



COMPETITION COUNCIL  
OF THE REPUBLIC OF LITHUANIA

# 2010 ANNUAL REPORT

## TABLE OF CONTENTS

<b>Foreword</b>	<b>3</b>
<b>Activity of the Competition Council in brief</b>	<b>6</b>
Highlights	
Facts and figures	
Principal outcomes	
<b>Priorities in 2010</b>	<b>13</b>
<b>I. Investigations and sanctions</b>	<b>13</b>
Prohibited agreements	
Abuse of a dominant position	
Unfair actions of retail trade companies	
Concentration control	
Restrictive actions of public administration entities	
Unfair commercial activity	
<b>II. Judicial decisions</b>	<b>27</b>
<b>III. Legislative activities</b>	<b>29</b>
<b>IV. State aid</b>	<b>31</b>
<b>V. Other activities</b>	<b>32</b>
<b>VI. International cooperation</b>	<b>33</b>
<b>VII. Promotion of competition culture</b>	<b>34</b>
<b>Annexes</b>	<b>37</b>

### **A year of new challenges and targets**

*Jūratė Šovienė*

*Acting Chairperson of the Competition Council*



The central focus in the activities of the Competition Council in 2010 was to strengthen the powers of the Competition Council, thus enabling the institution to most efficiently perform its functions.

In response to the call from the President of the Republic of Lithuania, the Seimas, the Government, and the public to become a more dynamic and effective institution and having considered the need to be able to act on its own initiative rather than only responding to complaints received, and with a view to successfully fulfilling the defined objectives and meeting relevant expectations, early last year the Competition Council initiated administrative structural reforms. As a result, the institution reduced the number of managing officials by adding new positions to the staff engaged in investigations; the former ten structural divisions were replaced by six, four of which are involved in investigatory activities. The Competition Council also strengthened its Divisions responsible for combating restrictive agreements, abuse by dominant undertakings, and for ensuring the fulfilment of duties by public administration entities to protect the freedom of fair competition in Lithuania. In this connection the Competition Council also reformed the areas of its activity related to competition policy and promotion of competition culture – ensuring fair competition first and foremost by preventing the unfair actions of undertakings in respect to consumers. The results of the competition authority annual performance had proved the internal structure of the Competition Council to be functioning efficiently – in that the institution's performance investigation actions are much more targeted, in addition to which we observe an appreciable enhancement in the employees' personal responsibility and interest in achieving optimal results.

With a view to increasing efficient supervision of the Law on Competition, on the initiative of the President of the Republic of Lithuania relevant amendments to the Law on Competition were drafted and in October 2010 submitted for consideration to the Seimas. The proposed amendments to the Law seek to make corporate managers personally liable for cartel agreements and unfair competition, extend the period of limitation for imposing sanctions, and increase the amounts of fines.

The enhanced scope of the activity of the Competition Council and investigations it carried out in 2010 can be easily illustrated by figures: in the course of the year the Competition Council passed in excess of 270 resolutions related to the enforcement of the Law on Competition, the Law on Advertising, and provisions of other laws assigned to the competence of the competition authority. 34 resolutions of the Competition Council were passed dealing with investigations that established infringements of the Law

on Competition and the Law on Advertising. Out of all investigations completed in 2010, 14 were initiated *ex officio* by the Competition Council and 20 – in response to complaints received.

The year that ended has been specifically intense in terms of investigating restrictive agreements. At any time during the year the Competition Council was investigating 12-13 cases of alleged infringements of Article 5 of the Law on Competition. Some of those investigations were continued from the previous years, but 10 new investigations were initiated in 2010 (in the markets of trading in oil products, travel organisation, hotels and restaurants, food product production, and other markets). In relation to the investigations started in the course of the year, specialists of the Competition Council participated much more frequently than in previous years in inspections in premises of undertakings. After completing the investigations the Competition Council passed total of six resolutions related to prohibited agreements (non-life insurance, vehicle rent and sale, sale of small mechanisation and other tools and equipment, publishing of and trade in audio visual works, cynological services and decoupage and crafts item markets), where normally from the onset of the operation of the Competition Council the number of such disclosed investigations in the course of the year would be not more than three. The amounts of the fines imposed upon parties of prohibited agreements for violating Article 5 of the Law on Competition reached nearly LTL 3.5 m.

It should be noted that two investigations concerning restrictive agreements (cartels) were successfully completed after relevant information was received from market participants in respect of which, for the provision of information and cooperation with the Competition Council, competition regulations provided for full leniency and an exemption from the sanction provided for in the Law on Public Procurement – prohibition for a period of three years to participate in public procurement tenders. We believe that market participants will be even more active and conscious in the future. Cartels are detrimental not only to direct consumers of goods and services, but also to the entire national economy. Preventing cartels requires efforts not only on the part of competition authority, but also an active and joint involvement of other public administration entities, market participants and consumers.

During the year the Competition Council completed three investigations concerning abuse of market dominance, which is an infringement of the requirements of Article 9 of the Law on Competition. In enforcing the judgement of the Court the Competition Council had to return, having supplemented the investigation, to the examination of the actions of *AB Mažeikių nafta* in 2002-2004. The Competition Council maintained its opinion concerning the abuse by the company of its dominant position in the market; however, having taken into account the definition of the relevant market that was specified in the course of the investigation, the amount of the fine was adjusted accordingly. Actions by *AB Vilniaus energija* and *Vilnius International Airport* were also evaluated as abuse of the dominant position in the relevant market.

The number of investigations related to the duty of public authorities and municipal institutions has not decreased, and in the course of the year the Competition Council was involved in 20 such investigations. In six cases violations of Article 4 of the Law on Competition were determined. Ministry of Energy, Alytus, Elektrėnai, Klaipėda and Vilnius (on 2 occasions) Municipalities were obligated, by separate resolutions of the Competition Council to amend their decisions to bring them into compliance with the Law on Competition. Regretfully, some public administration entities do not sufficiently comprehend the significance of the constitutional principle of freedom of fair competition for consumer welfare, the functioning of the national economy, and they repeatedly commit infringements or avoid correcting the same.

It needs to be acknowledged that the economic downturn also affected the intentions of undertakings to implement concentrations. In 2010, the Competition Council received 40 applications from undertakings to implement merger transactions, and in 33 cases such authorisations were granted. One company was subjected to a sanction – a fine – for an illegally implemented concentration.

In the course of the year the Competition Council investigated 25 cases concerning possible infringements of the Law on Advertising; 18 resolutions were passed concluding the infringements of Article 5 and 6 of the Law. On about 80 occasions actions of the Competition Council prevented possible infringements of the Law on Advertising and the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices by imposing preventive measures - issuing orders to the undertakings to immediately cease suspicious actions. All the resolutions passed by the Competition Council are of utmost importance to consumers as they are designed to protect their rights to be informed and not

misled when selecting goods or services, and to prevent unfair competition. As of April 2010, the Competition Council is the authority responsible for the enforcement of the Law on Prohibition of Unfair Retailers' Practices, with the Law on the Reform of the Railway Transport Sector also included in the scope of its competence.

The reality of our time is the tense markets (first and foremost appreciable price jumps in fuel and food product markets) that are most directly related to consumer expectations. This prompted the Competition Council to expeditiously initiate investigations in the markets concerned with a view to establishing the reasons for the changes or their possible links to distortions of competition. After identifying, in the course of the market surveys, certain trends that gave grounds to suspicions of certain restrictive actions, the Competition Council initiated individual investigations that included unannounced inspections in the premises of the undertakings concerned. The purpose of the inspections was to establish whether or not manufacturers and/or sellers of goods were performing any actions prohibited by Article 5 of the Law on Competition. As a primary task, the competition authority officials were searching for evidence of any former or current agreements or of concerted actions that could have caused a price increase.

A highlight of 2010 was the inclusion of the Competition Council, for the first time since the beginning of its activity, in the list of leading world's competition authorities compiled by the global anti-trust and competition law journal *Global Competition Review*. The rating list compiled by the journal drawn up on the basis of the objective statistical data reflecting the performance of competition authorities enabled us to compare our competition institution with our counterparts around the world. The very inclusion in the list demonstrated that the activity of our institution, specifically in relation to our counterparts, despite being poorly financed is actually quite effective. At the same time, having analysed the data provided, we could readily identify the main areas of our activities that still need to be improved and upon which we are specifically determined to focus our abilities and initiatives in the years to come.

## **Stay resolute**

At the very beginning of 2010 the Competition Council met some new and significant challenges. The Lithuanian competition authority began the New Year by reforming its internal structure and seeking to increase its performance efficiency with the same resources available. Still, it is quite obvious that the long-term ability of the authority to protect the freedom of fair competition efficiently and meet the expectations of the public is possible only provided the issue of the funding of the Competition Council is fully resolved. As the Chairman of the Competition Council in 2010, I raised the issue on numerous occasions and in a number of places. The understanding and the principal support for the proposals tabled by the Competition Council on the part of the public authorities, however, leave us hopeful.

I have worked at the Competition Council for slightly more than eleven years. It has been my honour to have a chance to work together with a number of good specialists who are and have been dedicated to their professional commitments. Despite leaving the Competition Council, I am taking this opportunity to express my acknowledgment to my former colleagues, and encourage them to stay not less determined and continue their endeavours to protect the freedom of fair competition with a view to maximising consumer wellbeing and ensuring the freedom of choice.

***Jonas Rasimas***

***Director at the Directorate "Markets and Cases I: energy and environment" of the European Commission Competition Directorate-General***

***Former Chairman of the Competition Council***

# Activity of the Competition Council in brief

## Highlights

### *NEW CHAIRMAN APPOINTED*

January 7

President Dalia Grybauskaitė signed the Decree appointing Jonas Rasimas, Doctor in Economics to the position of the Chairman of the Competition Council (hereinafter – the CC).

### *LENIENCY*

February 18

For the first time in its practice the CC passes the Resolution granting immunity to *UAB Lintera* for the infringement of Article 5 of the Law on Competition of the Republic of Lithuania (hereinafter – the LC) as the company, being a participant of a prohibited agreement between competitors was the first to notify the CC of the prohibited agreement between undertakings participating in public procurement tenders.

### *COMPLETED REORGANISATION*

February 23

The structural reorganisation of the CC started on 21 January was completed marking the beginning of the functioning of the new internal structure of the CC administration.

### *INSPECTIONS*

March 15

Public announcement of the investigation initiated and the inspections conducted in the premises of some companies engaged in retail trading in oil products.

May 14

Public announcement on the inspections conducted in the premises of five companies participants in public tenders for road building and reconstruction works.

### *COURT JUDGEMENTS*

March 15

The Supreme Administrative Court of Lithuania announced its final Judgment upholding the Resolution of the CC acknowledging that the *International Vilnius Airport* had been abusing its dominant position in the market and thus infringed Article 9 of the LC and Article 102 of the Treaty on the Functioning of the European Union (hereinafter – the TFEU).

May 27

The Supreme Administrative Court of Lithuania passed a final and unappealable Judgment upholding the conclusions of the CC concerning the misleading character of the advertising statement “BIGBANK greičiausias kelias iki pinigų” (“BIGBANK – *the fastest road to money*”).

June 9

The Supreme Administrative Court of Lithuania confirmed that the fine of LTL 184 000 imposed upon *UAB Tež Tour* for the failure to fulfil the obligation to end the use of misleading advertising and denounce the misleading statements was legitimate.

### *FINE UPON THE CYNOLOGICAL SOCIETY*

April 1

A fine LTL 32 300 imposed upon the Lithuanian Cynological Society for the infringement of Article 5 of the LC.

## *BILATERAL MEETING*

April 23

A bilateral meeting with the group of the Latvian Competition Council held with a view to strengthening the cooperation between the competition authorities of the neighbouring States.

## *TELECOMMUNICATIONS MARKET*

May 6

A fine LTL 45 000 imposed upon the mobile communications operator *UAB Omnitel* for the use of misleading advertising.

June 3

Having acknowledged that *AS Viasat* had performed actions contradicting fair commercial and good practice a fine LTL 174 000 imposed for the misleading advertising of promotional actions.

## *REPLIES TO MEMBERS OF THE SEIMAS*

June 8

October 12

At meetings of the Seimas the Chairman of the CC was responding to the pre-submitted questions of members of the Seimas.

## *CONCENTRATION CONTROL*

July 15

A fine LTL 10 000 imposed upon *AB City Service* for the failure to submit a timely notification of the acquired shareholding and implementation of the concentration transaction without having obtained the authorisation from the CC.

## *COOPERATION AGREEMENT*

October 8

The CC signed the cooperation agreement with the Lithuanian Business Confederation.

## *CONCLUSIONS*

October 11

Presentation to the Government and the public of the findings of the inquiry commissioned by the Prime Minister of the Republic of Lithuania concerning the changes in the food product prices.

## *AMENDMENTS TO THE LAW*

October 19

With a view to ensuring a more efficient supervision of the enforcement of the LC, at the initiative of the President and in cooperation with the CC, amendments to the LC providing for a personal liability of corporate managers for cartel agreements and unfair competition, extending the terms of limitation for imposing sanctions and increasing the amounts of fines were drawn up and submitted to the Seimas.

## *SANCTIONS*

November 11

Three companies providing vehicle rent and sale services fined LTL 1.6 m for their actions infringing the requirements of the LC in participating in public procurement.

## *CAREER*

December 14

By the decision of the European Commission Jonas Rasimas, Chairman of the CC appointed to the position of the director of the Directorate "Markets and cases I: energy and environment" at the Competition DG of the European Commission.

## CONCLUSIONS OF THE ADDITIONAL INVESTIGATION

December 16

The assessment of the conclusions of the additional investigation led to the conclusion that *AB ORLEN Lietuva* (former *AB Mažeikių nafta*) was abusing its dominant position in the period from 2002 to 2004, and having specified certain circumstances the company was fined LTL 8.2 m.

### Facts and figures

In 2010, the CC passed 278 Resolutions (233 in 2009).

43 undertakings fined in total LTL 12.2 m for the infringements of competition law.

<b><i>RESOLUTIONS OF THE CC PASSED IN ENFORCING THE LC REQUIREMENTS</i></b>	
Resolutions on infringements	16
Initiated investigations	29
Refusals to initiate the investigations	28
Terminated investigations	5
Authorisations to implement concentration or its individual actions	37

<b><i>RESOLUTIONS OF THE CC CONCERNING INFRINGEMENTS OF THE LC</i></b>	
Abuse of a dominant position	3
Prohibited agreements	6
Actions of public administration entities	6
Infringements of concentration rules	1

## **RESOLUTIONS OF THE CC ENFORCING THE REQUIREMENTS OF THE LAW ON ADVERTISING**

Resolutions on infringements	18 (19 in 2009)
Initiated investigations	19 (19 in 2009)
Refusals to initiate the investigations	6 (6 in 2009)
Terminated investigations	1 (4 in 2009)

## **NUMBER OF SANCTIONED UNDERTAKINGS AND FINE AMOUNTS IMPOSED**

Year	2006	2007	2008	2009	2010
Total undertakings sanctioned	14	22	23	52	43
Fine amounts, LTL	3 883 514	618 281	2 869 500	4 393 100	12 221 300

## **JUDICIAL EXAMINATION OF THE CC RESOLUTIONS**

Year	2006	2007	2008	2009	2010
Total cases	24	33	40	51	65
Judicial decisions	12	9	21	19	24*
Resolutions upheld	7	6	16	15	20
partly amended	3	1	3	1	1
overruled	2	2	2	3	2
Cases currently undergoing judicial examination	12	24	19	32	41

\* Including the action against the State of Lithuania on the indemnification of damages to the public company *Mažeikių nafta* regarding the allegedly illegal actions of the Competition Council dismissed.

## **OVERVIEW OF CONCENTRATION CASES**

Year	2006	2007	2008	2009	2010
Notifications received	61	78	54	42	40
Total authorisations granted	59	74	52	47	33
Of which to undertakings registered in foreign States	15	14	13	14	11
Authorisations subject to conditions and obligations	1	2	4	1	
Refusals to issue an authorisation		1			

<b>HARMONISATION OF LEGAL ACTS</b>	
Comments to draft laws and Resolutions of the Government of the RL	54
Comments to draft regulations of other institutions	13
Positions on EU legal acts submitted via the LINESIS* system	10
Positions agreed with other institutions via the LINESIS system	91

\* Information system on Lithuania's membership in the EU

<b>INFORMATION, CONSULTATION AND PRICE COORDINATION</b>	
Complaints, inquiries and other applications received	721
Written replies to complaints, inquiries and other applications	717
of which:	
to institutions and other undertakings of the RL	633
to inquirers from foreign States	84
Written advice to natural persons	253
Approved prices and tariffs	40

## Principal outcomes

In 2010, the CC, in pursuit of implementing its mission and its strategic objective to ensure the enforcement of the rules and principles of fair competition defined four main objectives in its activity programme:

- Objective 1 – create conditions in the market facilitating fair competition;
- Objective 2 – coordinate the issues related to State aid subject to the EU State aid rules;
- Objective 3 – prevent the unfair actions of retail trade undertakings;
- Objective 4 – prevent restrictions in the railway transport sector.

The CC performance is assessed according to the criteria of the implementation of the strategic goal of the institution (effect), achievement of the objectives of the institution's programme (result), and the fulfilment of the programme's tasks (outcome) that are summarised in the Table below.

**Comparison of the results achieved with the criteria defined in the strategic activity plan of the institution**

Evaluation criteria in summary	Plan for 2010	Actual in 2010	Implementation of the criteria
<b>Effect:</b>			
1. Upon establishment of infringements, ensure that persons that have violated the requirements of legal acts are subjected to sanctions provided for in laws and other legal acts, percent.	100	100	Implemented
<b>Result:</b>			
<i>Objective 1 of the programme</i>			
01 Complaints concerning restricting actions of undertakings examined (percent of the submitted)	100	100	Implemented
02 Complaints concerning anti-competitive actions of public administration entities examined (percent of the submitted)	100	89	Partly implemented <sup>1</sup>
03 Complaints concerning misleading/comparative advertising examined (percent of the submitted)	100	93	Partly implemented <sup>1</sup>
04 Investigations <i>ex officio</i> (number)	4	16	400 percent
<i>Objective 2 of the programme</i>			
01 Assessed of the cases of State aid potentially affecting trade between Member States (percent of the submitted)	100	30	Partly implemented <sup>2</sup>
<i>Objective 3 of the programme</i>			
01 Complaints (applications) concerning unfair actions of retail trade undertakings (percent of the submitted)	100	-	No complaints received
<i>Objective 4 of the programme</i>			
01 Complaints concerning the capacity allocation and charges for using infrastructure in the railway transport sector examined (percent from the submitted)	100	-	No complaints received
<b>Outcome:</b>			
<i>Objective 1 of the programme</i>			
<b>Task 1</b>			
1. Investigations conducted (number)	52	60	115 percent

2. Resolution of the CC on concentrations (number)	50	40	80 percent <sup>3</sup>
<i>Task 2</i>			
1. Investigations concerning infringements of the EU competition law (number)	2	4	200 percent
<i>Objective 2 of the programme</i>			
<i>Task 1</i>			
1. State aid project examined (number)	45	72	160 percent
2. Draft legal acts to which the CC has submitted its conclusions and comments (number)	50	67	134 percent
3. Reports to the European Commission on State aid granted to undertakings (number)	8	6	75 percent <sup>4</sup>
4. Analysis of annual reports of State aid providers and uploading of the relevant data to the Register (number of State aid providers)	200	208	104 percent
<i>Objective 3 of the programme</i>			
<i>Task 1</i>			
1. Investigations and Resolutions (number)	20	2	10 percent <sup>5</sup>
<i>Objective 4 of the programme</i>			
<i>Task 1</i>			
1. Investigations and Resolutions (number)	2	-	- <sup>6</sup>

<sup>1</sup> *The complaints received late in 2010, the circumstances specified in the complaints examined pending the judgement of the Court.*

<sup>2</sup> *The assessment is performed by the European Commission according to the procedures that normally take an extended period of time (3 out of 10 cases assessed).*

<sup>3</sup> *The number of concentrations declined in view of the economic crisis.*

<sup>4</sup> *Two Reports submitted to the WTO by the European Commission.*

<sup>5</sup> *No complaints were received, but in October 2010 the CC conducted ex officio large-scale investigation in the retail food product trade market that will be continued in 2011.*

<sup>6</sup> *No complaints were received and no investigations conducted in the absence of the relevant legal acts concerning the separation of the railway infrastructure from freight and passenger carriage sector and the appointment of the manager of the public railway infrastructure.*

As evidenced by the Table data in 2010 the CC achieved the planned effect criterion. Upon establishment of infringements the CC ensured that persons that violated the requirements of legal acts be subjected to sanctions provided for in laws and other legal acts. The target indicators assessing in respect of a number of result and product indicators were materially exceeded.

In carrying out its mission and with a view to fulfilling the tasks defined in the programme of the institution on 23 February 2010 the CC approved its new administration structure that ensured its more efficient management and efficient use of public funds.



At the end of 2010, the CC had 62 employees, of which 4 civil officials, 46 civil servants, and 12 employees working under the employment contracts.

In 2010, LTL 2 993 000 was the amount of the appropriation of public funds from the State budget for the activity of the CC.

## Priorities in 2010

### I. Investigations and sanctions

#### Prohibited agreements

*Total during 2010, the CC passed 6 Resolutions imposing fines upon undertakings for concluding and participating in prohibited agreements; one more investigation was completed (the final decision pending to be taken in 2011). 10 new investigations were initiated, on 4 occasions the CC refused to initiate the investigations and one investigation was terminated. At the end of 2010, 12 investigations were still in progress most of them scheduled to be completed in 2011. The investigations were carried out in different areas of economic activity: the CC was assessing the actions of undertakings engaged in the production and trade of food products allegedly infringing competition law requirements; also investigations were carried out in pharmacy, trade in oil products, civil engineering sectors, also in relation to public procurement tenders in different areas. In relation to the investigations of prohibited agreements in 2010 the CC conducted total 60 inspections (“damn raids”) in the premises of the undertakings covered by the investigations.*

During the reporting year prohibited agreements were definitely in the focus of attention, the CC also increased its staff in charge of the area, therefore the institution managed to improve its performance results as compared to previous years when the CC would pass 2 or 3 Resolutions on prohibited

agreements. In 2010, for the first time ever the CC passed the Resolution granting immunity to the undertaking that had notified the CC of the prohibited agreement; the CC also conducted another investigation initiated in response to the information submitted by a market participant who was aware of the agreement between competitors; completed several investigations of vertical prohibited agreements and horizontal (between competitors) agreements. The key aspects of those investigations are presented below.

- **The leniency programme yields first results: a cartel agreement having received the information from its participant disclosed**

On 18 February 2010, the CC for the first time in its practice passed the Resolution (No. 2S-6) granting immunity to *UAB Lintera* that on its own initiative was the first to notify of its participation in a prohibited agreement of which the CC had not been aware or had started any investigation; *UAB Lintera* also furnished some valuable evidence and cooperated with specialists of the CC conducting investigation. The undertaking took advantage of the possibility available under the leniency programme applied by the CC for participants of prohibited agreements to avoid imminent sanctions for hardcore infringements of the LC.

The investigation established that three undertakings (*UAB Lintera*, *UAB Prof-T* and *UAB Frezlitus*) being competitors engaged in trading in small mechanisation items and other tools and equipment, acted coordinating their actions while participating in public procurement tenders; also that the actions of the companies coordinating their tender prices essentially enabled one company – *UAB Prof-T* to win tenders. *UAB Prof-T* was awarded the tender in five instances considered in relation to the investigation. The investigation examined the activities of the above mentioned undertakings in relation to their participation in public procurement tenders in 2007-2008 announced by such entities as *SE Ignalina Nuclear Power Plant*, *AB Mažeikių nafta*, *AB Lietuvos elektrinė* and others. Such prohibited agreements create a threat that the contracting authorities may be forced to procure possibly substandard goods, services or works or those exceeding market prices and, as a result, incur some unforeseen additional expenses.

Having assessed the findings of the investigation and the explanations presented by the undertakings concerned the CC concluded that *UAB Lintera*, *UAB Prof-T* and *UAB Frezlitus* had infringed the requirements of Article 5 of the LC. *UAB Prof-T* was fined LTL 97 000, and *UAB Frezlitus* – LTL 4 000 (the latter was part of one tender only). Having avoided the threatened sanctions *UAB Lintera* would be able to continue operating and competing in the market for public procurement tenders.

- **Sanctions upon undertakings engaged in distribution of audiovisual works**

In 2010, the CC concluded its investigation of the actions of a number of undertakings engaged in the production and trade in audio-visual products. The investigation was initiated in 2008 and concerned the compliance of the actions of companies engaged in the production of and trading in audio-visual products with the requirements of Article 5 of the LC having as the information at the disposal of the CC allowed a reasonable suspicion that the companies had agreed to fix the minimum sale price. Such actions are prohibited by Article 5 of the LC stipulating that all agreements which have as their object the restriction of competition or which may restrict competition shall be prohibited and shall be void from the moment of conclusion thereof, including agreements to directly or indirectly fix prices of certain goods or other conditions of sale or purchase.

The investigation concluded that *UAB Forum Cinemas Home Entertainment* had entered into agreements with *UAB Computer data international*, *UAB Elektromarktas*, *UAB GPP*, *JV UAB Interatlas*, *UAB Media Incognito*, *UAB Palink*, *UAB Play prekyba* and *UAB Ronus* concerning the conditions of the sale of films which by their very object were of restricting character, i.e., the agreements restricted the possibilities of the undertakings involved to independently set the prices of their products marketed to third parties. The evidence obtained by the investigation proved that the agreements whose object was restriction of competition were also concluded between *Forum Cinemas Home Entertainment* and *Bombos* and *Pigu* (the undertakings had concerted their actions and thus eliminated any uncertainty as to their conduct in the market).

The CC concluded that *UAB Bomba*, *UAB Computer data international*, *UAB Elektromarktas*, *UAB Forum Cinemas Home Entertainment*, *UAB GPP*, *JV UAB Interatlas*, *UAB Media Incognito*, *UAB Palink*, *UAB Pigu*, *UAB Play prekyba* and *UAB Ronus* had concluded a prohibited agreement to fix the prices for the resale of

films recorded in digital discs and videotapes, thus infringing the requirements of Article 5(1)(1) of the LC. The undertakings were obligated to terminate the infringement of the LC and were fined.

- **Prohibited agreement in the public procurement of vehicle operational lease services and acquisition of vehicles**

For the agreement to submit concerted commercial offers for public tenders for procuring vehicle operating lease services and acquisition of vehicles launched in 2008 by Lithuanian police commissariats and *UAB Rokiškio vandenys* undertakings *AB AutoŃkis*, *UAB Autodina* and *UAB Moller Auto* were fined totaling LTL 1.5 m. The investigation initiated in 2009 established that in the case of the public procurement tenders covered by the investigation the companies involved were maintaining contacts and communicating concerning their tenders offered to procuring organisations: employees of the companies communicated discussing various issues related to the participation in the procurement tenders (*AB AutoŃkis* being the most frequent initiator of such coordination); the companies would even draw up and submit tenders on each other's behalf. As a result, in all six public procurement tenders examined under the investigation the winner of the tender was determined in advance, and competition in respect of procuring organisations was only imitated.

When imposing the sanctions the CC considered that the concerted actions in relation to participation in public tenders constituted a hardcore infringement of competition law. The CC, also, considered the impact of individual undertakings in the commitment of the infringement, i.e., in five instances of public procurements *AB AutoŃkis* acted as an initiator of the infringement, *UAB Moller Auto* was the initiator on a single occasion, while the role of *UAB Autodina* in all cases was passive. Furthermore, in imposing the fines the CC took into account that *UAB Autodina* and *AB AutoŃkis* partly acknowledged the circumstances established, and in view of the difficult situation in the vehicle business sector the fines were reduced by 20 percent.

- **Restriction of competition in the markets of compulsory insurance for the civil liability of building designer and contractor**

For the restricting insurance pool agreement concerning the compulsory insurance for the civil liability of building designer and contractor that did not meet the requirements of block or individual exemption two insurers operating in Lithuania were fined accordingly: *AB Lietuvos draudimas* – LTL 400 300 and *UAB DK PZU Lietuva* – LTL 130 800.

The investigation (period covered 2002 through 2009) examined the provision by insurers of insurance services related to construction activity, i.e., compulsory insurance for the civil liability of building designer and contractor. The information collected in the course of the investigation and other circumstances established allowed the conclusion that the two undertakings - *AB Lietuvos draudimas* and *UAB DK PZU Lietuva* (former – *UAB DK Lindra*), having concluded the pool insurance agreement infringed competition law requirements applicable to cooperation agreements between competitors in the insurance market. On 26 February 2003, the two companies concluded the Framework Cooperation Agreement under which the insurers agreed to cooperate in providing the compulsory insurance for the civil liability of building designer and contractor and the suretyship insurance (insurance of participating in tenders and of contract surety). Having concluded the Agreement and other agreements and documents related thereto the parties agreed on insurance contract terms, the procedure for the calculation of insurance premiums, minimum premium amounts and other terms of insurance, such as uniform risk assessment and the unified commission to external intermediaries.

The insurance pool agreements of a similar type restricting competition are not prohibited *per se*, and, provided they meet certain requirements, may benefit from block and individual exemptions, however, in the case concerned the requirements of block or individual exemption were not met.

By such actions *AB Lietuvos draudimas* and *UAB DK PZU Lietuva* thus restricted competition in the relevant compulsory insurance for the civil liability of building designer and contractor markets thus committing an infringement of requirements of the LC.

It should be noted that the agreement whereby *AB Lietuvos draudimas* and *UAB DK PZU Lietuva* agreed not to compete by prices for the compulsory insurance for the civil liability of building designer and contractor services, provided in the framework of insurance pool agreement, was concluded between major insurers operating in the general third party liability insurance markets. The scope of the

agreement, when assessed in the context of competition in the compulsory insurance for the civil liability of building designer and contractor markets, was quite weighty as it covered significant shares of the relevant markets and had a long-term effect. Having considered the circumstances related to the nature of the agreement, its conclusion and implementation the CC concluded that in the absence of the agreement competition in the market concerned would have been more efficient.

- **Cartel agreement in the market for the sale of pure-breed puppies with the pedigree documents issued by the Lithuanian Cynological Society (LCS)**

The CC initiated the investigation in response to the application from the *IC Terra Animalis* engaged in retail trading within the shop network KIKA. The CC passed the Resolution whereby it recognised that the Lithuanian Cynological Society (LCS), by establishing the prohibition in respect of its members to sell puppies with pedigree documents issued by the LCS to natural or legal persons with the view to reselling the puppies had infringed requirements of Article 5 of the LC. Such actions of the LCS restricted competition between dog breeders in selling puppies and prevented pet stores and other resellers from acquiring puppies holding pedigree documents issued by the LCS. Such actions of the LCS created a market foreclosure barrier for some existing or potential competitors.

For this infringement of the LC the LCS was fined LTL 32 300, also obligated to immediately terminate the infringement of the LC. The CC also obligated the LCS to repeal the obligation set forth in the Regulations on dog breeding in respect of breeders within one month from the sale of a puppy to submit to the LCS's Secretariat office copies of the documents certifying the sale of the puppy to a new owner.

- **Prohibited agreements between undertakings trading in decoupage articles**

The CC established that by having concluded prohibited agreements on fixing retail prices or coordinating the level of prices for decoupage articles, the companies, *UAB Puse Plus Kaunas*, *UAB Creativa grupė*, *PC Terra animalis* and *UAB Senas Naujas* infringed the requirements of Article 5 of the LC. The actions of retail price coordination were performed both by concluding wholesale (vertical) agreements (*UAB Puse Plus Kaunas* acting as a wholesaler concluded such agreements with *UAB Creativa grupė*, *PC Terra animalis*) and by means of electronic correspondence and verbal contracts (between *UAB Puse Plus Kaunas* and *UAB Senas Naujas*). The companies were obligated to cease the actions infringing the LC, and the fines imposed upon all infringers exceeded LTL 60 000.

The accomplished investigation demonstrated that restrictive agreements, i.e. the agreement to directly or indirectly fix the prices of a specific article or other terms for purchase or sale – may exist in most diversified markets and even among comparatively small undertakings. Such agreements may cause consumers to overpay for articles of any purpose.

- **Completed investigation concerning possible infringements of competition law in the market for orthopedic articles**

Late in 2010, the CC completed the investigation concerning possible prohibited agreements between undertakings engaged in the production and trade in orthopedic articles. The investigation also involved the assessment of actions of the National Health Insurance Fund under the Ministry of Health (NHIF) potentially infringing Article 4 of the LC. The final decision concerning the possible infringements will be taken in 2011. The investigation was initiated upon receipt of the information from a company engaged in relevant activities.

The investigation examined the activities of undertakings engaged in the production and trading in the Republic of Lithuania of orthopedic articles compensated for the insured from the budget of the Compulsory Health Insurance Fund (hereinafter – CHIF). The investigation carried out by the CC led to the conclusion that in the period from 2006 to 2010 undertakings engaged in the production and trade in orthopedic articles while participating in meetings of the Association of Providers of Orthopedic and Rehabilitation Services, Association of Orthopedic and Medical Industry Undertakings and the NHIF had committed a single continuous and complex infringement of extended duration with a single objective – to restrict competition in the relevant market. The infringement was committed by the parties agreeing to fix the prices for orthopedic articles, to set quantities of production and sale, and share the market. Such conclusions were found reasonable having assessed the actions of the undertakings in coordinating the costs of orthopedic articles and the unified rates of surcharges for

partly compensated orthopedic articles, as well as the negotiations between the undertakings concerning output quota and production "quota" (in other words, concerning allocations from the budget, or sharing the market). Therefore, essentially such actions of the undertakings covering the entire Lithuanian market for compensated orthopedic articles prevented an efficient use of the CHIF, and patients were not able to obtain orthopedic articles at favourable terms as the agreements restricted competition between the undertakings concerned.

The investigation also arrived at the conclusion that the requirements of the LC had been possibly breached by the NHIF which, being aware of the prohibited agreements not only did not act to prevent the operation of such agreements, but rather encouraged the undertakings to engage in this kind of behaviour. In this context it should be noted that neither special legal regulation nor the participation of a public authority eliminates the possibility of undertakings to take autonomous decisions concerning the production cost of orthopedic articles, rates of surcharges or production quantities indicated in applications and agreements with the NHIF, therefore this cannot provide relief for the undertakings from the liability for their actions.

- **KIA distributors took the comments of the CC into account**

In response to a number of complaints received from consumers concerning the obstacles on the part of KIA car distributors to carry out routine maintenance at other than authorised service stations the CC pointed out that such limitations upon the consumer's possibilities to choose may be incompatible with the requirements of competition law. The KIA car distributors in Lithuania in response to the comments of the CC undertook to waive their requirement to perform routine maintenance at authorised service stations only, and, irrespective of where the works have been performed, apply the manufacturer warranty to KIA cars to its full extent. Thus, KIA car owners now will be able to benefit from the manufacturer's warranty irrespective of the maintenance stations they choose to use. Such commitments companies distributing KIA cars in Lithuania assumed having regard to the Resolution of the CC passed in 2009 concerning the analogous actions of other companies which they were obligated to terminate.

Such changes in the position of companies engaged in selling vehicles will enable consumers to benefit from the advantages created by competition (e.g., lower prices) in choosing maintenance services.

## **Abuse of a dominant position**

*The complex investigations of alleged abuse of a dominant position by undertakings were high on the CC's agenda. In 2010, three cases of the breach of Article 9 of the LC were established, of which in one case the breach also concerned Article 102 of the TFEU.*

- **Actions of Vilnius International Airport**

In 2010, the CC passed the decision concerning the compliance of actions of the SE Vilnius International Airport (hereinafter – *SE VLA*) with the requirements of Article 9 of the LC and Article 102 of the TFEU. The investigation was initiated acting upon an application of *UAB RRS MOTORS* requesting the CC to establish whether or not the *SE VLA*, a competitor of the Applicant in supply of jet fuel to airplanes, was abusing its dominant position by refusing to allocate to the Applicant more space in the fuel storage facilities, and a parking space meeting the fire safety requirements for the third fuel feeder of the Applicant. In its complaint *UAB RRS MOTORS* also indicated that *SE VLA* was establishing unreasonably low prices for the fuels supplied thereby.

The CC established that the *SE VLA* was abusing its dominant position thus infringing Article 9 of the LC having, without any due reason, refused to allocate an additional quota for fuel storage to *UAB RRS MOTORS*, and a parking space for the Applicant's fuel supply vehicle. For this infringement the *SE VLA* was fined LTL 76 000 and obligated to terminate the illegal activity, i.e. within an established time period to grant to *UAB RRS MOTORS* an additional quota in fuel storage facilities according to the latter's applications and on the non-discriminatory and transparent basis.

Also, having assessed that the Ministry of Transport and Communications is the founder of the *SE VIA* and the public authority responsible for the proper implementation of the Rules on the Provision of Ground Services, the CC recommended the Ministry to take active actions and measures to ensure fair competition in the market for the provision of jet fuels to airplanes.

Having acknowledged the committed infringement of the LC by the actions as referred to above in respect of *UAB RSS MOTORS* the CC concluded there being no grounds to claim that in the period concerned the *SE VIA* had been applying “predatory” prices, therefore these actions of the *SE VIA* did not constitute an element of abuse of the dominant position.

Such conclusions of the CC were also supported by the Vilnius Regional Administrative Court which judgement, after coming into effect, completed the judicial disputes in the case.

It should be noted that the *SE VIA* even before the completion of the investigation had been on two occasions sanctioned for the infringements of competition rules (abuse of dominance) that had significantly impeded the operational conditions of jet fuel suppliers in the airport. At the same time the CC also notes that the previous infringement by the *SE VIA*, as well as the one covered by the investigation concerned were related to the actions of the *SE VIA* administration, however, the circumstances have materially changed and all issues related to restriction of competition are addressed following the relevant requirements.

- **Actions of *UAB Vilniaus energija***

In 2010, the CC completed the resumed investigation concerning the compliance of actions of *UAB Vilniaus energija* with the requirements of Article 9 of the LC. Having assessed the findings of the additional investigation carried out according to the judgement passed by the Vilnius Supreme Administrative Court, the CC resolved that *UAB Vilniaus energija*, by imposing unfair prices in the markets for the lease of communication tunnels in Vilnius, had infringed Article 9 of the LC and fined the company LTL 178 000. Also, in this connection *UAB Vilniaus energija* was obligated to terminate the infringement by submitting to communication tunnel lessees new draft agreements on the lease of transitory collectors and technical corridors, or respective amendments to the existing agreements.

The additional investigation also established that by having disproportionately distributed the lease fees *UAB Vilniaus energija* imposed upon individual groups of lessees unfair prices, i.e., for the lease of the same space of the tunnel some lessees were charged a ten-fold price than others. Thus, by paying for the lease of communication tunnels such undertakings would pay not only for the tunnel areas occupied thereby, but also cover the communication costs of *UAB Vilniaus energija* that the company actually had to cover by itself in proportion to the share of communication facilities it operated. This concludes that when leasing communication tunnels *UAB Vilniaus energija* had been applying “exploitative“ prices.

- **Additional investigation concerning actions of *AB ORLEN Lietuva***

Having assessed the conclusions of the additional investigation the CC acknowledged that *AB ORLEN Lietuva* (former *AB Mažeikių nafta*) had infringed Article 9 of the LC and the requirements of Article 102 of the TFEU. *AB ORLEN Lietuva* was obligated to terminate its activities infringing the requirements of the relevant legal acts. For those infringements *AB ORLEN Lietuva* was fined LTL 8 231 000.

Having considered the aspects pointed out by the Supreme Administrative Court of Lithuania in its judgment obligating to conduct an additional investigation the CC repeatedly examined and substantiated the conclusions of its Resolution of 2005. The additional investigation involved the specification of the relevant market definition by narrowing the geographic market to the territory of the Republic of Lithuania, which was substantiated by a number of extensive arguments, and providing additional substantiations for the definition of the product market. Having considered the evidence collected in the course of the investigation the CC concluded that *AB Mažeikių nafta* had been performing certain restricting actions, i.e., was abusing its dominant position in the market for the sale of gasoline, and, accordingly, the sale of diesel from the factory in the territory of the Republic of Lithuania. The investigation concluded that the pricing policy employed by *AB Mažeikių nafta* was designed to restrict the entry of competitors into Lithuanian market, i.e. to avoid import competition: diesel fuel – from the East, and gasoline – from the West. Certain discounts granted to companies

acquiring fuels were economically ungrounded and the rebate system itself actually meant the application of dissimilar conditions in agreements of similar character. The rebate system applied by *AB Mažeikių nafta* actually discriminated certain undertakings (*UAB Rekolos*, *UAB Skulas*, *UAB Saurida*, *UAB Hydro Texaco*, *KB Tiltailas*) in respect of selected others (*UAB Lukoil Baltija*, *UAB Lukoil Baltija servisas*, *UAB Lietuva Statoil* and *UAB Neste Lietuva*) actually operating in the same market. Furthermore, having considered the market power exercised by *AB Mažeikių nafta* in the Lithuanian territory that was approximating monopoly status, and the conduct of *AB Mažeikių nafta* in establishing gasoline and diesel fuel consumer prices the CC concluded that *AB Mažeikių nafta*, by imposing some loyalty obligations sought to "tie up" its consumers and restrict their free behaviour in the market in respect of the changes of oil product prices or other actions, and choose other producers only in the cases when *AB Mažeikių nafta* was not able to supply them with oil products. This actually resulted in a foreclosure of the Lithuanian gasoline and diesel markets from other producers, thus significantly restricting competition therein.

The CC changed the amount of the fine imposed upon *AB ORLEN Lietuva* (LTL 32 m by Resolution No. 2S-16 of 22 December 2005) having, during the resumed investigation, narrowed the geographic market to the national territory of the Republic of Lithuania, also reassessed as non-infringing actions of *AB Mažeikių nafta* related to discrimination of undertakings on territorial basis and sale of arctic diesel fuel to corporate customers. It should be noted that in relation to imposing the fine the CC took into consideration the circumstances aggravating the liability of the company that was sanctioned for infringements of the LC for the third time.

- **Commitments assumed by *Forum Cinemas***

Acting in accordance with Article 30(2) and Article 30(3) of the LC the CC passed the decision to terminate the investigation concerning the compliance of *UAB Forum Cinemas* with the requirements of Article 9 of the LC – alleged abuse of its dominant position. The investigation was terminated having assessed the commitments assumed by *UAB Forum Cinemas*. In the opinion of the CC the commitments by the company prevent any possible infringements of the LC in distributing films or allocating them to individual cinemas, as well as addressing other aspects related to the film demonstration and distribution activity. Such commitments create preconditions for avoiding in the future any possible infringements of Article 9 of the LC concerning which competitors had applied to the CC, and the spectators in different cities will be quicker delivered the newest films.

The investigation was launched in response to the application of *UAB Cinamon Operations* on suspicion that *UAB Forum Cinemas* was holding a dominant position in the film distribution market, and could abuse its dominance in breach of Article 9 of the LC: the investigation established several instances justifying a suspicion that the company was exercising pressure upon other distributors demanding to impose restrictions in renting film copies, or refuse to rent copies of certain films to some cinemas. It was also established that in its activities *UAB Forum Cinemas* was using one trademark, acting both as films distributor and as a cinema operator. The commitments assumed by *UAB Forum Cinemas* specifically eliminate those aspects of the activity that had been raising suspicions both to its competitors and the CC. *UAB Forum Cinemas* is obliged to fulfil the commitments assumed thereby and in case of failure the CC may impose fines.

The CC holds that the specific commitments assumed by *UAB Forum Cinemas* and, on that basis, the termination of the investigation actually resulted in the achievement of the results pursued by the Resolutions – to terminate the activity that could potentially infringe fair competition. In the opinion of the CC the commitments assumed were appropriate and sufficient to refute the suspicion that actions of the undertaking possibly infringe competition law.

## **Unfair actions of retail trade companies**

Acting in accordance with the Law on the Prohibition of Unfair Commercial Activities of Retail Trading of the Republic of Lithuania that came into effect on 1 April 2010, the CC initiated an inquiry concerning the enforcement of this Law. According to Article 14 of the Law the CC was obliged to draw up and submit, by 1 March 2011, the Statement on the Monitoring of the Law specifying the

progress in attaining the objectives pursued by the Law, any negative outcomes, as well as any proposals concerning improvement of the Law.

With this purpose in view all major trade networks and companies supplying food products were submitted inquiries to which the CC received responses that are currently further analysed.

The CC carried out an investigation concerning the changes in the food product prices and submitted the findings of this investigation to the Government of the Republic of Lithuania and the public.

With a view to informing, as widely as possible, the public about the food product prices in trade networks, the CC concluded the agreement with the SE Agricultural Information and Rural Business Centre concerning the collection, management and publication of information from retail traders in the internet website [www.produktukainos.lt](http://www.produktukainos.lt). Every week the website is updated with the data on the lowest, highest and average prices of most important food products (milk, meat and meat products, chicken, bread, fish, flour, groats and vegetables – total 45 articles).

The CC also entered into the cooperation agreement with the Lithuanian Institute of Agrarian Economics for carrying out the analysis of food products marketed in Lithuania, also of elements of the price structure and other related aspects, and drawing up joint conclusions of such analysis. The website [www.produktukainos.lt](http://www.produktukainos.lt) also publishes the data on the margins charged by trade networks in respect of 10 most common food products.

## Concentration control

*During 2010, the CC examined 41 notification concerning authorisations to implement concentration of market structures, of which 40 were received in the course of the reporting year, and one notification was brought forward from 2009. In 33 cases the concentration transactions were authorised by Resolutions of the CC, and the examination of 8 cases will continue in 2011. During the reporting period the CC completed one investigation concerning the compliance of undertakings with the requirements of Articles of 10(1) and 11(2) of the LC, and imposed economic sanctions, and on one occasion refused to initiate an investigation regarding the alleged infringement.*

*In 2010, undertakings paid total LTL 179 400 in Stamp duty for the examination by the CC of their concentration notifications, besides, the CC fined one undertaking LTL 10 000 for the delayed submission of the concentration notification.*

With a view to more expediently processing applications to implement concentration transactions and having considered that the intended concentrations will not create any dominant position or significantly weaken competition, in four cases the Resolutions of the CC, in accordance with Article 12(3) of the LC, authorised individual concentration actions pending the final decisions. In a number of cases prior to filing the notifications undertakings were seeking advice from the CC's specialists which appreciably improved the quality of the notifications, which also made it possible to reduce the scope of information required to be provided as necessary for passing the decisions by the CC.

In more complicated cases the CC was inviting public authorities or business associations to express their views, also organised meetings with their representatives.

In 2010, as compared to previous years, the number of authorisations issued to foreign undertakings was lower – 11 (14 in 2009, 13 in 2008, and 14 in 2007), of which in 7 cases concentration was implemented by foreign undertakings operating also in the Lithuanian product markets, including financial services markets, retail trade in food products, and production of pharmaceuticals.

Concentration among the Lithuanian-registered undertakings was recorded in 21 cases, of which on 6 occasions the authorisations were issued to undertakings controlled by foreign capital, and in 15 cases – to undertakings controlled jointly by domestic and foreign capital.

The number of conglomerate concentrations increased to 14; concentrations between undertakings operating in the same markets that are assessed as horizontal reduced slightly – total 19 registered in 2010 (21 in previous years). Horizontal concentrations were observed in a number of markets; however most of the acquisitions were recorded in wholesale and retail markets of trading in food products,

consumer goods and fuels; all were authorised by the CC as the degree of concentration in those markets changed insignificantly.

In relation to the examination of concentration notifications the CC carried out a comprehensive analysis in the retail trade market in petrol, diesel fuel, liquid gas, food products and consumer goods both in Lithuania, and in individual local markets. The analysis sought to assess the principal factors affecting fuel prices in Lithuania, examined the markets of retail trade in food products and consumer goods (commodity markets, shares of trading spaces and the efficiency of utilisation of the same by individual trade networks).

Notably, due to concentration (acquisitions) within the meaning of Article 10 of the LC the market share of retail trade networks in the course of the past decade had increased insignificantly, by several percentage points only. For instance, *Maxima LT, UAB* since 1998 when its share in the market of retail trade in food products was less than 20 % had not implemented any concentration transactions, save for individual cases by acquiring, under lease arrangements trade spaces which did not have any material effect upon the position of the company in the market. Trade networks were expanding following a natural course: by acquiring from municipalities or private persons plots of land and constructing objects of retail trade, privatising or acquiring bankrupt or inoperative companies mostly as land or structures that are subsequently refurbished, redesigned and adapted for retail trade purposes, or in some cases demolished and built as new retail trade facilities; thus according to agreements with municipalities trade networks reconstructed bus stations by arranging them into the premises for retail trade; or by leasing (according to pre-concluded agreements) trading facilities (newly built or reconstructed) from real estate agencies or property developers. Control of these methods of development is outside the scope of competition regulations.

## **Restrictive actions of public administration entities**

*In assessing the compliance of actions of public administration entities with the provisions of Article 4 of the LC, the CC established total 6 infringements, initiated 14 new investigations, on 13 occasions refused to initiate the investigation and one investigation was terminated.*

- **Resolution of the Government and actions of the Ministry of Energy concerning oil products**

In 2010, the CC carried out an investigation concerning the compliance of the Rules on the formation, management, accumulation and control of State oil and oil products reserve with the requirements of Article 4 of the LC, and concluded that the 10 percent State oil and oil products reserve as established in Item 22 of the Rules is not sufficient in order not to restrict the oil products import and ensure a smooth functioning of the Lithuanian market, as well as an efficient competition in the wholesale market of trade in oil products. Furthermore, in the opinion of the CC, the current regulation is ambiguous by not clearly defining the basis for the calculation of the State reserve allowed to be stored in other States.

The CC arrived at the conclusion that Item 22 of the Rules was contradicting Article 4(1) of the LC, and, with a view to ensuring enhanced transparency of the decision making process, recommended the Government to ensure a proper regulation of principles and procedures for the recognition of oil and oil products as part of State reserve, also the procedures for the issue of authorisations to accumulate and store oil and oil products reserves in other Member States, the procedure and the terms for the issue of authorisations, and provide for dispute adjudication procedures.

The CC held that the Ministry of Energy, by refusing to issue the authorisation to *UAB Lukoil Baltija* to accumulate and store the State oil products reserve in the Republic of Latvia, infringed Article 4 of the LC.

The CC in this respect noted that by unreasonably refusing the authorisation to *UAB Lukoil Baltija* to store part of its fuel reserve in a foreign State and by not providing any reasonable grounds for its refusal not only prevented the company from acquiring the service at lower cost, but also restricted its

possibilities to procure the storage service outside Lithuania. Since at that particular time there were no vacant storage facilities in Lithuania, the company was prevented from acquiring the service outside the country. As a result of such actions by the Ministry import of fuels into Lithuania was artificially restricted, competition conditions in the wholesale fuel market were adversely affected, as Lithuanian consumers were forced to purchase fuels from a single producer only. Furthermore, it produced a negative effect upon the undertakings operating in the retail fuel markets, since they were prevented from competing in prices which eventually violated the interests of numerous consumers.

The CC obligated the Ministry of Economy within 1 month to pass a decision or decisions related to the recognition of oil products as State reserve of oil products and the authorisation to store oil products reserves outside the territory of the Republic of Lithuania in respect of *UAB Lukoil Baltija* compliant with the provisions of Article 4 of the LC.

- **Decision of the Vilnius City Municipality concerning project management services**

The CC concluded that the Vilnius City Municipality in passing its decisions and concluding on the basis thereof the contract authorising *UAB Vilniaus vystymo kompanija* to provide building design management and construction management, as well as other construction-related services, was granting privileges to the company in respect of other undertakings operating in the relevant market by creating different competition conditions to competing undertakings operating in the same relevant market.

As was established in the course of the investigation the Municipality, having without any tender procedure authorised *UAB Vilniaus vystymo kompanija* to provide building design management and construction management, as well as other construction-related services, thus created different competition conditions for undertakings operating in the relevant markets, since *UAB Vilniaus vystymo kompanija* was not the only capable of providing such services that could compete with the company in providing the services concerned. The CC obligated the Municipality within one month to repeal the decisions and regulations specified in the Resolution of the CC, or amend them to ensure their compliance with Article 4 of the LC.

- **Decision of the Vilnius City Municipality concerning mandatory services**

The CC concluded that the relevant provisions of the Decision of the Vilnius Municipality Council obligating *UAB Grinda* to provide mandatory services contradicted Article 4 of the LC. By this decision the Vilnius Municipality, without any tender or other competitive procedure, granted exclusive rights to *UAB Grinda* to provide mandatory services – maintenance of city streets in winter, maintenance and operation of wastewater networks, localisation of emergency situations in streets, operation of sand, snow and soil landfill, mechanical cleaning and washing of part of the streets, care of stray animals, organisation of quarantine, euthanasia and special sanitary services.

The CC concluded that the Decision prevented other undertakings operating in the same market from offering their services, and the Municipality failed to consider that the markets of the services meeting its needs were competitive and undertakings in the market should compete for the right to provide the services. The Municipality was obligated to repeal the relevant clauses of its decisions and terminate the service provision agreements with *UAB Grinda*.

- **Decisions of the Administration of the Alytus City Municipality**

The CC found that two Orders passed by the Director of the Alytus City Municipality whereby the Municipality refused to extend the validity of the permits for several companies of passenger carriage on several regular routes in Alytus, infringed Article 4 of the LC and obligated the Municipality, within 1 month, to repeal the Orders or to amend them bringing them into compliance with Article 4 of the LC.

The CC assessed the Orders concerned as creating different competition conditions for undertakings operating in the relevant markets, as at the same time the Municipality was extending or even issuing new permits for other competitors to operate the same routes. The Municipality was referring to the need to optimise the operations of passenger carriers in Alytus when passing the decisions. However, the CC concluded that without establishing any clear conditions or principles for selection of carriers, and by withdrawing the permit for one company while issuing, with no legitimate basis or reason, to another company for three years ahead the Municipality was unjustifiably restricting the possibilities for some carriers to operate in the market, was restricting competition thus infringing Article 4 of the LC.

- **Decisions of Municipalities regarding trade in alcohol**

In 2010, the CC passed three Resolutions to refuse to initiate investigations concerning the decisions of individual Municipalities (Kaunas, Klaipėda and Pasvalys) to restrict the time for selling alcoholic drinks in stands establishing shorter eligible hours than for trade centres for which no time limitations were imposed.

The undertakings were complaining that such decisions of the Municipalities resulted in different competition conditions and appealed to the CC to investigate whether or not such restrictions of time were discriminatory in respect of small businessmen. The CC in this respect considered that on the basis of the Law on Alcohol Control, taking into consideration the location of trade in alcoholic beverages and the opinion of residents, societies, communities or representatives thereof, public organisations or other institutions as stated in writing, proposals of police commissioner's offices, municipal councils shall have the right to restrict the time during which it is allowed to sell alcoholic beverages. The CC established that such opinions or proposals in all cases had been expressed or submitted.

The CC also took into consideration the Judgement of 14 December 2009 of the Supreme Administrative Court of Lithuania pointing out that legislator had provided for the powers of municipal councils, where necessary, to restrict trading in alcoholic beverages in municipal territories where this is necessary in pursuit of objectives of public importance. The CC concluded that in all cases in respect of which the appeal had been filed the conditions for the exemption from the provisions of Article 4(2) of the LC were present and refused to initiate the investigation.

- **Investigation regarding the Order of the Communications Regulatory Authority**

In 2010, the CC initiated the investigation concerning the compliance of the order of the use of short telephone number service in the provision of commercial information with the requirements of Article 4 of the LC. The investigation sought to find out whether the possibility for short (three digit – 118) telephone number operators to provide the information not only about all subscribers of the public telephone communication service entered into the public printed and/or electronic subscriber lists (i.e. the universal service), but also commercial information is not discriminatory in respect of other undertakings that are not universal service providers and provide commercial information using longer – four digit – telephone numbers. Currently, information by short telephone number (118) is provided by *UAB Lintel* only.

- **Investigation concerning the Resolution of the Government**

In 2010, the CC initiated the investigation concerning the procedure for entering the compensated medical preparations into the Pricelist of Compensated Medical Preparations that was amended by Resolution No. 1806 of 23 December 2009 of the Government. The investigation sought to establish whether or not the new procedure is discriminatory in respect of manufacturers of brand medical preparations, by entering into the Pricelist only the medical preparations up to certain price threshold, while the amount of compensation for medical preparations from the Compulsory Health Insurance Fund is related to smallest base price.

## **Unfair commercial activity**

*In assessing the compliance of actions of undertakings with the requirements of Articles 5 and 6 of the Law on Advertising (hereinafter – LA) and Article 16 of the LC, during 2010 the CC established total 18 cases of infringements, initiated 19 new investigations; in 10 instances in the absence of sufficient evidence concerning infringements of the LA and/or LC the CC refused to initiate investigations, and one investigation was terminated for lack of evidence of an infringement of the LA. It should be noted that 7 investigations started in 2010 will be on-going during 2011, on 80 occasions the undertakings implemented preventive measures – obligations to terminate the misleading advertising and the investigations were not launched.*

- **Actions of AS Viasat**

In 2010, the CC conducted an investigation concerning the compliance of actions by *AS Viasat* in distributing the advertising of digital television services with the requirements of Article 5 of the LA and Article 16 of the LC (the investigation was initiated in response to complaints of consumers to the State Consumer Rights Protection Service referred to the CC).

Having comprehensively assessed the evidence and circumstances established in the course of the investigation the CC recognised as misleading, i.e. infringing Article 5 of the LA a number of advertising statements related to the promotional action “*Auksinis paketas*” at different times distributed by AS Viasat:

- 1) “each Lithuanian family will enjoy “*Viasat*” digital television for 3 years for LTL 29/month only”, “Service fee throughout the contract duration with direct debit – LTL 29/month”, “Subscriber service fee for 1-36 months – LTL 29”, “Service fee 36 months – LTL 29/month”, “Card lease fee (once per year) – LTL 24/month”, “*Viasat* <...> LTL 29/month, half of the service fee throughout the contract validity”;
- 2) upon signing a 24 months contract for “*Viasat Auksinis paketas*”, service fee for 12 months – LTL 29/months with direct debit;” For the second year of the contract – LTL 59/months with direct debit”, “Card lease fee (once per year) – LTL 24”;
- 3) “Catch a golden zero” and “Order *AUKSINIS PAKETAS* and enjoy more than 50 channels for the whole year at no charge”.

The CC substantiated its conclusions by reference to several aspects: in respect of the advertising statements referred to in Items 1 and 2 above the CC noted that *AS Viasat* failed to fulfil the conditions as advertised in the statement and therefore was misleading its customers. Having regard to the advertising statements consumers were legitimately expecting to be provided, throughout the validity of their subscriber’s contract, *AS Viasat* services specifically at the prices indicated in the advertising (the investigation established that *AS Viasat* had increased the card lease fee for all of its customers to LTL 50/year, besides, the subscriber’s fee was increased by LTL 6/month for all users of the “*Auksinis paketas*”. Thus, *AS Viasat*, by proliferating its misleading advertising induced customers to choose specifically the Viasat services and enter with AS Viasat term contracts for 36 or 24 months, and later unilaterally increased the service fees.

In respect of the advertising statements “*Catch a golden zero*” and “*order AUKSINIS PAKETAS and enjoy more than 50 channels for the whole year at no charge*”, the CC explained, based on the findings of the investigation, that in order to use the offer advertised and watch more than 50 channels at no charge customers still had to pay a LTL 100 card activation fee and a LTL 50 card lease fee, i.e. that the customer still had some additional costs that were not related to the acquisition, collection, or payment for the delivery of the product, or any other indispensable expenses. Therefore, having assessed the findings the CC concluded that the advertising of the “*Golden zero*” promotional action proliferated by *AS Viasat* had features of misleading commercial practices within the meaning of Article 7(18) of the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices, and for that reason the advertising, as referred to in Articles 5 and 6 of the LA is misleading which constitutes an infringement of Article 5 of the LA.

Upon completion of the investigation the CC also concluded that by misleadingly advertising the “*Auksinis paketas*” promotional actions (except the “*Golden zero*” advertising) *AS Viasat* also performed actions contradicting fair practices of economic activities, as a result violating the interests of numerous undertakings and customers.

In this respect the CC noted that the actions of *AS Viasat* in proliferating its misleading advertising incurred much higher fees than the customers could legitimately expect based on the statements in the advertisements, thus violating the interests of a great number of consumers (notably, according to the findings of the investigation the fees were increased for total 60 000 customers of AS Viasat, including up to 50 000 consumers that had entered into the service contracts during the “*Auksinis paketas*” promotional action); furthermore, such actions violated the interests of many other undertakings providing the services identical to those offered by *AS Viasat*. By means of its misleading advertising *AS Viasat* attracted a large number of consumers thus divesting them away from its competitors; had

the customers been aware that the “Auksinis paketas” promotional actions proliferated by *AS Viasat* were untruthful and misleading, they could have chosen identical television services offered by *AS Viasat*'s competitors.

For the actions qualified as unfair competition practice *AS Viasat* was fined LTL 174 600. The CC obligated *AS Viasat*, within an established period, to ensure that all customers that concluded contracts for the services advertising within the period of the proliferation of the misleading advertising are provided the services at the prices indicated in the advertising statements. Alternatively, customers of *AS Viasat* had to be provided the possibility to terminate the contracts with *AS Viasat* concerning the services advertised without incurring any additional costs.

- **Advertising of infra-red ray sauna-saunarium**

The CC recognised as misleading the advertising statements proliferated on the internet by *UAB Bauer International* on the characteristics of portable infra-red ray saunas-saunariums.

As noted by the CC, according to the relevant provisions of the LA, claims presented in advertising are false, if the provider of advertising can not substantiate accuracy of the assertion during the time of use. Although *UAB Bauer International* attempted to substantiate the truthfulness of its statements by producing different certificates, reports or other documents, the CC decided that the evidence produced by the company was not sufficient to prove the accuracy of the assertions. In the CC opinion, all certificates produced by the company proved only the product's registration, that it was patented and fit for use, however, they did not support the claims about its properties to prevent cold, aging or help lose weight, or remove hazardous substances, etc. The certificates produced were rather of technical character and did not prove any of the qualities as advertised about the infra-red ray sauna-saunarium, such as health improvement, treatment or offering some beauty care solutions.

In assessing the actions of *UAB Bauer International* the CC also considered that the advertising claims declaring the impact of the infra-red ray sauna-saunarium upon wellness (even treatment) and beauty care, etc. are rather specific, and requiring special knowledge so that advertising consumers could have a chance to verify the information offered, or at least to question them. For this reason in acquiring a saunarium consumers could legitimately expect that the characteristics of the product advertised have been certified by research or some competent institutions.

Having assessed the findings and taken into account the opinion of the Ministry of Health of the Republic of Lithuania the CC acknowledged as misleading a number of claims in the advertising proliferated by *UAB Bauer International*: „<...> Regular bathing in a sweat bath – a renowned source of eternal youth. <...> Sweat improves blood circulation in the entire body, extracts residues of toxins. Cooling of the body after the saunarium procedure strengthens your immunity thus saunarium is a perfect means for cold prevention. Based on the data produced by German biochemistry specialists, after basking in the saunarium human organism excretes such substance as interferon that helps fighting the dangerous flue virus. <...> Saunarium is a perfect wellness means. Saunarium brings back the lost youth. Slows down the hours of biological aging. Slows down the cell aging. <...> Thus <...> is a skin rejuvenating device, and a perfect <...> weight watcher <...>. On the day you relax in the saunarium, you don't get any older”.

For the infringement of Article 5 of the LA *UAB Bauer International* was fined LTL 13 000.

- **Advertising of “Labas” service**

Having conducted the investigation concerning the compliance of the advertising of “Labas” service with the requirements of the LA and recognised the advertising statements proliferated by *UAB Bitė Lietuva* indicating that consumers will be able to communicate, talk and browse for three months at not fee, the CC fined *UAB Bitė Lietuva* LTL 10 000.

The assessment of the findings of the investigation led the CC to the conclusion that in its advertising statements the company was declaring that having acquired the “Labas” service consumers will be able to communicate, write messages and browse at no charge for three months; however, as evident from the complaints received from consumers and the explanations presented by the company itself, having taken advantage of the offer consumers actually were not provided the services advertised and were charged at regular rates.

Therefore, the CC concluded that by its advertising claims *UAB Bitė Lietuva* was disseminating misleading information that not only could but actually affected the economic behaviour of consumers, i.e. their decisions related to the use or acquisition of the “Labas” service. Furthermore, the CC noted that the advertising of the “Labas” service had features of misleading commercial practice specified in Article 7(18) of the Law on Prohibition of Unfair Business-to-Consumer Commercial Practices, i.e. the product was described and offered as “free”, although actually the consumer was charged for the services provided.

- **Concerning the assessment of the advertising including adjectives of superlative degree**

In 2010, the CC passed the Resolution whereby it refused to initiate the investigation concerning the compliance of the advertising statement “The most relevant seminar in December” proliferated by *UAB Mokesčių srantas* with the requirements of the LA.

The CC received an application from *UAB Pačiolis* regarding the advertising statements by *UAB Mokesčių srantas*: “Tax news in 2011. Legal regulation of labour relations”. The ad was accompanied with the note “The most relevant seminar in December” which was by the applicant considered of potentially misleading character. According to *UAB Pačiolis*, the advertising claim was misleading consumers by unreasonably creating an impression that the seminar is most relevant of all seminars organised in 2010, and by virtue of its misleading character affected not only the economic behaviour of consumers, but also worsened the possibilities to compete of other organisers of events in December 2010. For these reasons *UAB Pačiolis* applied to the CC with a request to assess the compliance of the advertising statements of *UAB Mokesčių srantas* with the requirements of the LA.

Having assessed the explanations presented by *UAB Pačiolis*, also by *UAB Mokesčių srantas*, the CC concluded that in the case concerned no data allowing to conclude an infringement of the LA were established. In the opinion of the CC the conclusion was arrived at having assessed several considerations.

First, it should be noted that all advertising statements using adjectives of the superlative degree may be categorised as objective (factual) and subjective. Any objective statements can be measured relative to accepted standards or tests therefore they can be proven or refuted. Subjective claims are an expression of one’s opinion, or a personal assessment of some unspecified advantages of goods or services. Namely, claims expressing personal opinion or pride, or promises at times may be considered overstatements that do not require any verification. The CC also noted that in the practice of the use of superlative adjectives in the advertising there might be cases of using adjectives of general nature whose perception depends on each person’s individual assessment, and the characteristics of the goods or services described by such adjectives are not essential for consumer’s choice. Thus, the case under consideration related to the use of the superlative adjective in the phrase “The most important seminar in December” is to be interpreted as the case of the subjective use of the adjective in the superlative.

The CC also explained that no dictionary of the Lithuanian language offers any definition of the meaning of the word “relevant”: according to the internet dictionary of the Lithuanian language (<http://www.lkz.lt>) the word “relevant” is explained as “important at the time concerned”, while in the internet dictionary of the modern Lithuanian language (<http://www/iki.lt/dlkz/>) “relevant” is defined as “important at any time”. Such definitions of the word, as explained by the CC, in their own turn allow a conclusion that the word in the normative language may be interpreted in a number of meanings, e.g. most important at the time of speaking, the most current, most widely discussed, etc. Therefore, having considered that no standard Lithuanian language dictionary presents any definition of the word “relevant”, and there are no objective criteria for the verification of the adjective in the superlative, the CC decided that the phrase “most relevant” is a subjective claim (it was also noted that the Applicant indicated that the statements could not be verified by any objective data), the perception of the phrase “most relevant” depends on the individual assessment, and does not affect the consumer’s economic behaviour (relevance is an individually perceived quality of a service, i.e. what is relevant to some consumers may seem quite irrelevant to others).

## II. Judicial decisions

### Application of EU competition rules in national courts

On 15 March 2010, the Supreme Administrative Court of Lithuania (SACL) passed its Judgment in the administrative case concerning Resolution No. 2S-23 of 6 November 2008 whereby the CC acknowledged that the *SE Vilnius International Airport*, by preventing *UAB Naftelf* from entering the aviation gasoline and jet fuel supply to air planes market in Vilnius International Airport infringed the requirements of Article 9 of the LC and Article 102 of the TFEU. Concerning the infringement of Article 102 of the TFEU the Court held that the indispensable condition for the application of this legal norm is the abuse of dominance potentially affecting trade between Member States. The SACL upheld the observation by the CC that a port or an air port operating in a Member State may hold a significant share of the internal market. The Court treated the actions of the *SE Vilnius International Airport* as the provision of intermediate services (in this case – supply of fuel to air planes) that affects international economic activity.

The Court referred to the information obtained by the CC that the price of fuel accounts for a significant share within the cost of air communication services, and acknowledged that in this particular case the provision of interim services was specifically the factor capable of affecting the international economic activity. By this Judgment SACL for the first time endorsed the Resolution of the CC concluding an infringement of the provisions of the TFEU governing competition.

### Application of the LC in national courts

- **Concerning the use of superlative adjectives in advertising**

On 27 May 2010, the SACL passed the Judgment whereby the Court upheld the Resolution No. 2S-3 of 22 January 2009 of the CC concluding that the advertising claim used by the company *BIGBANK AS* “BIGBANK – the fastest road to money” is to be considered to represent misleading advertising. In evaluating the truthfulness of the advertising the Court was assessing one specific aspect of the advertising statement in question – the adjective used in the superlative degree. The SACL pointed out that although neither Lithuanian, nor the EU law prohibits the use of superlative adjectives in advertising, there must be a clear distinction between objective (objectively measurable and supported by factual parameters of goods or services) and the subjective (independent from specific factual quality indicators of goods or services or assessments) advertising claims expressed in terms of adjectives in the superlative degree. The Court indicated that the descriptor “the fastest” in “BIGBANK – the fastest road to money” is an objectively verifiable indicator of the service, since it may be practically verified and it should not be related exclusively to the subjective opinion of the consumer. The SACL pointed out that the adjective “the fastest” used in the advertising statement may be assessed by calculating the speed of the provision of consumer credit in the relevant market and comparing it with the speed with which credits are granted by other undertakings operating in the consumer credit market. Therefore, the Court acknowledged that *BIGBANK AS* failed to prove to be the fastest credit provider within the period of the investigation carried out by the CC, as it had claimed in its advertising statements, therefore the Court acknowledged the statements to represent misleading advertising.

- **Concerning the discriminatory conditions for fishing vessels in the Baltic Sea**

On 21 May 2010, the SACL passed its judgement upholding the findings of Resolution No. 2S-17 of 30 July 2008 of the CC. The Resolution of the CC recognised as contradicting Article 4 of the LC provisions of the Orders of the Ministry of Agriculture of the Republic of Lithuania establishing the relevant quotas in the Baltic Sea and the limits of fishing areas, and the provisions of the “Rules on the Registration of Fishing Vessels in the Register of Fishing Vessels, the Issue, Management and Revocation of Licences to Fishing Vessels” approved by Director of the Fisheries Department under the Ministry of Agriculture of the Republic of Lithuania.

One of the most important issues considered in the case was related to the definition of the relevant market. According to the LC, relevant market is understood as a product market within certain geographic territory. The Court confirmed that in the case the CC had correctly defined the relevant market and pointed out that to conclude an infringement under Article 4 of the LC it is sufficient to conclude that undertakings compete or could compete in the absence of any discriminatory or other restrictions not compatible with fair competition conditions, i.e. in this case market definition is subject to specific minimum requirements. The SACL also voiced its position concerning the distinctions of fishing vessels into segments. According to the Rules on the Registration of Fishing Vessels all vessels in the Fishing Vessel Register are grouped into certain segments; the Register also specified the territories in which vessels of each segment are allowed to fish – vessels of the first segment – within the isobath territory sea of up to 20 m in depth, second – in the territory sea beyond the 20 m isobath in depth and in the open Baltic sea, and the third – in the waters of other seas (except the Baltic Sea). The Court upheld the conclusion of the CC that the prohibition for technically capable vessels of first segment from fishing outside the 20 m isobath in depth ensuring larger catch restricted their possibilities to compete in the commercial fishing market; furthermore, the vessels assigned to the second segment find themselves in a privileged position being authorised, only by virtue of the segment to which they have been assigned, to fish in larger territories and thus ensure bigger catches.

- **Concerning the competence of the CC to exercise competition enforcement in the area of electronic communications**

On 10 November 2010, the SACL passed the Judgement upholding Resolution No. 1S-51 of 2 April 2009 whereby the CC refused to initiate the investigation concerning compliance of the actions of *TEO LT*, *AB* with Article 9 of the LC. The Applicant *UAB Nacionalinis telekomunikacijų tinklas* applied to the Court requesting to repeal the Resolution and obligate the CC to perform the investigation. In this particular case the SACL was examining the issue of delimitation of the competences of the CC and the Communications Regulatory Authority. The Court assessed the relevant provisions of the Law on Electronic Communications (hereinafter – LEC) and concluded that the underlying purpose of the Law is to ensure efficient competition in the electronic communications sector which essentially corresponds to the objective of the LC. Furthermore, according to the provisions of the LEC, the CC consults the Communications Regulatory Authority in its fulfilling the functions related to the enforcement of competition in the area of electronic communications. Nevertheless, the SACL indicated that the parallel application of both the LEC and LC for the same factual legal relations would be incompatible with the objectives of those Laws. Therefore the SACL upheld as substantiated the CC refusal to initiate the investigation as the issues raised at the time of the appeal to the CC had already been considered by the Communications Regulatory Authority on the basis of the LEC.

- **Concerning the claim of *AB Mažeikių nafta* against the State of Lithuania**

On 14 June 2010, the SACL passed the Judgement whereby the Court overruled the claim of *AB Mažeikių nafta* concerning the award of damages. On 22 December 2005, the CC had passed the Resolution No. 2S-16 “Concerning the compliance of actions of *AB Mažeikių nafta* with Articles 5 and 9 of the LC and Article 82 of the Treaty Establishing the European Community” imposing upon the Company a fine of LTL 32 m. However, the Resolution of the CC and the fine were revoked by the Judgement of the SACL of 8 December 2008. *AB Mažeikių nafta* claimed it had suffered a material damage in the form of interest for the funds borrowed from credit institutions. The Court, nevertheless, referred to Article 6.271(3) of the Civil Code providing that unlawful act of institutions of public authorities “mean any action (active or passive actions) of an institution of public authority or its employees that directly affects the rights, liberties and interests of persons”. As SACL explained as unlawful are recognised only the actions that directly affect the rights, liberties and interests of persons. Therefore for the liability for the damage according Article 6.271 of the Civil Code to arise a mandatory condition is the direct causative relation between the actions of public authorities and the damage incurred. The SACL concluded that the Resolution of the CC did not represent the action that directly led to the damage incurred by *AB Mažeikių nafta*. The court pointed out that, as *AB Mažeikių nafta* claimed itself the damage was incurred because the company did not have at its disposal the amount of a fine of LTL 32 m in the period when the funds were held by the State Tax Inspectorate, rather than by the CC. Therefore, the Court concluded there being no direct causative relation between the Resolution No. 2S-16 of the CC of 22 December 2005 and the damage incurred by *AB Mažeikių nafta*.

- **Concerning the limited right to appeal Resolutions of the CC**

On 9 December 2010, the SACL passed the Judgement dismissing the case according to the appeal by *UAB Vilniaus energija* concerning Resolution No. 1S-110 of 2 July 2009 of the CC whereby the CC had initiated an investigation concerning the compliance of actions of *UAB Vilniaus energija* with the LA. The Court held that the Resolution of the CC to investigate restricting actions is one of the procedural documents adopted as part of public administration procedures. The SACL concluded that the LC provided for a possibility to appeal the final Resolutions of the CC, or the CC Resolutions refusing to investigate restricting practices, and Resolution of the CC concerning the initiation of an investigation is not appealable.

### **III. Legislative activities**

#### **Development of national competition law**

On 13 October 2010, the President of the Republic of Lithuania submitted for the consideration of the Seimas the Draft Law supplementing and amending Articles 3, 40 and 42 and supplementing the LC by Articles 44<sup>1</sup> and 44<sup>2</sup> drawn up by the President's Office in cooperation with the CC. The draft Law sought to introduce into the national competition legislation additional instruments facilitating protection of competition, more efficient prevention of the LC' infringements and ensuring that offenders are held properly liable for relevant infringements.

According to the currently effective legal regulation the liability for infringements of the LC is provided for in respect of undertakings – legal persons, only. In most instances those responsible for infringements of the LC (prohibited agreements concluded by undertakings or abuse of dominance) are managers of undertakings – natural persons, however, when sanctions are imposed upon the undertakings, their managers that have personally contributed to the commitment of the infringement, escape responsibility. With this taken into account the draft Law proposes to provide for the personal liability of managers (natural persons) of undertakings (legal persons). The draft proposes that the LC include a provision whereby for involvement in the conclusion of a prohibited agreement or abuse of a dominant position by an undertaking (legal person) a restriction of right is imposed upon its manager (natural person) to hold office of a manager in public and/or private legal person, to be a member of the collegial supervisory and/or management body of a public and/or private legal person. In addition to this restriction the person may also be fined up to LTL 50 000. The amendments proposed seek to deter from committing infringements and encourage confessing of the infringements already committed.

The draft Law also proposes amendments to the procedure for calculation of the amount of fines. The current fine calculation procedure has been drafted on the basis of the already repealed Guidelines of the European Commission (hereinafter – EC) and no longer comply with the currently effective EC Guidelines on the method of setting fines. Therefore the draft Law proposes to supplement Article 42(1) of the LC by Item 6 introducing an additional criterion to be taken into account for the purpose of fine calculation, and provide for the proper preconditions to draw up the new fine calculation methodology fully compliant with the EC Guidelines on the method of setting fines. The methodology for the calculation of fines drafted following the EC Guidelines would enable the CC to impose larger fines and enhance its efficiency in combating competition infringements, which would facilitate ensuring full liability for infringements of the LC.

The draft legislation also proposes to establish a longer term of limitation of imposing the liability – 5 years instead of the currently applicable 3 years, as well as define the cases when the run of this term shall be suspended. The proposed measures are designed to eliminate preconditions for violators to unduly avoid liability for their anti-competitive practices.

#### **EU legislative activity**

Being an active participant in the EU legislative activity the CC via the LINESIS system drafted and submitted three positions to EU documents considered at the meetings of COREPER and the Council

of the EU. Also, within the limits of its competence the CC approved total 91 positions drafted by other institutions.

Furthermore, the CC had been submitting to the European Law Department under the Ministry of Justice the relevant information on the necessity of national implementing measures in respect of legal acts published in the EU Official Journal.

## **Enforcement of the EU competition law in the practice of the CC**

Acting in accordance with Article 3 of the Council Regulation (EC) No. 1/2003 of 16 December 2002, during 2010 the CC applied, in several investigations, the competition rules provided for in the TFEU.

The CC completed the investigation concerning the infringement of Article 5 of the LC and Article 101 of the TFEU by two insurers – *AB Lietuvos draudimas* and *UAB DK PZU Lietuva* by entering into a prohibited agreement on insurance pool in the sector of compulsory insurance for the civil liability of building designer and contractor.

By entering into this agreement the two major Lithuanian insurers agreed not to compete in providing services of the compulsory for the civil liability of building designer and contractor on the basis of the pool agreement, i.e. cooperate when insuring those risks. Pool agreements *per se* are not prohibited, they are, however required to meet the stringent block exemption requirements set forth in the Commission Regulation (EC) No. 358/2008 (for instance, not to exceed the established market share, etc.). The investigation carried out by the CC led to the conclusion that the restricting agreement failed to meet the requirements of block or individual exemptions applicable to anti-competitive agreements, but, on the other hand generating benefit that may outweigh the restrictive effect. Furthermore, this cooperation between the insurers produced a significant impact upon the compulsory insurance for the civil liability of building designer and contractor markets in which only a very limited number of insurers provide services, since the agreement covered significant shares of the market, and the impact produced upon them was long-term. In view of such factors related to the nature of the agreement, its conclusion and execution the CC concluded that competition in the market, in the absence of such agreement, would have been much more efficient.

In the course of 2010, the CC also carried out an investigation concerning an infringement of Article 9 of the LC and Article 102 of the TFEU. After assessing, on the basis of the findings of its investigation the CC concluded that *AB Mažeikių nafta* had been involved in anti-competitive practices, i.e. was abusing its dominant position in the market of sale of gasoline and diesel fuel from the factory in the territory of the Republic of Lithuania. The anti-competitive practices included the imposition, in 2002-2004, upon a number of small gasoline/diesel fuel wholesalers of economically unjustifiable, discriminatory pricing, annual loyalty or non-compete obligations; restriction of the possibilities of parallel import and resale as compared to large gasoline/diesel fuel wholesalers. Thus *AB Mažeikių nafta* was seeking to “tie up” its customers and prevent their free behaviour in the market in response to the changes in oil product prices and other factors thus creating the “foreclosure effect in the Lithuanian gasoline and diesel fuel markets, restricted the entry of other competitors into Lithuanian market and avoided any competition on the import side, eventually restricting trade between Member States which constitutes an infringement of Article 9, Article 9(3) of the LC and Article 102 of the TFEU. Such actions eventually restricted the possibilities of other undertakings to operate in the market and incurred tangible damage upon them as well as consumers.

During 2010, the CC was conducting, though had not completed, a number of other investigations concerning infringements of the provisions of the LC as well as the TFEU: three investigations concerning possible prohibited agreements between undertakings violating Article 5 of the LC and Article 101 of the TFEU, and three investigations concerning alleged abuse of a dominant position in violation of the requirements of Article 9 of the LC and Article 102 of the TFEU.

## IV. State aid

### State aid legislation

Acting in accordance with the EU State aid rules and fulfilling its functions defined in Article 48(3) of the LC, the CC has been closely cooperating with the EC and public authorities of the Republic of Lithuania on issues related to State aid, submitted comments and proposals to regulations drafted by the Lithuanian authorities and the EC, also responded to the EC questionnaires.

During the accounting period the CC, in cooperation with other public authorities submitted its comments regarding the following draft EC regulations:

- Communication from the Commission – Amendment to the Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis;
- Communication from the Commission amending the Community guidelines on State aid to promote risk capital investments in small and medium-sized enterprises;
- Communication of the Commission on Prolongation of the Communication from the Commission to Member States pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export credit insurance.

Together with the Ministries of Economy and Agriculture the CC submitted replies to the questionnaire concerning the application of the EC Communication – Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis.

The CC submitted a number of comments on draft legal acts of Lithuania. During the accounting period the CC analysed and assessed from the view point of the State aid total 72 draft national legal acts submitted by the Ministries of Economy, Finance, Energy, Agriculture, Transport and Communications, Education and Science, Culture, Environment, Interior and National Defence, also to the regulations drafted by the Department of Physical Education and Sports under the Government of the Republic of Lithuania, as well as a number of other public authorities. In respect of total 24 draft legal acts (of which: 3 draft laws, 14 Resolutions of the Government of the Republic of Lithuania, and 7 draft Orders of Ministers) the CC submitted its comments and proposals.

### Submission of notifications and other information to the EC

In performing its functions of the coordinating authority in State aid-related issues the CC closely cooperated with State aid providers in drafting notifications to the EC, and submitting other information related to State aid.

During the accounting period State aid providers submitted to the EC 13 notifications on State aid and 5 Forms of summary information on State aid granted according to the exemption regulation. The largest number of notifications on State aid and summary information forms was submitted by the Ministry of Agriculture (4 notifications), and Ministry of Transport and Communications and Ministry of Economy (3 notifications each). During the period concerned, the EC passed favourable decisions in respect of 5 State aid cases. In two cases the notifications were withdrawn and in one instance the EC revoked the notification on individual aid. At the end of 2010, 7 cases were still pending the EC decision (including the notifications submitted in 2009).

### Performance of other functions

Throughout the year the CC had been advising State aid providers (including, *inter alia*, in respect of drafting their State aid notifications), participated in different meetings convened by different public authorities discussing issues related to State aid in investment and other projects involving State support, including meetings with the Ministries of Economy, Agriculture, Transport and Communications, Environment and the Interior, also the State Tax Inspectorate under the Ministry of Finance, participated in meetings held by the Committee of Economics of the Seimas to discuss

different issues related to State aid to short-term export credit insurance, in addition to a number of other issues. The CC also took part in the drafting of the relevant legal acts by the working groups of the State Tax Inspectorate under the Ministry of Finance and the Ministry of Social Security and Labour.

In 2010, the CC updated the “State aid” section of the CC website now regularly publishing the most recent information and enabling State aid providers and beneficiaries to readily and in detail to access the newly adopted or amended EU legal acts and the EC decisions governing State aid issues.

Over the entire reporting period the CC had been further supplementing the State aid Register; from the outset of the Register operation (1 October 2005) to 31 December 2010 entries were made on 77 634 *de minimis aid* cases (including *de minimis aid* in agriculture and fisheries sectors) and 216 State aid schemes and individual aid cases.

## **Information on State aid granted in Lithuania**

*According to the data available to the CC, the value of State aid granted in Lithuania during 2010 amounted to LTL 762.2m (EUR 220.75 m).*

The rate of the national State aid in relation to the GDP (at current prices) in 2009 accounted for 0.83 percent, in 2008 – 0.82 percent. For comparison: the EU-27 average ratio in 2009 was 3.6 percent, in 2008 – 2.5 percent, the EU-15 average in 2009 was 3.8 percent, and in 2008 – 2.6 percent and that of 12 new EU Member States’ average in 2009 and 2008 was 1.1. The average national State aid per working person in 2009 was LTL 464.50 (EUR 134.53), in 2008 – LTL 563.12 (EUR 163.09), in 2007 – LTL 399.01 (EUR 115.56). The tables and graphs presented in the Annex show that in 2009, volumes of State aid granted were lower than in 2008 (EUR 263.27 m), however, higher than in 2007 (EUR 177.29 m) or in 2006 (EUR 128.27 m). In 2009, the State aid volumes in the agricultural sector were lower than in 2008 or 2007, which is accounted for by several reasons. In 2007, the aid to compensate farmers for losses caused by adverse weather conditions in 2006 reached LTL 127.05 m, and, as compared to 2008, the aid intensity to undertakings according to individual State aid schemes decreased in 2010. In 2009, as compared to 2008, less aid was allocated to support undertakings operating in manufacturing industry and the service sector. In 2009, however, the volumes of State aid to industry and services tripled the data of 2007, accounted for by larger volumes of State aid in transport sector and regional development. It should be noted that in 2009, as compared to the period 2004 through 2007, higher volumes of State aid were allocated to environmental protection, research and development, innovations, and the implementation of employment programmes. This reallocation in 2009 within the State aid structure comes in compliance with the objectives defined by the European Council to provide more targeted State aid, with higher volumes of aid channelled to horizontal general purpose objectives, i.e. regional development, small and medium-sized enterprises, research, development and innovations, and the implementation of employment programmes. Notably, the volumes of State aid as presented here do not include the funds received from the EU structural funds.

The data on the allocation of State aid by principal sectors are presented in the Annex to the present Report.

## **V. Other activities**

### **Investigation in the changes of food prices**

In autumn 2010, the CC carried out an investigation addressing changes in food product prices. The purpose of the investigation was to identify the factors and reasons that have caused the recent changes in food product prices. The information collected in the course of the investigation allowed the CC to conclude that the trend of food price increase was observable not only in Lithuania, but also in other States.

In the case of food products a price increase may be triggered by several structural factors (world population growth, increase of income levels in developing economies), as well as some temporary factors (adverse natural conditions, export prohibitions imposed by some States). A frequently observable trend of a sudden increase in prices triggered by an increase in production cost and a

significantly slower decrease in the same with the production resources' fall in prices is not entirely uncharacteristic of competitive markets and does not necessarily indicate the presence of oligopoly markets or operation of prohibited agreements. The trend depends, *inter alia*, on the number of intermediaries operating in the food product chain, competitive chain structures and the difference in the bargaining power of transaction parties. On the other hand, prices may be also affected by anti-competitive factors.

After assessing, however, the changes in the prices of principal production resources and in the wholesale and retail prices of cereals, the CC concluded that the changes in the raw material prices alone did not account for the increase in the prices of certain relevant food products.

Having considered that the information collected did not lead to the conclusion on the recent increase in the food product exclusively for objective economic reasons, rather than due to the weakened competition, the CC, *ex officio*, launched an investigation according to the provisions of the LC in order to assess whether or not a number of undertakings engaged in the production and/or marketing of food products have committed any actions prohibited by Article 5 of the LC (i.e. concerted actions or agreements) that could have possibly led to the increase in food products prices.

## **Pricing control**

Within the scope of its competence the CC had been performing its duties and obligations under the Law on Prices of the Republic of Lithuania (hereinafter – the LP) and the relevant Resolutions of the Government (03-02-1994, No. 77; 28-05-2002, No. 756; 30-06-2005, No. 739) in the area of pricing, placing a special focus on the compliance of the procedure for the establishment of prices and rates of monopoly goods and services provided by State enterprises established by Ministries and the Government of the Republic of Lithuania and public institutions assigned to them. The CC was preparing and submitting the relevant information related to price issues to the relevant public authorities. In exercising the enforcement of the LP, the CC approved the rates for monopoly goods and services provided by public authorities, State enterprises and public institutions established thereby, and the fees for the provision of the data by State registers and cadastres: total the CC approved 40 prices and rates and one methodology for price calculation.

## **VI. International cooperation**

### **Participation in the activities of EU institutions**

During 2010, similarly to the situation in 2009, in view of limited financial resources the CC representatives' participation in the operations of EU institutions was rather limited. For that reason the CC could not attend meetings of the Working Party on Competition of the EU Council, or the meetings of the Advisory Committee on Mergers, Case Hearings, ECN working groups and ECN Plenary meetings. Officials of the CC participated at only two out of thirty four meetings of the Advisory Committee on Restrictive Practices and Dominant Positions, and at one out of three meetings of the working groups of State Aid and Mergers.

In 2010, the Chairman of the CC participated in two meetings of Directors General of competition authorities with the most relevant competition issues on the agenda of the meetings.

### **Cooperation within the European Competition Network (ECN)**

In cooperation with the ECN the CC was providing information on the most important developments in the Lithuanian competition policy and law to ECN newsletters issued by the EC containing the relevant information furnished by national competition authorities of all EU Member States on competition policy and law, enforcement of competition rules, judicial hearings of competition cases, strengthening of competition authorities and other publicly relevant competition issues.

Within the ECN framework the CC was also exchanging information with its counterparts related to the implementation of competition rules and the joint activity of national competition authorities.

The CC was also involved in drafting different projects related to the implementation of competition rules in Member States as part of the ECN Working Group on Cooperation Issues and Due Process.

## **Multi-lateral cooperation**

During 2010, the CC continued cooperating within multi-lateral forums such as the Organisation for Economic Co-operation and Development (OECD), the International Competition Network (ICN), however, in view of restricted financial resources the CC representatives participated in these activities on a significantly narrower scale than in previous years.

Thus, the CC participated in only one out of three meetings of the OECD Competition Committee at which Lithuania holds an observer's status. Representatives of the CC neither could participate in the Global Forum on Competition.

The CC made written submissions to meetings of OECD Competition Committee and its working groups on the following issues:

- To Round table discussions: on Information exchanges between competitors under competition law;
- To Working Party No 3: on Procedural fairness: Transparency issues in civil and administrative proceedings and Public procurement/bid rigging issues.

For the Global Forum on Competition in February 2010, the CC prepared its submission "Competition, State aid and subsidies", and for the Global Forum on Competition of 2011 - "Cross-border merger control: challenges for developing and emerging economies".

Furthermore, the CC submitted to the OECD its Annual Report 2009, and was replying to questionnaires submitted by the OECD.

In 2010, one representative of the CC participated in the ICN seminar held in Japan on cartel issues dedicated to the discussion of efficient identification and inquiries of cartel agreements and efficient sanctioning procedures.

The CC also presented comprehensive information for the special questionnaire in relation to the ICN Annual Conference "Interface between competition policy and other public policies"; in response to a request by the ICN the CC conducted a survey to assess the decade of the ICN operations with a view to defining its objectives, goals and prospects for the coming decade.

## **Bilateral cooperation**

In August 2010, the CC concluded a bilateral cooperation agreement with the Agency of the Republic of Kazakhstan for Competition Protection (Antimonopoly Agency).

## **Information to different foreign organisations**

Within the boundaries of its competence the CC was submitting relevant information to different institutions of other foreign States, mostly those involved in examining and analysing international aspects of competition policy and law, as well as international publishers of articles and research material on competition issues (e.g., UNCADT, WIPO, GCR, ERBD, etc.).

## **Technical assistance**

Jointly with the German Federal Ministry of Economics and Technology the CC will be implementing the EU Twinning project "Strengthening the enforcement of competition and State aid legislation in Armenia".

## **VII. Promoting of competition culture**

In its pursuit to promote and strengthen competition culture and awareness during 2010 the CC was using a range of measures and methods. Promotion of competition culture is related to a number of different key aspects of the CC activity, therefore the task may be taken on by different means: announcing of different issues discussed at the CC meetings, press releases, drafting of articles and commentaries on different most relevant issues, press conferences, publication of market research

findings, presentations at conferences, meetings with representatives of different groups of the society, etc.

With a view to ensuring consistent and efficient promotion of competition culture within business circles in 2010 October the CC concluded a cooperation agreement with the Lithuanian Business Confederation. This cooperation agreement is expected to contribute to the protection of competition rights and facilitate education of business society on relevant competition issues.

The CC also organised and hosted different seminars and training events: in February the CC launched a cycle of lectures for Master degree students of the Corporate Economics Department of the Kaunas University of Technology; in March and April – training course “EU competition law and its enforcement in the national jurisdiction” for lawyers (judges, advocates, corporate lawyers, etc.) in Vilnius, Kaunas and Klaipėda.

The principal focus in the CC activities related to the promotion of competition culture was its task to increase the awareness of leniency system, also prevention of prohibited agreements, explanation of the damage incurred by cartel agreement to economy and the public, analysis of the situation in "hot" markets, such as fuels, pharmaceuticals, retail trade, or transport sector, and the presentation of its results to the public. The findings of the analyses in individual markets were in all cases presented publicly so that the outcomes become accessible to mass media entities, as well as specialists in the area. In this relation the CC worked out and published the results of the following analyses and commentaries related to competition issues:

28-04-2010 – “Principal factors affecting fuel prices“;

12-02-2010 – “Commentary regarding probable transactions” (concerning the possible sale of *ORLEN Lietuva*);

27-05-2010 – “Enforcement of competition law in Lithuania“;

05-07-2010 – “Lithuanian Competition Council in the world’s ratings“;

23-09-2010 – “On the price increase, evidence of cartels and the role of the Competition Council“;

11-10-2010 – “Findings of the survey on food price increase“, etc.

\* \* \*

As part of the formation of the positive image of the CC in the public, significant attention was devoted to different changes implemented in the institution during 2010 with a view to enhancing the overall efficiency of the institution and its performance in conducting investigations. The essential changes put in place in the institution’s structure will ensure that in view of any suspicion regarding an alleged distortion of competition the CC will be much better positioned to carry out investigations and put in place the necessary preventive measures.

While providing information to the media the CC officials have been trying to highlight the factual contribution of the institution in addressing different issues assigned to its competence. For this purpose the CC made use of all possible channels and means of public relations: announcement of the agenda of its meetings, press releases, regular contacts with information vendors and press services, publication of analytical articles, interviews on most important issues. It is important to note that for several years already the CC has been publishing information about its activities in all cases referring to the well-established business contacts with the mass media without using any resources for specially ordered information. Due to the relevance of the news and the quality of the presentation of such information the message would be expediently delivered to the public.

With a view to further improving the quality of public relations, specialists of the CC were referring to different guidelines and legal acts defining the requirements for public authorities in relation to the provision of public information and servicing applicants. The year 2010 recorded a significant increase in the number of inquiries filed to the CC by legal and natural persons, where the authority received about 750 such inquiries. Besides, the CC continued its constructive cooperation with press services of the President’s Office, Seimas, Government and individual ministries.

### ***Scope of information provision in 2010***

- 94 press releases on different subjects, of which 81 – directly related to resolutions passed by the CC, and the most important issues related to its activities.
- According to the data of the media monitoring project by “NewsPoint“ during 2010, 480 different releases on the CC activities were published in the national media.
- In the course of the year on more than 620 occasions various aspects of the CC activities were covered in different notices and articles, TV and radio programmes.
- Five articles by CC members and specialists were published in different editions (such as the magazine *Veidas*, daily *Business News*, internet portals *Delfi*, *Alfa*, etc.).
- Two press conferences – in October and December, and three briefings by the Chairman of the CC – in June, September and November.
- Specialists of the CC participated in the public discussion launched by the daily *Respublika* on the increase of food product prices in Lithuania.

### Volumes of press releases and publications

Year	2006	2007	2008	2009	2010
Press releases	70	72	79	82	94
Publications	548	570	630	600	620

#### *TV and radio broadcasts*

On numerous occasions (total 32 instances) programmes of different TV and radio channels were covering a range of subjects related to different issues assigned to the competence of the CC. Specialists of the CC were also frequent participants at live TV programmes (*Valanda su Raita* (LNK channel), *Teisė žinoti* (National Television), etc.), as well as in pre-recorded analytical programmes – *Pinigų karta*, Journalist investigation (National Television), *Paskutinė instancija* (LNK channel), *Autopilotas* (TV3), *Lietuva tiesiogiai* (Lietuvos ryto TV), etc. Specialists of the CC were participating in different interviews on relevant subjects in live programmes at the Lithuanian National Radio, or the News Radio, also in direct radio forums on different issues of public importance.

#### *Public relations*

The on-line programme on the CC website enabling applicants to directly post inquiries related to the CC competence, and receive expedient replies had become the most important tool in providing explanations to legal and natural persons on different issues; in 2010 the CC received 124 inquiries. Where the responses were considered informative and possibly relevant to other undertakings or consumers they were posted in the publicly accessible sections of the CC website. About 25 percent of all questions and inquiries received concerned specific information and facts that provided the basis for the competition authority specialists to initiate investigations regarding possible infringements of competition requirements or impose preventive measures. The CC had also received messages of appreciation for comprehensive replies and an expedient provision of information. This possibility for applicants to access the CC on-line, to post inquiries, share views and receive qualified response or advice undoubtedly contributed to the formation of the image of the CC as an open and publicly accessible public authority.

With a view to ensuring the most comprehensive coverage of the information related to the activities of the CC, the institution has been consistently expanding the scope of information posted in its internet website. In 2010, the CC started posting the announcements on the initiated investigations also references to the CC now are covered in a special section “Mass media about us”. Also the contents and scope of the information uploaded on the CC intranet have been significantly expanded – this has become especially instrumental in expediently locating any required legal, operative or any other information, and helpful in ensuring an efficient internal communication for specialists of the CC.

## Annexes

### Decisions reached and fines imposed by the Competition Council in 2010

<b>ENFORCEMENT OF THE LAW ON COMPETITION</b>		
➤ <b>Concerning prohibited agreements (11)</b>		
<b>Established infringements (6):</b>		
28-01-2010 No. 2S-2	On the compliance with the requirements of Article 5 of the LC of the actions of undertakings engaged in the production and trading in audiovisual articles:  <i>UAB Bomba</i> <i>UAB Computer data international</i> <i>UAB Elektromarktas</i> <i>UAB Forum Cinemas Home Entertainment</i> <i>UAB GPP</i> <i>BĮ UAB Interatlas</i> <i>UAB Media Incognito</i> <i>UAB Palink</i> <i>UAB Pigu</i> <i>UAB Play prekyba</i>	LTL 18 300 LTL 21 600 LTL 30 500 LTL 385 400 LTL 104 200 LTL 107 000 LTL 21 200 LTL 312 400 LTL 1 200 LTL 20 700
18-02-2010 No. 2S-6	Concerning the compliance with the requirements of Article 5 of the LC of the actions of the undertakings engaged in trading in small mechanization and other tools and equipment participating in public procurement tenders:  <i>UAB Frezlitus</i> <i>UAB Prof-T</i>	LTL 4 000 LTL 97 200
01-04-2010 No. 2S-9	On the compliance with the requirements of Article 5 of the LC of the actions of Lithuanian Cynological Society:  Lithuanian Cynological Society	LTL 32 300
11-11-2010 No. 2S-28	On the compliance with the requirements of Article 5 of the LC of the actions of undertakings engaged in car rental and sales activities in participating in public procurement:  <i>AB Autoūkis</i> <i>UAB Autodina</i> <i>UAB Moller Auto</i>	LTL 210 800 LTL 117 800 LTL 1 266 500
22-11-2010 No. 2S-29	On the compliance with the requirements of Article 5 of the LC of the actions of undertakings engaged in the sale of decoupage, needlework and other related goods:  <i>UAB Puse Plus Kaunas</i> <i>UAB Creativa grupė</i> <i>IĮ Terra animalis</i> <i>UAB Senas naujas</i>	LTL 50 900 LTL 400 LTL 6 800 LTL 8 600
23-12-2010 No. 2S-33	On the compliance with the requirements of Article 5 of the LC and Article 101 of TFEU of the actions of undertakings engaged in non-life insurance activities:	

	<i>AB Lietuvos draudimas</i> <i>UAB DK PZU Lietuva</i>	LTL 400 300 LTL 130 800
<b>Refusals to initiate investigations (4)</b>		
<b>Cases closed (1)</b>		
➤ <b>Concerning abuse of a dominant position (13)</b>		
<b>Established infringements (3):</b>		
21-01-2010 No. 2S-1	On the compliance with the requirements of Article 9 of the LC and Article 102 TFEU of the actions of the State Enterprise Vilnius International Airport:  State Enterprise Vilnius International Airport	LTL 76 000
06-05-2010 No. 2S-11	On the compliance with the requirements of Article 9 of the LC of the actions of <i>UAB Vilniaus energija</i> :  <i>UAB Vilniaus energija</i>	LTL 178 000
16-12-2010 No. 2S-31	On the compliance with the requirements of Article 9 of the LC and Article 102 of TFEU of the actions of <i>AB Orlen Lietuva</i> :  <i>AB Orlen Lietuva</i>	LTL 8 231 000
<b>Approved assumed obligations (1):</b>		
09-06-2010 No. 1S-98	On the compliance with the requirements of Article 9 of the LC of the actions of <i>UAB Forum Cinemas</i> .	
<b>Refusals to initiate investigations (7)</b>		
<b>Cases closed (2)</b>		
➤ <b>Concerning legal acts passed by public administration entities(20)</b>		
<b>Established infringements (6):</b>		
01-04-2010 No. 2S-8	On the compliance with the requirements of Article 4 of the LC of the decision No.1-1342 of the Vilnius city Municipality Council of 20-09-2006 regarding the obligation to the <i>UAB Grinda</i> to provide compulsory services	Obligation to amend or repeal legal acts infringing Article 4 of the LC
13-05-2010 No. 2S-13	On the compliance with the requirements of Article 4 of the LC of the decision No.T2-196 of the Klaipėda City Municipality Council of 28-05-2009	-“-
10-06-2010 No. 2S-15	On the compliance with the requirements of Article 4 of the LC of the decisions of the Vilnius City Municipality authorizing <i>UAB Vilniaus vystymo kompanija</i> to provide project management services	-“-
15-07-2010 No.2S-18	On the compliance with the requirements of Article 4 of the LC of the decisions of administration of the Alytus Municipality	-“-
09-12-2010 No. 2S-30	On the compliance with the requirements of Article 4 of the LC of the actions of Ministry of Energy of the RL in refusing to issue the permit to <i>UAB Lukoil Baltija</i> to accumulate and store state reserve of oil products in the territory of the Republic of Latvia	-“-
23-12-2010	On the compliance with the requirements of Article 4 of the LC of	-“-

No. 2S-34	the decisions of the Elektrėnai City Municipality obligating to perform the household waste management works to <i>UAB Elektrėnų komunalinis ūkis, UAB Gelvita</i> and <i>VšĮ Pagrenda</i>	
<b>Refusals to initiate investigations (13)</b>		
<b>Cases closed (1)</b>		
➤ <b>Concerning infringement of the provisions of concentration control (1)</b>		
<b>Established infringements (1)</b>		
15-07-2010 No. 2S-19	On the compliance with the requirements of Article 10(1) and Article 11(2) of the actions of <i>AB City Service</i> : <i>AB City Service</i>	LTL 10 000
➤ <b>Concerning actions of unfair competition (4)</b>		
<b>Refusals to initiate investigations (4)</b>		
<b>Enforcement of the Law on Advertising (LA)</b>		
➤ <b>Concerning misleading and comparative advertising (25)</b>		
<b>Established infringements (18):</b>		
04-02-2010 No. 2S-3	Concerning the compliance of the advertising of the lotion <i>Garmastan</i> with the requirements of the LA <i>UAB Armila</i>	LTL 10 000
04-02-2010 No. 2S-4	Concerning the compliance with the requirements of the LA of the actions of undertakings engaged in activities of plane ticket sales: <i>UAB Interneto partneris</i> <i>UAB Baltic Tours Vilnius</i>	LTL 4 000 LTL 2 000
11-02-2010 No. 2S-5	Concerning the compliance of the advertising of cream <i>Sudokrem</i> with the requirements of the LA <i>UAB Miečys</i>	LTL 3 200
25-02-2010 No. 2S-7	Concerning the compliance of the advertising promoting a half-price sale of glass lenses: <i>UAB Vilniaus optika</i>	LTL 4 000
08-04-2010 No. 2S-10	Concerning the compliance of the advertising of the hotel with the requirements of the LA <i>UAB Oasis Tours</i>	LTL 7 000
06-05-2010 No. 2S-12	Concerning the compliance of the advertising of Omnitel Extra services with the requirements of the LA <i>UAB Omnitel</i>	LTL 45 000
31-05-2010 No. 2S-14	Concerning the compliance of the actions of <i>AS Viasat</i> advertising digital television services with Article 5 of the LA and Article 16 of the LC <i>AS Viasat</i>	LTL 174 600
17-06-2010 No. 2S-16	Concerning the compliance of the advertising of <i>UAB Omnitel</i> with the requirements of the LA <i>UAB Omnitel</i>	LTL 45 000
23-06-2010 No. 2S-17	Concerning the compliance of the actions of <i>UAB Tamro</i> vaistinė with the requirements of the LA <i>UAB Tamro vaistinė</i>	LTL 5 000

09-09-2010 No. 2S-20	Concerning the compliance of the advertising of infra-red ray sauna-saunarium with the requirements of the LA <i>UAB Bauer International</i>	LTL 13 000
09-09-2010 No. 2S-21	Concerning the compliance of the advertising of Vadafone Mobile Connect modem with the requirements of the LA	Warning
23-09-2010 No. 2S-22	Concerning the compliance of the advertising of <i>Zebra vasara 2009</i> with the requirements of the LA <i>TEO LT, AB</i>	LTL 15 500
30-09-2010 No. 2S-23	Concerning the compliance of the advertising of the product <i>Labas</i> with the requirements of the LA <i>UAB Bitė Lietuva</i>	LTL 10 000
28-10-2010 No. 2S-24	Concerning the compliance of the advertising of car parking in the territory of the Vilnius International Airport <i>UAB Stova</i>	LTL 15 000
28-10-2010 No. 2S-25	Concerning the compliance of the advertising of funeral services with the requirements of the LA	Warning
04-11-2010 No. 2S-26	Concerning the compliance of the advertising of UAB <i>Tele2</i> with the requirements of the LA <i>UAB Tele 2</i>	LTL 7 000
11-11-2010 No. 2S-27	Concerning the compliance of the advertising of UAB <i>Dagris</i> with the requirements of the LA <i>UAB Dagris</i>	LTL 14 000
16-12-2010 No. 2S-32	Concerning the compliance of the advertising of UAB <i>NTT Cable Lietuva</i> with the requirements of the LA <i>UAB NTT Cable Lietuva</i>	LTL 3 100
<b>Refusals to initiate investigations (6)</b>		
<b>Cases closed (1)</b>		
<b>Total fines imposed in 2010: LTL 12 221 300</b>		
<b>➤ Concerning concentration control (37)</b>		
<b>Authorisations to implement concentration (33):</b>		
14-01-2010 No. 1S-4	Concerning the authorisation for Algirdas Butkus, Arvydas Salda, Gintaras Kateiva, Sigita Baguckas, Vigintas Butkus, Vytautas Junevičius, Kastytis Jonas Vyšniauskas together with European Bank for Reconstruction and Development to implement concentration by acquiring 100 percent of shares and votes of <i>AB Šiaulių bankas</i>	
25-02-2010 No. 1S-20	Concerning the authorisation for Andrius Janukonis, Gintautas Jaugielevičius, Darius Leščinskas and Linas Samuolis to implement concentration by acquiring 100 percent of shares of <i>UAB ICOR</i> and joint control over the venture	
25-02-2010 No. 1S-21	Concerning the authorisation for <i>UAB Topo centras</i> to implement concentration by leasing premises of commercial purpose located at Aido St. 8, Šiauliai.	
25-02-2010 No. 1S-22	Concerning the authorisation for <i>AB Grigiškės</i> to implement concentration by acquiring 100 percent of shares of <i>UAB AGR Prekyba</i> and indirect control over <i>AB Klaipėdos kartonas</i>	
10-03-2010 No. 1S-35	Concerning the authorisation for Lithuanian-American <i>JV UAB Sanitex</i> to implement concentration indirectly through subsidiary company by acquiring 99.99 percent of shares of <i>SIA Avers Centrs</i>	

18-03-2010 No. 1S-40	Concerning the authorisation for Arūnas Mačiuitis, Rimantas Bukauskas and Remigijus Lapinskas to implement concentration by acquiring 99.99 percent of shares of <i>UAB Universali arena</i>	
06-05-2010 No. 1S-74	Concerning the authorisation for <i>UAB Luktarna</i> to implement concentration by renting a gas station located at Žirnių St. 17, Vilnius and by acquiring the gas station located at J.Kazlauskio St. 33, Vilnius	
06-05-2010 No. 1S-75	Concerning the authorisation for R. Babravičius, E.Gurevičius, <i>UAB Tūkstantis metų</i> and <i>UAB Not Perfect Companies</i> to implement concentration by establishing a new company <i>UAB Media klubas</i> and by increasing its authorised capital where 65 percent of the shares acquired by R.Babravičius, 15 percent by E.Gurevičius, 10 percent – by <i>UAB Tūkstantis metų</i> , 10 percent – by <i>UAB Not Perfect Companies</i> –are paid by the shares of <i>UAB Adcom</i> , and <i>UAB Mediapool</i> and <i>UAB Media klubas</i> acquiring 100 percent of shares of <i>UAB Adcom</i> and <i>UAB Mediapool</i> .	
13-05-2010 No. 1S-78	Concerning the authorisation for <i>UAB Neste Lietuva</i> to implement concentration by acquiring 100 percent of shares of <i>UAB Alexela Oil</i> and by merging <i>UAB Alexela Oil</i> with <i>UAB Neste Lietuva</i>	
03-06-2010 No. 1S-96	Concerning the authorisation for <i>Rezidor Hotels APS Danmark</i> and <i>Linstow AS</i> to implement concentration by acquiring joint control of hotel business of <i>Reval Hotel Lietuva</i> in Vilnius, <i>Reval Hotel Neris</i> in Kaunas, <i>Reval Inn Vilnius</i> in Vilnius and <i>Reval Inn Klaipėda</i> in Klaipėda controlled by subsidiaries of <i>Linstow AS</i>	
10-06-2010 No. 1S-104	Concerning the authorisation to implement concentration by increasing the authorised capital of <i>UAB Mūsų rezervas</i> through the acquisition by <i>UAB Deitona</i> of 50 percent, <i>UAB Me Investicija</i> – 30 percent, and <i>UAB City Plaza</i> – 20 percent of shares of <i>UAB Mūsų rezervas</i> , and acquiring the joint control of the latter company.	
01-07-2010 No. 1S-116	Concerning the authorisation for <i>UAB SNORO Investment Management</i> to acquire 51 percent of shares of <i>UAB Stelita</i> , <i>UAB Nekilnojamo turto gama</i> and <i>UAB NT Panorama</i>	
10-07-2010 No. 1S-125	Concerning the authorisation for <i>Thermo Fisher Scientific Inc.</i> to implement concentration by acquiring 100 percent of shares of <i>Fermentas International Inc.</i>	
10-07-2010 No. 1S-126	Concerning the authorisation for <i>UAB Šiaulių plento grupė</i> to acquire 70.27 percent of shares of <i>UAB Avesko keliai</i>	
10-07-2010 No. 1S-127	Concerning the authorisation for <i>UAB Avestis</i> to implement concentration by acquiring 25.2 percent of shares of <i>UAB Šiaulių plento grupė</i> , where another 25.2 percent are acquired by Lithuanian-American <i>JV UAB Sanitex</i>	
10-07-2010 No. 1S-128	Concerning the authorisation for <i>A.P. Møller – Mærsk A/S</i> to implement concentration by acquiring 31.3 percent of shares of <i>DFDS A/S</i>	
15-07-2010 No. 1S-134	Concerning the authorisation for <i>BLRT Grupp AS</i> to implement concentration by acquiring up to 100 percent of shares of <i>AB Baltijos laivų statykla</i> and up to 100 percent of shares of <i>UAB Baltic Engineering Centre</i>	
03-09-2010 No. 1S-157	Concerning the authorisation for Vladimir Romanov to implement concentration by acquiring up to 100 percent of shares of <i>AB Ūkio bankas</i>	
03-09-2010	Concerning the authorisation for <i>EVF I Investments S.Á R.L.</i> to	

No. 1S-158	implement concentration by acquiring up to 37 percent of shares of <i>AS WMG HC</i> and acquiring joint control of the company together with <i>Webmedia Group S.A.</i>	
03-09-2010 No. 1S-159	Concerning the authorisation for <i>Consolis Oy AB</i> to implement concentration by acquiring 100 percent of shares of <i>Swetrak AS</i>	
03-09-2010 No. 1S-160	Concerning the authorisation for <i>UAB Stamija</i> to implement concentration by acquiring 65 percent of shares of <i>UAB Makveža</i>	
04-11-2010 No. 1S-193	Concerning the authorisation for <i>HKScan Oyj</i> to implement concentration by acquiring 100 percent of shares of <i>Rose Poultry A/S</i>	
11-11-2010 No. 1S-196	Concerning the authorisation for <i>UAB Forum Cinemas</i> to implement concentration by leasing premises of commercial purpose located at Taikos Av.61, Klaipėda	
11-11-2010 No. 1S-197	Concerning the authorisation for <i>UAB Palink</i> to implement concentration by renting premises of commercial purpose located at Krėvės St.13, Kaunas; Partizanų St. 134, Kaunas; Tvirtovės Al. 12A, Kaunas; Panevėžio St. 16, Rokiškis; Krymo St. 28, Šiauliai; Gegučių St. 13, Kėdainiai and by acquiring premises of commercial purpose owned located at Bazilijonų St. 3, Vilnius.	
19-11-2010 No. 1S-204	Concerning the authorisation for <i>AS Citadele banka</i> to implement concentration by acquiring 100 percent of shares of <i>AB Parex bankas</i> and 100 percent of shares of <i>IPAS Parex Asset Management</i> with a share of business in <i>AS Parex banka</i> (loan portfolio)	
02-12-2010 No. 1S-213	Concerning the authorisation for <i>Arosa Vermögensverwaltungsgesellschaft m.b.H.</i> to implement concentration by acquiring 100 percent of shares of <i>UAB Ozantis</i>	
09-12-2010 No. 1S-218	Concerning the authorisation for <i>UAB Palink</i> to implement concentration by renting premises of commercial purpose located at Kosmonautų St. 1, Jonava	
16-12-2010 No. 1S-224	Concerning the authorisation for <i>UAB Ektornet Lithuania SPVI</i> to implement concentration by acquiring a share of <i>UAB Ajolas</i> assets	
16-12-2010 No. 1S-225	Concerning the authorization to implement concentration to Alij Aleksandrovič, Aleksandr Vasilevskij and Konstantin Aleksandrovič by acquiring, in equal shares each by 27 percent and <i>UAB Alkona</i> 73 percent of shares in <i>UAB Merlana</i> , <i>UAB Proma</i> and <i>UAB Rubineta</i> .	
16-12-2010 No. 1S-226	Concerning the authorisation for European Bank for Reconstruction and Development to implement concentration by acquiring 25 percent plus one share of <i>AS Parex banka</i> and <i>AS Citadele banka</i> and by gaining a joint control over the companies together with the Privatisation agency of Latvia.	
23-12-2010 No. 1S-236	Concerning the authorisation for <i>UAB BPEF LT 3</i> to implement concentration by acquiring up to 100 percent of shares of <i>UAB Kelprojektas akciju</i>	
30-12-2010 No. 1S-241	Concerning the authorisation for Vytautas Zambacevičius and Aldona Zambacevičienė to implement concentration by acquiring up to 61.01 percent of shares of <i>UAB Alkesta</i>	
30-12-2010 No. 1S-242	Concerning the authorisation for Kęstutis Muliulis and Milda Muliulienė to implement concentration by acquiring up to 100 percent of shares of <i>UAB Parama</i>	
<b>Authorisations to perform individual actions of concentration (4):</b>		

13-05-2010 No. 1S-79	Concerning the authorisation to perform individual actions of concentration by increasing the authorised capital of <i>UAB Mūsų rezervas</i> through the acquisition by <i>UAB Deitona</i> of 50 percent, <i>UAB Me Investicija</i> – 30 percent, and <i>UAB City Plaza</i> – 20 percent of <i>UAB Mūsų rezervas</i> , and jointly acquiring its control.	
17-06-2010 No. 1S-114	Concerning the authorisation to perform individual actions of concentration for <i>A.P. Møller – Mærsk A/S</i> by acquiring 31.3 percent of shares of <i>DFDS A/S</i>	
15-07-2010 No. 1S-135	Concerning the authorisation to perform individual actions of concentration for Vladimir Romanov by acquiring up to 100 percent of shares of <i>AB Ūkio bankas</i>	
30-07-2010 No. 1S-141	Concerning the authorisation to perform individual actions of concentration for <i>AS Citadele banka</i> by acquiring 100 percent of shares of <i>IPAS Parex Asset Management</i> and a share of business of <i>AS Parex banka</i> (loan portfolio)	

### DECISIONS OF THE EUROPEAN COMMISSION ON STATE AID NOTIFICATIONS IN LITHUANIA IN 2010

State aid notification registration by the EC	Title	Beneficiary sector	Purpose	Duration of the aid scheme	Decision of the Commission	Decision date
11-12-2009	<b>N 686/2009</b> Limited amounts of compatible aid under the Temporary Framework to reduce the effect of financial and economy crisis on the agriculture	Agriculture	Remedy for a serious disturbance in the economy	until 31-12-2010	Positive	01-02-2010
08-02-2010	<b>N 46/2010</b> An amendment to the existing scheme "State aid No. 272/2009 – Lithuania – Measure "Limited amounts of compatible aid in the form of guarantees to credit institutions for loans taken by SMEs and large enterprises during the financial and economic crisis	Non applicable to specific sectors	Remedy for a serious disturbance in the economy	until 31-12-2010	Positive	11-03-2010
04-02-2010	<b>N200/2009 and N 47/2010</b> Grant scheme for banks of Lithuania	Financial and insurance activities	Remedy for a serious disturbance in the economy	until 30-09-2010	Positive	05-08-2010

23-02-2010	<b>N 67/2010</b> Dump of dangerous waste UAB <i>Toksika</i>	Water supply, wastewater treatment, waste management and recovery	Regional development	until 31-12-2013	Positive	30-09-2010
10-05-2010	<b>N 170/2010</b> Financial support for cinema projects	Audio-visual production	Cultural support	until 31-12-2016	Positive	15-11-2010

### Total national state aid in Lithuania in 2009\*

Sector	Aid forms	A1	A2	B1	C1	C2	D1	Total LTLm	Total MEUR
1.1. Agriculture		72.47	214.60					287.07	83.14
1.2. Fisheries		2.15						2.15	0.62
<b>2. Industry/ services</b>		<b>381.74</b>	<b>91.24</b>					<b>472.98</b>	<b>136.99</b>
<b>2.1. Horizont aid</b>		<b>75.46</b>	<b>77.06</b>					<b>152.52</b>	<b>44.17</b>
2.1.1. Research, development and innovations		15.33						15.33	4.44
2.1.2. Environmental protection		32.63	77.06					109.69	31.77
2.1.3. Small and medium-sized enterprises		3.65						3.65	1.06
2.1.4. Trade									
2.1.5. Energy efficiency									
2.1.6. Investment									
2.1.7. Employment programmes		20.83						20.83	6.03
2.1.8. Enhancement of qualification		3.02						3.02	0.87
2.1.9. Privatisation									
2.1.10. Rescue / restructuring									
<b>2.2. Sectoral aid</b>		<b>194.00</b>						<b>194.00</b>	<b>56.19</b>
2.2.1. Steel industry									
2.2.2. Ship building									
2.2.3. Transport		194.00						194.00	56.19
2.2.4. Coal industry									
2.2.5. Synthetic fibre									
2.2.6. Other sectors									
<b>2.3. Regional aid</b>		<b>112.28</b>	<b>14.18</b>					<b>126.46</b>	<b>36.63</b>
<b>TOTAL:</b>		<b>456.36</b>	<b>305.84</b>					<b>762.20</b>	<b>220.75</b>

\* \* compensations for the provision of the services of general economic interest not included.

### Explanations of symbolic markings:

*A1 – non-recoverable aid: grants, subsidies*

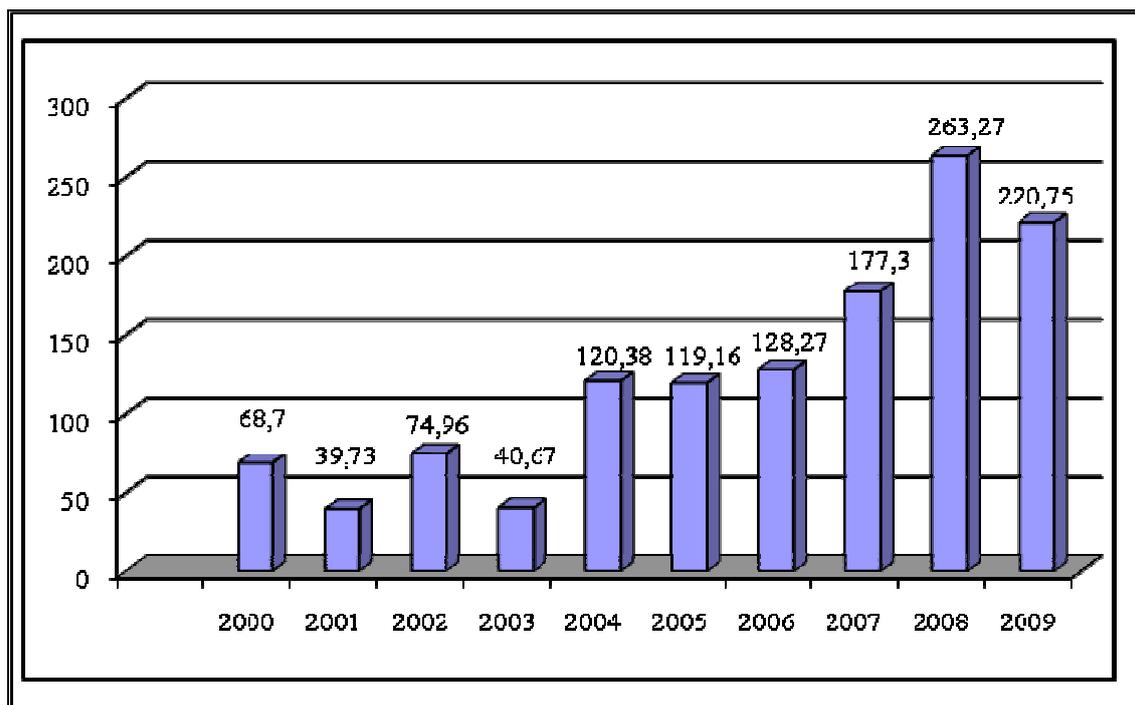
*A2 – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions*

*B1 – different types of increase of the state-owned equity of enterprise or increase of its value*

*C1 – soft loans*

*C2 – tax deferrals*

**Total national state aid in Lithuania in 2000–2009 (MEUR)**



**Total national state aid in Lithuania in 2000–2009 (MEUR)**

Indicators	Year	2001	2002	2003	2004	2005	2006	2007	2008	2009
MEUR		39.73	74.96	40.67	120.38	119.16	128.27	177.29	263.27	220.75
EUR per employee		29.39	53.31	28.28	83.81	80.85	85.57	115.56	163.09	134.53
% of GDP (at current prices)		0.29	0.51	0.25	0.66	0.58	0.54	0.63	0.82	0.83
% of national budget expenditures		1.36	2.22	1.12	2.85	2.41	2.37	2.73	2.19	1.91
% of national budget deficit		13.21	23.50	12.42	55.73	71.77	119.28	61.15	25.32	9.07
Average population (m)		3.48	3.47	3.45	3.43	3.41	3.39	3.37	3.35	3.34

### Judicial representation in 2010: outcome analysis

	Cases in the Vilnius Regional Administrative Court	Cases in the Supreme Administrative Court of Lithuania	Completed cases	Total representations
<b>Infringements of Art. 4 of the LC</b>	<ol style="list-style-type: none"> <li>1. UAB <i>Urbico v.</i> Competition Council (concerning the refusal to initiate investigation).</li> <li>2. National Health Insurance Fund under the Ministry of Health <i>v.</i> Competition Council.</li> </ol>	<ol style="list-style-type: none"> <li>1. UAB <i>Grinda v.</i> Competition Council.</li> <li>2. Vilnius city municipality <i>v.</i> Competition Council (concerning UAB <i>Vilniaus vystymo kompanija</i>).</li> <li>3. UAB <i>Traku paslaugos v.</i> Competition Council.</li> <li>4. UAB <i>Halsas v.</i> Competition Council (concerning termination of investigation).</li> <li>5. Regional waste management centres <i>v.</i> Competition Council.</li> <li>6. Kaunas city municipality <i>v.</i> Competition Council.</li> <li>7. National league for protecting the interest of gas, electricity and heat consumers <i>v.</i> Competition Council (concerning the refusal to initiate investigation).</li> <li>8. UAB <i>JCDecaux Lietuva v.</i> Competition Council.</li> </ol>	<ol style="list-style-type: none"> <li>1. UAB <i>Grinda v.</i> Competition Council (concerning the initiation of investigation).</li> <li>2. Department of Fishery under the Ministry of Agriculture of the Republic of Lithuania <i>v.</i> Competition Council.</li> <li>3. UAB <i>Vitaresta v.</i> Competition Council</li> <li>4. UAB <i>Infomedia v.</i> Competition Council.</li> <li>5. Administration of Alytus city municipality <i>v.</i> Competition Council.</li> </ol>	<b>15</b>
<b>Infringements of Art. 5 of the LC</b>	<ol style="list-style-type: none"> <li>1. UAB <i>Autodina v.</i> Competition Council.</li> <li>2. UAB <i>Moller Auto v.</i> Competition Council.</li> <li>3. AB <i>Autoūkis v.</i></li> </ol>	<ol style="list-style-type: none"> <li>1. Lithuanian Cynological society <i>v.</i> Competition Council.</li> <li>2. Event organisers <i>v.</i> Competition Council.</li> </ol>	<ol style="list-style-type: none"> <li>1. Waste processors <i>v.</i> Competition Council.</li> </ol>	<b>14</b>

	<p>Competition Council.</p> <p>4. UAB <i>Puse Plus Kaunas v.</i> Competition Council.</p> <p>5. UAB <i>GPP v.</i> Competition Council.</p>	<p>3. KOMAA and advertising agencies <i>v.</i> Competition Council.</p> <p>4. UAB <i>Elektromarktas</i> and joint company UAB <i>Interatlas v.</i> Competition Council.</p> <p>5. UAB <i>Media Incognito</i> and UAB <i>Bomba v.</i> Competition Council.</p> <p>6. UAB <i>Palink v.</i> Competition Council.</p> <p>7. UAB <i>Forum Cinemas Home Entertainment v.</i> Competition Council.</p> <p>8. UAB <i>Prof-T v.</i> Competition Council.</p>		
<p><b>Infringements of Art. 9 of the LC</b></p>		<p>1. UAB <i>Vilniaus energija v.</i> Competition Council.</p>	<p>1. UAB National telecommunication network <i>v.</i> Competition Council (concerning the refusal to initiate investigation).</p> <p>2. UAB <i>Lex ano v.</i> Competition Council (concerning the refusal to initiate investigation).</p> <p>3. AB <i>Lietuvos geležinkeliai v.</i> Competition Council (concerning the initiation of investigation).</p> <p>4. UAB <i>Impress Teva</i> and UAB <i>Lietuvos spaudos Vilniaus agentūra v.</i> Competition Council.</p> <p>5. State Enterprise</p>	<p><b>8</b></p>

			<p>Vilnius International Airport and UAB <i>Naftelf v.</i> Competition Council.</p> <p>6. AB <i>Mažeikių nafta v.</i> Competition Council (concerning the renewal of investigation).</p> <p>7. UAB <i>RSS Motors v.</i> Competition Council.</p>	
<p><b>Infringements of Art.5 and 6 of the LA</b></p>	<p>1. UAB <i>Stova v.</i> Competition Council.</p> <p>2. UAB <i>Omnitel v.</i> Competition Council (concerning the advertising for 0 cents).</p> <p>3. <i>TEO LT, AB v.</i> Competition Council.</p> <p>4. AB <i>Lietuvos dujos v.</i> Competition Council (concerning termination of investigation).</p>	<p>1. UAB <i>Saulėgrąžų vaistinė v.</i> Competition Council.</p> <p>2. UAB <i>Žemės vystymo fondas, UAB Žemės vystymo fondas 18 v.</i> Competition Council.</p> <p>3. UAB <i>Omnitel v.</i> Competition Council (concerning the advertising of services of the product <i>Extra</i>).</p> <p>4. <i>Air Baltic Corporation A/S v.</i> Competition Council</p> <p>5. UAB <i>Interneto pasaulis v.</i> Competition Council.</p>	<p>1. UAB <i>Tez Tour v.</i> Competition Council.</p> <p>2. UAB <i>Investment House v.</i> Competition Council.</p> <p>3. UAB <i>Žemės vystymo fondas, UAB Žemės vystymo fondas 18 v.</i> Competition Council (concerning the deferral of fine payment).</p> <p>4. UAB <i>Tikroji turto kaina v.</i> Competition Council</p> <p>5. UAB <i>Vilniaus energija v.</i> Competition Council (concerning the initiation of investigation).</p> <p>6. UAB <i>Bauer International v.</i> Competition Council (concerning the initiation of investigation; the complaint withdrawn).</p> <p>7. <i>Balti Investeeringute</i></p>	<p><b>18</b></p>

			<p><i>Grupi Pank AS v. Competition Council.</i></p> <p><b>8.</b> <i>UAB Mikrovisatos TV v. Competition Council.</i></p> <p><b>9.</b> <i>UAB Tez Tour v. Competition Council (considering the failure to fulfill obligations).</i></p>	
<b>Infringements of Art. 16 of the LC</b>	<p><b>1.</b> <i>AS Viasat v. Competition Council.</i></p>	<p><b>1.</b> <i>AS Viasat v. Competition Council (supplementing the investigation).</i></p> <p><b>2.</b> <i>UAB Rygveda, UAB Vinita, UAB Marsatas, UAB Balticum TV v. Competition Council (refusal to initiate the investigation).</i></p>		<b>3</b>
<b>Concentration</b>	<p><b>1.</b> <i>AB City Service v. Competition Council.</i></p>	<p><b>1.</b> <i>AB Klaipėdos jūrų krovinių kompanija v. Competition Council.</i></p>	<p><b>1.</b> <i>UAB SCA Packaging v. Competition Council.</i></p>	<b>3</b>
<b>Other representation in courts</b>	<p><b>1.</b> <i>AB Orlen Lietuva v. Competition Council.</i></p>	<p><b>1.</b> <i>AB Kelmės pieninė, AB Modest, AB Pieno žvaigždės, AB Vilkyškių pieninė v. the Republic of Lithuania represented by the Competition Council (concerning indemnification of damages).</i></p> <p><b>2.</b> <i>UAB Universali arena v. Competition Council (failure to fulfill obligations).</i></p>	<p><b>1.</b> <i>AB Mažeikių nafta v. the Republic of Lithuania represented by the Competition Council (concerning indemnification of damages).</i></p>	<b>4</b>
<b>Total:</b>	<b>14</b>	<b>27</b>	<b>24</b>	<b>65</b>

2010 Annual Report has been prepared by V. Aleksienė and P. Kvietkauskienė