurement environment, **the Competition Council held eight seminars for organizers of public procurements**, thus strengthening the competence of this target group and capabilities to recognise features of bidding among tenderers. Among other things, the Competition Council in cooperation with the Procurement Monitoring Bureau and the Association of Security Companies ensured education of procurement organizers on organisation of procurements and assessment of tenders in a specific sector – security services.

Taking into consideration that amendments to the Competition Law came into effect on 1 January, 2020, in the second half of 2019 the Competition Council focused on enhanced education of public administrative bodies on the new provisions of the law in

accordance with “Consult at first” principle of state administration. The Competition Council **educated public administrative bodies in five informative events** in collaboration with the Latvian Association of Local and Regional Governments.

Central topic: public administrative bodies in competition

In addition to seminar events, the Competition Council organised two activities in the second half of 2019, the main topic of which was decisions and activities of the state, local governments and their capital companies regarding entrepreneurship. In autumn, the Competition Council invited entrepreneurs and other public members to participate in **the Authority's campaign “Most Preposterous Obstacle to Competition”** and submit unjustified obstacles that are included in regulatory enactments and hinder healthy development of entrepreneurship. The Authority received 34 applications, out of which three were awarded the title “Competition Advocate” on the World Competition Day on 5 December.

On the World Competition Day, the Authority organised **a discussion event “Point of Contact: Competition”**, where representatives of state authorities, local governments and entrepreneurs were invited to participate to discuss relations among these parties in competition in six sectors significant for the public: culture, health, house management, local tourism, waste management and digital services.

The discussion event “Point of Contact: Competition” organized by the Competition Council on the World Competition Day.





Pupils of Riga Special Secondary School No. 66 on the state administration Open Doors Day meet the Competition Council and the Consumer Rights Protection Centre.

Activities for ensuring more extensive public involvement

Alongside education of various target groups, the Competition Council organised or participated in public activities implemented by other organizations – conferences, forums, thematic events, etc. – in 2019.

In 2019, the Competition Council also continued participation in **the anti-fraud movement #FraudOff!**, especially emphasizing the topic of reporting of competition infringements. Together with other authorities involved in this movement the Competition Council **participated in the conversation festival “LAMPА”** for the second time, offering the visitors to step into shoes of honest and dishonest entrepreneurs in a play “Cartel” prepared by the Authority.

The Authority provided several activities for pupil's audience in 2019. The Competition Council in cooperation with the Consumer Rights Protection Centre educated pupils of Riga Special Secondary School No. 66 **on the state administration Open Doors Day**, giving an insight in the meaning of the competition law and consumer rights, and the operation of both authorities in an attractive and informative way. Also, the Competition Council together with the Ministry of Economics acquainted pupils of grade 12 of Saldus Secondary School with the day-to-day work of the Authority within the framework of **the project “Work in State Administration – Maybe it is My Way?”**.

Alongside joint educational activities, the Competition Council had 32 inter-institutional cooperation meetings on various topics in 2019.

Competition Council develops communication

In 2019, the Competition Council extended its communication channels and developed **the Competition Council Podcast on competition**. In this podcast, experts offer to find out about

topicalities of the competition law, decisions adopted or sector inquiries carried out by the Authority, as well as about topics related to promotion of the competition culture, for example, reporting of infringements, in audio format.

The Podcast on competition can be listened to on the website www.kp.gov.lv and on the channel of the Competition Council on *SoundCloud* platform.

Public participation

In 2019, the Competition Council held **more than 50 meetings with entrepreneurs and non-governmental organizations** to discuss competition development and problem issues in various sectors and promote observing of principles of fair competition. In addition, the Authority ensured for these target groups informative workshops on various aspects of observing of the competition law, including prevention of prohibited agreements among competitors or within associations.

The Competition Council prepared **three guidelines**, out of which two are targeted to public administrative bodies, and one – to market participants. In the guidelines intended for entrepreneurs, the Competition Council explains the legal basis, procedure and legal consequences for conclusion of a settlement.

In autumn, the Competition Council organised **the 7th Lawyers' Forum**, where representatives of the Authority met lawyers practising the competition law. The central topic of this forum was involvement of public administrative bodies in entrepreneurship.

On 1 May 2019, **the Whistleblowing Law** came into effect in Latvia. The Competition Council implemented all required measures to establish a procedure, according to which reports of whistleblowers shall be examined. In 2019, the Competition Council received two reports; however, after in-depth examination of the content of these reports, the Authority concluded that they do not qualify as whistleblower reports. ■

INTERNATIONAL ACTIVITIES

In 2019, representatives of the Competition Council promoted recognition of Latvia and strengthened the position of the Authority in the international environment, **taking the floor in 21 events abroad**, incl. events organised by the OECD, the International Competition Network and the European Competition Network.



Award from the Competition Advocacy Contest organised by the World Bank Group and the International Competition Network.

Award for competition advocacy

In 2019, the Competition Council **received the highest award at the Competition Advocacy Contest 2018-2019**, organised by the World Bank Group and the International Competition Network, **for the suggestion proposed by the Authority to open the vehicle technical condition control market for free competition.**

The objective of this contest is to highlight the efforts by competition authorities, public and non-governmental organizations, and private sector to promote healthy competition on various markets. The Competition Council of Latvia and its conducted market inquiry in the area of vehicle state technical inspection, which was completed in 2018, was recognised as one of two winners in the nomination “Promoting competition as a tool to the fight against corruption and for an equal playing field among public and private players”.

Position retained in the rating of the best competition authorities

In 2019, for the fifth consecutive year, the international journal *Global Competition Review* in its annual rating of competition authorities *Rating Enforcement* listed the Competition Council of Latvia **among 37 world's leading competition authorities.**

The journal indicates in its report that the Competition Council has the smallest budget among all evaluated authorities, and the surveyed independent lawyers admit that compared to other Baltic states, the competition authority of Latvia is the most active and most competent.

Latvia is the third most active European Economic Area Member State in terms of bid-rigging combating

The analysis conducted by *the Policy and Regulatory Report* shows that the work of the Competition Council in **combating of bid-rigging has been assessed as the third most active** among all jurisdictions in the European Economic Area.

During the period from 2016 to 2019, the Authority adopted fining decisions in 11 bid-rigging cases.

The Chairwoman of the Competition Council repeatedly approved for the Bureau of OECD Competition Committee

In 2018, the Chairwoman of the Competition Council Skaidrīte Ābrama was elected as a Member of the Bureau of OECD Competition Committee, becoming the first Eastern European representative, who has an opportunity to participate in development of OECD competition policy programme and agenda. On 4 December 2019, **OECD repeatedly approved S. Ābrama as a Member of the Bureau.**

Becoming acquainted with international good practice

In 2019, experts of the Competition Council visited **competition authorities of Finland and Sweden** within the framework of the Nordic countries and the Baltic states mobility programme “State Administration”, in order to become acquainted with good practice of surveillance of public administrative bodies.

Outside this project, representatives of the Authority visited Lithuanian competition authority to discuss surveillance of activities by public administrative bodies, and also had a training visit at the Austrian competition authority to strengthen their knowledge of screening methods in detection of cartel infringements, as well as obtaining and analysis of electronic evidence in cases of prohibited agreements. ■

MANAGEMENT OF THE COMPETITION COUNCIL

Performance indicators of the Competition Council

In general, the Competition Council has fulfilled the planned performance results in 2019, which were defined for the Authority in the sub-programme "Introduction of Competition Policy". In several items of performance results, incl. in relation to legal proceedings, provision of opinions and proposals, and education of the public, the planned value has been exceeded.

Indicator name /Measure name	Target	Result
Preventive measures and investigation of alleged infringements, as well as market inquiries. <i>Total number of measures/number of high priority measures</i>	25/11	21/10
incl. investigation of alleged infringements/market inquiries in relation to application of the Unfair Retail Trade Practices Prohibition Law. <i>Total number of measures</i>	2	2
incl. research and promotion of competition issues on the markets, where free and fair competition (incl. competitive neutrality) is negatively affected by involvement of public administrative bodies. <i>Total number of measures</i>	3	3
incl. identification of obstacles for access to digital services by consumers and market participants, and competition promotion measures, ensuring elimination of these obstacles. <i>Total number of measures</i>	1	1
Impact of consequences of planned mergers and notified agreements of market participants on the competition environment has been assessed. <i>Number of cases/number of high priority cases</i>	16/6	18/3
In-depth analysis of data (e-evidence) obtained during dawn raids were carried out. <i>Number (calculated once per year)</i>	8	5
Representation in legal proceedings (physical representation and written representation). <i>Number</i>	15	29
Proportion of completed administrative proceedings in the court and Authority decisions left effective in favour of the Authority. <i>Percentage (calculated once per year)</i>	>80	100 %
Provided explanations, opinions, proposals, ensured development of regulatory enactments and guidelines. <i>Number of documents</i>	100	124
incl. provided explanations, opinions, proposals, ensured development of regulatory enactments and guidelines in relation to application of the Unfair Retail Trade Practices Prohibition Law. <i>Number of documents</i>	12	13
incl. in relation to application of Section 88 of the State Administration Structure Law. <i>Number of documents</i>	15	12
Eliminated restrictions imposed by public administrative bodies (achieved positive proportion to the total number of implemented measures). <i>Percentage (calculated once per year)</i>	15 %	21 %
Raising of public understanding of free and fair competition. <i>Total number of measures</i>	20	48
incl. in relation to application of the Unfair Retail Trade Practices Prohibition Law. <i>Total number of measures</i>	3	4
Positive evaluation of activities by the Competition Council from entrepreneurs (% proportion of survey answers to the respective question was "positive" and "rather positive"). <i>Percentage (calculated once per year)</i>	Will not be calculated in 2019, because the survey is carried out once every two years, and the previous survey took place in 2018.	
The role and recognition of the Competition Council in the international environment has been strengthened (number of publications and events with taking the floor). <i>Total number of measures</i>	34	43
Personnel turnover (number of employees who have left against the total number of employees). <i>Percentage (calculated once per year)</i>	<22	32 %
Loyalty of employees (% proportion of employees who have answered in the internal survey that they will continue legal employment relations with the Authority for the next two years). <i>Percentage (calculated once per year)</i>	>85	62 %
Public benefit from the operation of the Competition Council. <i>3-year average in millions of euros</i>	>20	24.8

STATE BUDGET HIGHLIGHTS

The planned costs (total) in the reporting year comprise 1 304 484 euros, and their execution – 1 379 900 euros. In 2019, the Competition Council acquired 99.44 % of the financing intended for (allocated to) the Authority

Nr.p.k.	Financial indicators	Previous year (actual performance)	Reporting year	
			Planned	Actual performance
1.	Financial resources to cover expenditures (total)	1 280 553	1 304 484	1 387 629
1.1.	Grants	1 280 553	1 304 484	1 387 629
1.2.	Chargeable services and other own income			
1.3.	Foreign financial assistance			
1.4.	Donations and gifts			
2.	Expenditures (total)	1 259 593	1 304 484	1 379 900
2.1.	Maintenance costs (total)	1 240 084	1 284 484	1 351 523
2.1.1.	Current expenditure	1 240 084	1 284 484	1 351 523
2.1.2.	Interests expenditure			
2.1.3.	Subsidies, grants and social benefits			
2.1.4.	Contributions to the European Community budget and international cooperation			
2.1.5.	Maintenance cost transfers			
2.2.	Expenditure on capital investments	19 509	20 000	28 377

IMPROVEMENTS IN THE MANAGEMENT OF THE AUTHORITY

To ensure successful and consistent operation by the Authority, the Competition Council prepared **five regulations for internal use** in 2019. These documents covered personal data protection, personnel management for application of flexible working hours, etc.

The Competition Council also improved several internal processes in 2019. The Authority **revised the document management system** to make internal circulation of documents successful and efficient, and to ensure that the management procedure is implemented according to the current situation. The Authority **revised the data incidents management procedure**, which sets out the conditions to be followed in case of risk of infringement of data held by the Competition Council.

In 2019, the Competition Council engaged in **the unified work environment introduction project** of the Ministry of Economics and authorities that are subordinated and supervised by it. The overarching goal of the project is to ensure centralised, modern technology-based provision of information and communication technology services in the entire Ministry department, and to improve the level of digitalization of the main activity processes. In the case of the Competition Council, investigation of infringements will be modernised, ensuring digitisation of the required materials and process chains, as well as more successful accessibility of data from various state information systems.

In 2019, the Competition Council strengthened its investigation capacity, acquiring **new electronic evidence gathering, processing and analysis software**, thus starting improvement of the technical provision of the Authority, intended for more efficient investigation of infringements of the competition law.

During the year, employees of the Competition Council **attended 37 training courses held by external lecturers**, thus raising their professional competence on fraud prevention, data visualization, anti-corruption measures, processing of personal data, entrepreneurship and economics, as well as other topics.

To ensure exchange of good practice in the organization and institutional memory, **nine internal events** took place in the Competition Council in 2019, incl. training activities, which were implemented through assistance by the Authority employees.

Considering the fact that the year 2019 is the final stage of the Competition Council 3-year strategy, the Authority initiated the work on **development of a new strategy**, which will cover the period from 2020 to 2023.



ASSESSMENT OF IMPLEMENTATION OF THE STRATEGY

In the Operational Strategy for 2017-2019, the Competition Council of Latvia **set four defined main directions**, ensuring overfulfilment of the planned results in majority of performance indicators in competition protection, education and international operation directions. Although more efficient use of resources was achieved under conditions of limited financing, the Authority was unable to ensure fulfilment of separate indicators, fully ensuring strengthening of the

Authority's capacity, which affected investigation within the framework of competition protection direction.

Year	Allocated financing (euros)	Budget spending
2017	1 276 779	95,92 %
2018	1 304 579	98,36 %
2019	1 304 484	99,44 %

1st direction

Strengthening of the Authority's capacity, based on professional and responsible employees.

The objective of the Competition Council in this direction was to become a demanded and recognised employer, specialists of various sectors want to work for.

Year	Staff turnover		Loyalty of employees	
	Planned indicator	Achieved indicator	Planned indicator	Achieved indicator
2017	30 %	16%	70 %	84 %
2018	25 %	24 %	70 %	86 %
2019	20 %	32 %	70 %	62 %

► Amendments to the Law On Remuneration of Officials and Employees of State and Local Government Authorities, which came into effect in 2018, provided for the rights of the Competition Council to determine the remuneration system for its employees.

► The Authority developed and introduced a new remuneration system, which resulted in approximating the remuneration of various groups of positions to the situation on the labour market. Since additional financing was not granted, it prevented the Authority from increasing remuneration up to a competitive labour market level. The priority objective was not fully achieved, and the Competition Council suffered significant staff turnover.

► The Authority implemented staff training, ensuring development of managing skills for employees, as well as improvement of investigation activities conducting skills and IT evidence obtaining and processing skills according to the current trends.

2nd direction

Detection and prevention of severe competition infringements and market distortions, preclusion of negative effects on the market concentration.

The priority objective was to improve the regulatory framework, which would allow more efficient prevention of prohibited agreements and competition distortions caused by public administrative bodies.

Year	Prevention measures (number/priority sectors)		Fines		Terminated legal proceedings		Merger review (number of notifications/priority sectors)		Prevented competition restrictions, which can be caused by regulatory enactments and activities of public administrative bodies	
	Planned	Achieved	Imposed	Paid into state budget	Planned	Achieved	Planned	Achieved	Planned	Achieved
2017	31/9	31/10	10 116 138 euros	3 917 165 euros	At least 80 %	100 %	15/4	13/2	12 %	10 %
2018	28/10	25/13	308 514 euros	445 613 euros	At least 80 %	100 %	15/6	20/5	14 %	30 %
2019	25/11	21/10	3 152 549 euros	147 927 euros	At least 80 %	100 %	15/6	18/3	15%	21 %

- ▶ The Competition Council achieved majority of planned performance indicators under conditions of insufficient capacity, incl. high staff turnover and limited financing.
- ▶ Indicators of preventive measures (investigation and sector inquiries) are fulfilled partially. The operational efficiency is proved by the indicator of won legal proceedings at courts of last instance – the decisions adopted by the Authority have remained effective in 100 % of cases.
- ▶ In the course of three years, the Authority carried out sector inquiries and prepared proposals on several significant markets: pharmacy, insurance and finances, car

technical inspection, retail, digital services, etc.

- ▶ In 2018 and 2019, the Authority reviewed a larger number of merger notifications than planned, which required redeployment of resources directly to this operational direction. The Authority reviewed a smaller number of merger notifications in the priority sectors, because transactions did not concern the particular sectors.
- ▶ In 2018 and 2019, the efficiency of the Competition Council increased, preventing restrictions in regulatory enactments, competition distortions caused by public administrative bodies, and analysing their involvement in entrepreneurship.

3rd direction

Raising awareness of sectoral participants and public administrative bodies of free and fair competition, competition policy and culture.

The priority of the Authority was to raise public awareness of competition, achieve cooperation with other related authorities, ensuring joint training activities, look for new target audiences and new methods for reaching audience

Year	Competition law promotion measures (individual)		Educational activities with cooperation partners	
	Planned number	Achieved number	Planned number	Achieved number
2017	6	10	4	20
2018	7	15	4	11
2019	8	32	4	16

- ▶ The Authority exceeded the planned indicators in all years of the strategy cycle. The Competition Council implemented individual educational activities and joint educational activities with cooperation partners on various topics, including recognition of signs of prohibited agreements, observing of competitive neutrality, cooperation among suppliers and retailers, etc.

- ▶ Among the educational activities, one to be noted was the cycle of workshops "On Fair Entrepreneurship", initiated by the Competition Council in 2017 and 2018, also attracting the Corruption Prevention and Combating Bureau and the Procurement Monitoring Bureau. Representatives of these authorities visited 11 cities in Latvia and educated almost 600 procurement organizers and entrepreneurs on public procurement issues.
- ▶ Since 2017, the Competition Council organises competition culture promoting campaigns in autumn, involving various target groups. The Authority organised an essay competition for pupils of secondary schools and students, a stop-motion video competition for pupils of secondary schools and a competition restrictive regulatory enactments reporting campaign for residents.
- ▶ To attract a new target audience and promote the principles of fair competition, the Competition Council implemented new methods and approaches, developing communication in the digital environment, also creating the Authority account on the social network Facebook and preparing records for the Competition Council podcast on competition.

4th direction

Strengthening of the Authority's role and recognition in the international environment.

To be an authority that generates contribution to development of the competition law and practice on an international scale.

Year	Participation (taking floor) in international events		Number of articles in foreign publications	
	Planned number	Achieved number	Planned number	Achieved number
2017	17	27	10	15
2018	19	20	12	17
2019	19	21	15	22

- ▶ Experts of the Authority participated in various international and regional events, for example, the Baltic Competition Conference, OECD Competition Committee working groups, workshops and conferences organised by the European Competition Network and other institutions, ensuring active participation, taking floor or

participating in discussions. On average, participation in 20 events annually has been ensured during the strategy cycle, making contribution and ensuring exchange of good international practice.

- ▶ The Competition Council is constantly listed in *Global Competition Review Rating Enforcement* rating of the best competition authorities in the world. Based on the analysis carried out by *Policy and Regulatory Report*, the Competition Council is the third most active authority in the European Economic Area in terms of combating of cartels.
- ▶ In 2018, S. Ābrama, the Chairwoman of the Competition Council was elected and in 2019 re-elected as a Member of the Bureau of the OECD Competition Committee.
- ▶ The Authority received the award in the Competition Advocacy Contest, organised by the World Bank Group and the International Competition Network for the sector inquiry carried out on the vehicle technical inspection market in 2018, and a proposal to open this market for free competition.

PRIORITIES AND TASKS IN 2020

Having assessed the trends and challenges detected in sectoral and entrepreneurship environment during the previous 3-year (2017 - 2019) strategic cycle, as well as fulfilment of work plans and available resources of the authority, the Competition Council has formulated two main priorities for the following period.

- ▶ The first priority: to make more efficient and modernise competition surveillance and investigation of infringements in sectors significant for the national economy.
- ▶ The second priority: to promote high competition culture, raising awareness of public benefits brought by fair competition.

Fulfilment of these priorities should facilitate development of sectors and entrepreneurship under conditions of unimpeded market economy and should create public benefits, available only under conditions of free and strong competition.

Five main tasks are set for the authority according to the said main priorities in 2020.

1. To conduct investigation of the most severe infringements

This refers both to identification of new infringements, and already commenced cases, incl. the broad-scale case regarding alleged prohibited agreements in significant procurements of construction objects, the initiated case on alleged abuse of dominant position on the market of railway freight transport, continuing the case of city waste management or the so-called “Tīrīga”, etc.

In cases of indications of minor infringements, the Competition Council will continue the already successfully established practice and will use other preventive measures – warnings. Such methods of “Consult first” principle are and will be used only in cases, when market participants have come to attention of the Competition Council for the first time and the competition restriction has not caused significant consequences in the market.

2. To implement efficient surveillance of activities of public administrative bodies

On 1 January 2020, amendments to the Competition Law came into force, which prohibit public administrative bodies – the state, local governments and their capital companies – violate the principles of equal competition by groundlessly restricting the possibilities of private entrepreneurs to operate on the market.

By introducing this new legal framework, the Competition Council will have two types of instruments. Firstly, instruments of consultative nature, intensively continuing the informative activities commenced in 2019 – meeting officials of state authorities and local governments, and explaining the principles of ensuring competitive neutrality, as well as having discussions on solutions in cases of possible market shortcomings and restrictions. And secondly, instruments of disciplinary nature, if action of public administrative bodies in bad faith will be confirmed on a basis of substantiated complaints, the Competition Council will apply full severity of the law to restore conditions of equal competition.

At the same time, the Competition Council will actively monitor the impact of decisions and activities of public administrative bodies on the entrepreneurship environment, assessing regulatory enactments or their planned amendments.

In addition, intense work of provision of consultations and opinions regarding application of Section 88 of the State Administration Structure Law is expected in 2020. This means that, if the state and local governments intend to establish a new capital company, continue their entrepreneurship activity or plan to extend it, the Competition Council has to give its assessment. Such assessment, including from the perspective of the impact on competition, has to be carried out at least once every five years for state and local government capital companies regarding validity of their commercial activity. Majority of these capital companies have carried out their last assessment in late 2015.

3. To participate in improvement of regulatory enactments and markets

Waste management and pharmacy – these will be the priority markets, where involvement of the Competition Council will be required throughout the year in order to prevent competition distortions in the sectoral legal framework, assess draft future regulatory framework or give assessment of the effective regulatory framework, promoting development of competition.

Considering the fact that digital economy plays an increasingly more significant role in development of markets, the Competition Council will analyse the impact of various trade platforms on the competition during sector inquiries.

In 2020, the Competition Council will finish inquiries into following markets: financial services, glass packaging management, heat supply services and other markets.

4. To educate, inform, consult

The Competition Council will continue open communication with all groups of society. The opportunities are different: offering to participate in educational seminars “upon request” (seminars can be applied via phone, e-mail or on the website www.kp.gov.lv), organising meetings with representatives of various sectors, and willingly participating and taking the floor in sectoral forums that concern the problem of the competition law. We invite to use all these opportunities, especially in case of any uncertainties regarding compliance with the principles of fair competition.

5. To strengthen the capacity of the Competition Council

In 2020, Latvian national laws, incl. the Competition Law, shall integrate the so-called ECN+ Directive 2019/01, which determines that all competition authorities of the EU shall be provided with instruments required for efficient application of the competition law. Already in 2019, the Competition Council commenced the work, preparing the necessary amendments in order to strengthen the powers of the authority. At the same time, the Competition Council expects that real action will finally follow by the responsible state institutions to strengthen the capacity of the Authority.

To fulfil the main tasks set for 2020, the Competition Council plans to improve its internal processes, continue development of resource-efficient, socially responsible and active work environment, also starting transition to fully electronic case management, look for possibilities to recruit professional employees, and attract external experts. Conducting of studies and attraction of experts is a particularly topical issues in assessment of most complicated merger notifications, for example, to assess them primarily and as fast and competent as possible, preventing increase of market concentration and overpayment for consumers.

A significant role in the operation of the Authority in 2020 will be given to international cooperation, implementing exchange of experience, primarily solving issues topical in the day-to-day work with colleagues from competition authorities of the Baltic states and Nordic countries, and actively engaging in international forums and networks. ■



**Paula Vilsone,
the Head of the
Communication
Unit:**

“A constant priority of the Competition Council in the course of several years is promotion of the competition culture, which means raising awareness and knowledge of society on the principles of fair competition. As a result, it is essential for the Competition Council to be easily accessible and open to the public. Therefore, we encourage: if something is unclear regarding correct compliance with the competition principles, please contact experts of the Competition Council, who will try to answer any questions of your interest.”

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