



COMPETITION COUNCIL
OF THE REPUBLIC OF LITHUANIA

SHORT ANNUAL REPORT 2023



MAIN RESULTS

5

infringements of the Law on Competition identified

2

undertakings fined for obstructing inspections by the Competition Council

31

mergers cleared

2 of them subject to remedies

1

merger prohibited

5.9:1

1 Euro allocated to the Authority's activities brought 5.9 Euros of expected benefits

Eur 16.7 million

average direct expected benefits to consumers in 2021–2023

4

guidance notes (guidelines, leaflets) prepared for businesses and public entities

558

draft legal acts examined

58 %

of the Authority's proposals taken into account by decision-makers

100 %

of the decisions of the Authority fully or in part approved by courts

Eur 1,219,060

finances imposed

Eur 2,584,449

finances paid to the state budget by the infringers

FOREWORD BY THE CHAIRWOMAN



JOLANTA IVANAUSKIENĖ

Chairwoman of the
Competition Council

When discussing the activities of the Competition Council in the public discourse, the amount of fines imposed by our institution is quite often highlighted. However, imposing financial sanctions on companies and public sector entities is neither the goal nor the objective of the Competition Council. Our institution aims to ensure the effectiveness of its activities based on the results of professional investigations and the benefits it brings to consumers. Upon evaluating the activities from 2021 to 2023, it became evident that one euro of the national budget allocated to the Authority's activities generated almost six euros of expected benefits for consumers, thus exceeding our commitment to a benefit-budget ratio of at least 5:1.

This indicator reflects the economic benefits generated by the Authority after considering the harm that would have been caused to consumers if we had not stopped the anti-competitive behaviour or prevented the restrictions on the competition.

One such example is the agreement by cosmetics e-commerce companies not to sell goods below the manufacturer's prices and not to apply discounts to customers. In recent years, we have issued a number of letters to businesses warning them to remove potential restrictions of competition due to similar resale price maintenance in e-commerce. Both through our investigations and through our proactive preventive work, we are sending a clear signal to businesses that competition rules apply online too, and that we will not tolerate this type of infringements, which deprive consumers of the opportunity to buy at a lower price.

In 2023, the Competition Council launched three investigations on its own initiative into the prices of goods in the markets for everyday consumer goods and services relevant to consumers. It is regrettable that in some cases, due to the obstruction of the undertakings under investigation, we are not able to investigate and remove restrictions of competition as quickly as we would like. Last year, there were even several cases of companies deleting information during inspections, which led to financial penalties. Obstruction practices can prevent us from uncovering infringements that harm consumers, and we will continue to take a principled approach to such behaviour in future.

In 2023, discussions intensified where the Authority should focus its attention – on investigations or consultations. One business association suggested that consultation should be made a mandatory function of the Competition Council. It is important to remember that it is people, not laws themselves, who both investigate infringements and engage in broader advocacy. Thus, everything requires experts' time, which is limited.

Even with limited human and financial resources, we devote a significant part of our resources each year to educational activities: we consistently educate both businesses and other target groups on competition law requirements, stressing how to avoid infringements. In response to business needs, in 2023, we developed the guidelines on restrictive agreements in labour markets, as well as on the assessment of unfair commercial practices, updated the guidance on when the risk of restricting competition is highest when the State is active in business, and other informational documents.

We have provided a particularly large number of consultations in conducting merger control to ensure that the transactions under consideration do not result in significant negative effects on competition due to changes in market structure. Nor do we intend to turn a blind eye to transactions that avoid the mandatory merger review procedure. In 2023, we conducted a considerable number of such investigations - four, one of which we completed and imposed a financial sanction and corresponding obligation. By conducting effective concentration control, we aim to create benefits for consumers and the Lithuanian economy.

Every year, there is an increasing need for comprehensive economic analysis and expert knowledge in business transactions relevant to consumers in various sectors, ranging from agriculture and raw material production to food manufacturing, where diminishing competition could eventually have a negative impact on consumers, such as rising prices for goods and services and reduced choices.

In the near future, the functions of our institution will inevitably be closely related to more active supervision of digital markets. In 2023, we conducted monitoring of e-commerce activities, which allowed us to better understand the principles of operation, accessibility, and algorithm prevalence of this trade channel. Although we did not identify any obvious factors restricting competition, in 2024, we will prepare guidelines so that business representatives can assess their actions and, if necessary, change practices to avoid the risk of violating the Law on Competition.

Considering the constantly changing business environment, one of the most important challenges for our institution will continue to be attracting, educating, and retaining experts so that we can ensure effective competition in digital and other markets and thus contribute to the growth of the Lithuanian economy.

I am confident that the Competition Council is capable of making decisions beneficial to consumers, consistently seeking a balance between conducting investigations and providing consultations. We will continue our work in this direction in 2024.

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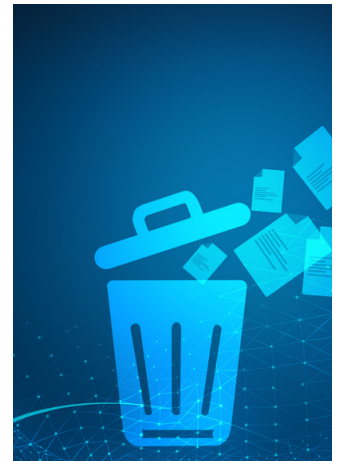
KEY ACTIVITIES BY SECTOR

The Competition Council protects effective competition in a wide range of sectors important to consumers. In 2023, we focused on retail (including e-commerce), health services, energy, transport, food production and some other sectors. To ensure effective competition, we have used a range of tools available to us under the law: educating businesses on competition law requirements, monitoring markets, investigating suspected infringements, supervising mergers, and making proposals on draft legislation.

RETAIL TRADE (INCLUDING E-COMMERCE):

- we have developed guidelines for assessing unfair commercial practices, which provide an overview of the prohibited practices of retail chains and practical examples and explanations;
- we provided training to more than 90 suppliers and their associations on how to identify unfair commercial practices and over 20 consultations on the subject;
- the Seimas has taken into account our proposals and extended the list of prohibitions applicable to the big five supermarket chains: supermarket chains will not be able to unilaterally require (and impose fines) food and drink suppliers to deliver goods if the supplier indicates that it cannot fulfill an order;
- we carried out a preliminary analysis of the retail sector, based on publicly available data, showing that Lithuania is not significantly different from the other Baltic States in terms of supermarket concentration, and that the increase in food prices observed in 2022 was mainly due to the rise in energy prices and other rising operating costs;
- we monitored online [marketplaces](#) and drew the attention of the sector to business practices that may pose a risk of restricting competition;
- we detected an [agreement](#) between online distributors of cosmetic products not to sell them below the manufacturer's prices and not to offer discounts to buyers and prevented such practices to the detriment of consumers;
- we opened three new investigations into possible infringements of the Law on Competition in the markets for the sale of everyday consumer goods, the manufacture and sale of beverages and the manufacture and distribution of heat pumps;

- we found that *Maxima LT* failed to comply with the Authority's requirements when its employee deleted certain documents during an inspection and fined the retailer for this infringement;
- we assessed a transaction in the sale of household appliances and electronics and, after finding no competition risks, cleared the acquisition of *Avitelos prekyba* by an Estonian company operating under the *Euronics* brand;
- we identified competition risks if grocery and convenience stores with a sales area greater than or equal to 500 square metres were banned from opening on Sundays and public holidays, which could lead to higher prices and a reduction in the quality of the goods and service in the long run.



HEALTH SERVICES (INCLUDING PHARMACEUTICALS):

- the Seimas, when adopting amendments to the Law on Pharmaceuticals, partially took into account our comments and allowed pharmacies to purchase some unregistered medicines directly from suppliers in other European Economic Area countries, so that consumers could buy these medicines not only in the major pharmacy chains;
- we continued our investigation to find out whether the Doctors' Promotion Programme and the measures it provides for to attract doctors (one-off cash payment, reimbursement of residency studies, provision of municipal housing), which are only available to municipally run healthcare institutions, do not discriminate against private institutions and do not infringe the requirements of fair competition;
- we assessed transactions in the field of dentistry and other health services and, finding no competition problems, cleared them: *InMedica* was allowed to acquire *the Vilnius Implant Centre clinic*, and a Swiss dental implant manufacturer to acquire Lithuanian companies distributing dental products and equipment.

ENERGY SECTOR:

- after identifying risks of reduced competition, we allowed *Gren Lietuva* to acquire 100% of *Šiluma miestams* and to indirectly take control of five other heat generating companies through *Gren Lietuva*, only after dropping plans to acquire two heat generating companies in Klaipėda in order to preserve effective competition in heat generation in that city;
- we gave the approval for *Enefit*, part of the Baltic power generation and trading group *Eesti Energia*, to take over the customers of *EGTO energija*. As the parties submitted the notification after having actually implemented the transaction without the Authority's permission, we have decided to open an investigation into a possible breach of the Law on Competition;
- we proposed to the Ministry of Transport and Communications to improve the draft law on the installation of publicly accessible charging infrastructure for electric vehicles in order to ensure effective competition in the operation of charging stations for electric vehicles and to comply with the requirements of the state aid rules;
- we warned that the provision in the Law on Renewable Energy obliging only new entrants to pay electricity generation fees may lead to unequal conditions of competition in the energy sector; following our assessment, sent to the Ministry of Energy, that the planned introduction in the draft law of a different regulation for for-profit and non-profit non-domestic generating consumers may lead to unequal conditions of competition, the law provided for a transitional period after which all non-domestic consumers will be subject to the same regulation.

FOOD AND DRINK MANUFACTURING SECTOR:

- we acknowledged that an employee of *Švyturys-Utenos alus* had deleted some information during an inspection, thus hindering the collection of evidence by our institution. As the company admitted the infringement and cooperated, the financial sanction imposed on it was significantly reduced;
- having carried out an analysis and being convinced that the transactions in the meat production sector would not lead to negative consequences for consumers, we authorised *Krekenava Agrofirma* to acquire the assets of the bankrupt company *Arvi kalakutai* related to the production and packaging of turkey products and *Biovela-Utenos mėsa* to take over the brand name of *Klaipėdos mėsinė* and other assets related to the production and sale of meat;



- having identified no risks of a reduction in competition, we allowed *Vikondos Grupe*, a producer of ice-cream and canned products, to acquire *Klaipėdos duona* and *Javinė*, producers of bread and other bakery products, as well as an Estonian company, a producer and marketer of bread and confectionery in the Baltic States, to acquire a company producing frozen bakery products;
- we warned the Ministry of Agriculture that the introduction of raw milk purchase price regulation and public disclosure of pricing could restrict competition in the dairy sector and violate European Union and national legislation.

TRANSPORT SECTOR:

- we found that the rules adopted by the Minister of Transport and Communications in 2020, according to which freight carriers are granted access to congested railway sections, favour *LTG Cargo*, a company operating on the market, and discriminate against other companies that can provide the same services, and we obliged the Ministry of Transport and Communications to abolish such discriminatory requirements and to enable other companies to enter the rail freight market;
- following our investigation on restricted competition in the intercity passenger transport market completed in 2020, the legal framework has been revised and the market has been opened up to competition by removing the privileges for existing carriers, therefore, the obligation that we had previously imposed on the Lithuanian Transport Safety Administration - to terminate the extended contracts with intercity carriers and to organise a competitive selection procedure - has become obsolete.

FINANCIAL SECTOR:

- without identifying any adverse effects on competition, we allowed *Šiaulių bankas* to acquire the retail investment fund management and pension fund management businesses of *Invalda INVL* in Lithuania and the life insurance business of *INVL Life* in the three Baltic States;
- we have drawn the attention of the Ministry of Finance to the fact that the planned temporary solidarity contribution, which would be paid by only a part of credit institutions, may distort competition in the market and breach state aid rules. Following the comments received, the application of such a levy on the basis of the amount of customer deposits and funds in accounts was waived;

- The Ministry of Finance has taken note of our comments that if payment service providers are obliged to provide the Bank of Lithuania with information on the fees charged to small and micro-enterprises, which would be published on a dedicated website, it is also necessary to assess the risks. Allowing competitors to monitor each other's prices leaves both the possibility for businesses to align their fees with those of other competitors (which is not prohibited but may lead to higher prices for consumers) and the likelihood of facilitating coordination and cartels, which are some of the most serious violations of the Law on Competition.

MEDIA, CINEMA, AND SECTORS OF OTHER SERVICES:

- we found that the Estonian company, which operates the news portal *delfi.lt*, had infringed the Law on Competition by acquiring the news portal *lyttas.lt*, without the authorisation of our Authority, and ordered the company to remedy the infringement either by applying for authorisation or by divesting the acquired business;
- following a complex analysis, we blocked the acquisition of *M-1 Radio*, the largest radio group in Lithuania, by *TV3 Television* and other media companies, to ensure that the transaction does not create or strengthen a dominant position or significantly restrict competition in the markets for the sale of radio and TV advertising;
- we imposed interim measures on the Estonian company operating the cinema chain requiring to manage all the assets of *Forum Cinemas* taken over, allegedly without the authorisation of the Authority, in a way that does not harm its economic viability, marketability or competitiveness. We are continuing our investigation into the possible illegal transaction involving the takeover of *Forum Cinemas'* assets;
- we have found that Palanga City Municipality violated the Law on Competition by transferring the management of the swimming pool and the provision of various types of services, including commercial ones, to its own institution *Palanga Investment Management* without a competitive procedure. Following a change in the regulation by the Seimas, we have decided that there is no longer any reason to impose the previously imposed obligations on the municipality to organise a competitive procedure for the selection of the pool manager.

OTHER SECTORS:

- we published a guidance “Anti-competitive agreements in labour markets”, providing information relevant to both workers and employers on the benefits of an open, competitive labour market and why employers should not agree with each other over workers' working conditions;
- we have assessed, on our own initiative, mergers that would have reduced the choice of provider for the maintenance of lifts in multi-apartment buildings and other buildings. We cleared this transaction only after *Kauno liftai* committed to transfer some of the contracts of the acquired companies *Baltijos liftai* and *Šiaulių liftas* to third parties, thereby eliminating the negative effects on competition;
- following an analysis of the proposed transactions, we concluded that there would be no adverse effects on competition and therefore cleared the concentrations in the sectors of bridge and road construction, roofing and refrigeration and real estate development;
- we warned the Seimas, the Ministry of Justice and the Ministry of the Environment that changes to the procedure for the sale of timber from state forests would facilitate the acquisition of timber from state forests by certain processors, thereby adversely affecting competition.

