



Organisation for Economic Co-operation and Development

DAF/COMP/AR(2020)20

Unclassified

English - Or. English

13 May 2020

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Latvia

-- 2019 --

10-12 June 2020

This report is submitted by Latvia to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 10-12 June 2020.

JT03461634

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Latvia

Foreword by the Chairwoman

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

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

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

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

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

These are only the most notable decisions or actions of public administrative bodies, the negative effect of which on the public welfare we have dealt with last year. Although the development of Latvia is based on the free market economy almost for 30 years, intentional or unintentional desire of public administrative bodies to implement competition distortions is still a worrying everyday phenomenon. Up until the year 2019 the Competition Council did not have any disciplinary instruments to prevent and discourage

public administrative bodies from competition distortion and to ensure the level playing field. The amendments to the Competition Law that came into effect on 1 January 2020 now impose an obligation on public administrative bodies to observe the principle of competition neutrality and give more efficient powers to the Competition Council, if the committed infringement is not eliminated.

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

1. Basic information

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

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

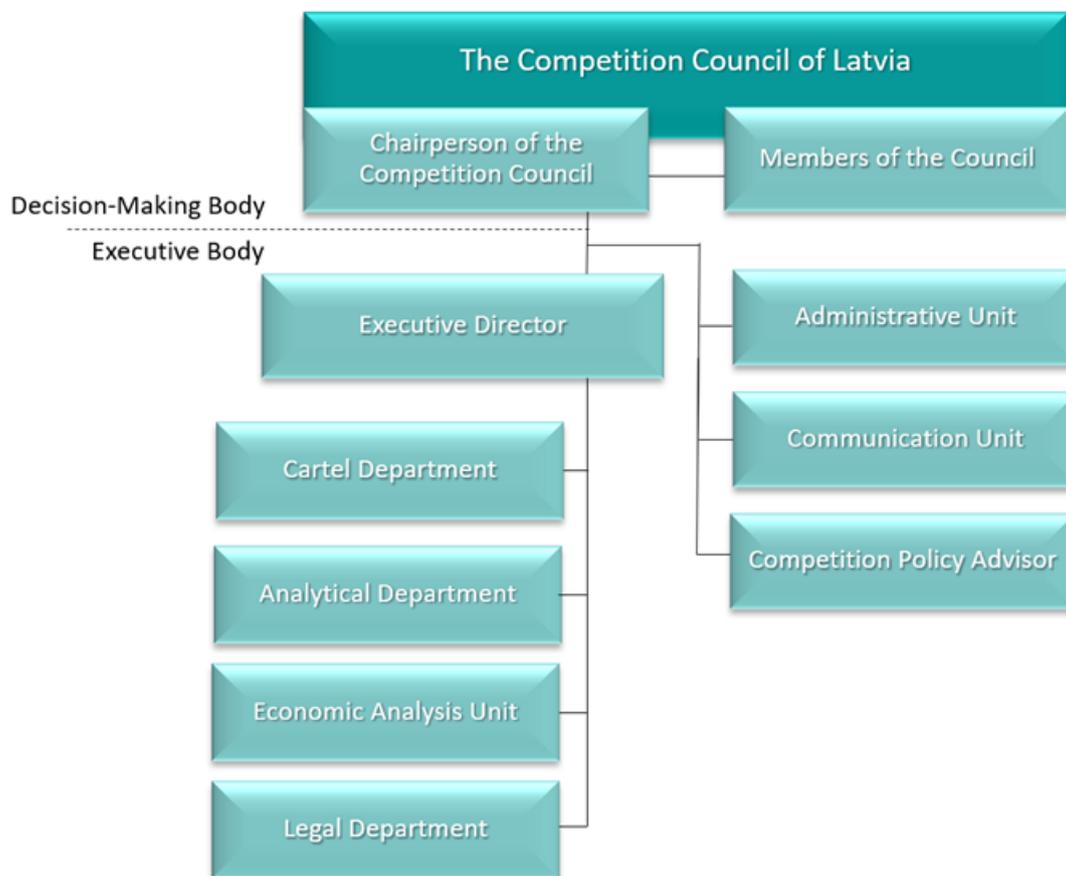
3. Tasks of the Competition Council are:

- Detection of prohibited agreements: undertakings do not engage in cartels or implement any other prohibited agreements.
- Prevention of abuse of dominant position: large and dominating companies do not abuse their market power.
- Merger control: remedy mergers that create concentration on the market and may negatively impact the interests of consumers and businesses.
- Assessment of legislation: legislation, regulations and any other state or local government decisions or actions do not restrict the development of free and fair competition.
- Promotion of competition: competition is promoted on markets, including the regulated ones, where it is limited or non-existent.
- Raising public awareness: society receives comprehensive information about the positive effects of fair competition on the market functionality and social welfare.

4. Implementation of the competition policy as a key objective of the Competition Council is divided into two categories. The first concerns the protection of market participants and the society against negative effects of market concentration and violations of the Competition law in actions of both undertakings and public administrative bodies. The second concerns development of the competition culture and *ex-ante* prevention of competition violations including reduction of legislative administrative barriers, education of consumers, market participants, public and local government authorities about the nature and application of the Competition Law.

1.1. Structure of the Competition Council of Latvia

Figure 1. Organizational chart of the Competition Council



5. The Decision-Making Body – the Competition Council – consists of a Chairperson, who is also head of the institution, and two Council Members. The Chairperson and Council Members are appointed by the Cabinet of Ministers based on the recommendation by the Minister of Economics. The Chairperson and Council Members have five-year term limit, and may be re-appointed only once. The Chairperson manages activities of structural units subordinated to the Council – Administrative Unit, Communication Unit and Competition Policy Advisor.

6. The Executive Body is run by the Executive Director who is directly subordinated to the Chairperson. Structural units of the Executive Body include Cartel Department, Analytical Department, Legal Department, and Economic Analysis Unit. Departments evaluate various applications and investigate violations of the Competition Law, the Unfair Retail Trade Practices Prohibition Law and the Advertising Law, as well as prepare conclusions and draft decisions, perform supervision of competition environment, control execution of legal obligations and represent the Competition Council in courts. The Economic Analysis Unit provides an in-depth economic and econometric analysis during case investigations.

2. Performance Results in 2019

7. In general, the Competition Council has fulfilled the planned quantitative and qualitative performance results in 2019, which were defined for the Authority in the budget sub-program “Implementation of Competition Policy” based on prior results. Several performance results, incl. in relation to court proceedings, opinions and proposals provided to businesses and public authorities, efficiency in competition advocacy and education of the public, the planned value has been exceeded (see Table 1).

Table 1. Result-based Performance Indicators of the Competition Council

Indicator name/Measure name	Target	Result
Preventive measures and investigation of alleged infringements, as well as market inquiries <i>Total number of measures/number of high priority measures</i>	25/11	21/10
incl. investigation of alleged infringements/market inquiries in relation to application of the Unfair Retail Trade Practices Prohibition Law <i>Total number of measures</i>	2	2
incl. research and promotion of competition issues on the markets, where free and fair competition (incl. competitive neutrality) is negatively affected by involvement of public administrative bodies <i>Total number of measures</i>	3	3
incl. identification of obstacles for access to digital services by consumers and market participants, and competition promotion measures, ensuring elimination of these obstacles <i>Total number of measures</i>	1	1
Impact of consequences of planned mergers and notified agreements of market participants on the competition environment has been assessed <i>Number of cases/number of high priority cases</i>	16/6	18/3
In-depth analysis of data (e-evidence) obtained during dawn raids were carried out <i>Number (calculated once per year)</i>	8	5
Representation in court proceedings (physical representation and written representation) <i>Number</i>	15	29
Proportion of completed administrative proceedings in the court and Authority decisions left effective in favour of the Authority <i>Percentage (calculated once per year)</i>	>80	100 %
Provided explanations, opinions, proposals, ensured development of regulatory enactments and guidelines <i>Number of documents</i>	100	124
incl. provided explanations, opinions, proposals, ensured development of regulatory enactments and guidelines in relation to application of the Unfair Retail Trade Practices Prohibition Law <i>Number of documents</i>	12	13
incl. in relation to application of Section 88 of the State Administration Structure Law <i>Number of documents</i>	15	12
Eliminated restrictions imposed by public administrative bodies (proportion of eliminated restrictions compared to the total number of advocacy activities carried out) <i>Percentage (calculated once per year)</i>	15 %	21 %
Raising of public understanding of free and fair competition <i>Total number of measures</i>	20	48
incl. in relation to application of the Unfair Retail Trade Practices Prohibition Law <i>Total number of measures</i>	3	4
The role and recognition of the Competition Council in the international environment has been strengthened (number of publications and events with taking the floor) <i>Total number of measures</i>	34	43

Personnel turnover (number of employees who have left against the total number of employees) <i>Percentage (calculated once per year)</i>	<22	32 %
Loyalty of employees (% proportion of employees who have answered in the internal survey that they will continue legal employment relations with the Authority for the next two years) <i>Percentage (calculated once per year)</i>	>85	62 %
Quantified public benefits from the activities of the Competition Council <i>3-year average in millions of euros</i>	>20	24.8

2.1. Decisions of the Competition Council

8. In 2019, the Competition Council adopted a total of 25 decisions. The Authority detected 2 procedural infringements, 1 prohibited agreement, 1 failure to provide information during the merger review, as well as imposed interim measures in the context of alleged abuse of dominance. See Table 2 for all the decisions taken by the Competition Council of Latvia in 2019.

Table 2. Statistical summary of decisions

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

9. In total, the Authority imposed fines in the amount of EUR 3 152 549 on five undertakings. The amount of fines was based on turnover of the previous financial year for the market participant involved, as well as other factors, such as the severity, length and consequences of the violation.

10. In 2019, the Competition Council reviewed 16 merger cases. All mergers were cleared as no harm to the competition was detected. The Authority also cleared a notified merger as the agreement would not cause competition damage.

2.2. Legal proceedings

11. In 2019, five legal proceedings were completed and in all cases the court upheld decisions of the Competition Council. In total, representatives of the Competition Council ensured legal representation in 29 court hearings.

12. Following the coming into effect of the Competition Council decisions, including after the court review, EUR 147 927 of fines imposed were paid into the state budget in 2019.

13. Among the most significant court decisions, the Authority should point out a court decision to uphold the interim measures imposed by the Competition Council of Latvia for the first time. The purpose of the interim measures was to retain the competition structure on the household waste management market in Riga until the Authority adopts the final

decision in the case initiated against Riga City Municipality and its owned SIA “Getliņi EKO” on alleged abuse of dominant position.

14. In July 2019, the Competition Council opened an investigation based on suspicion of breach of the Article 102 of the Treaty on the Functioning of the European Union (the TFEU) in the actions of Riga City Municipality and its owned SIA “Getliņi EKO” as the Municipality had intended to restrict competition in the waste management market for 20 years. More information on the case can be found in the chapter for the abuse of a dominant position.

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

16. The Authority established that in the period from 2006 to 2011 26 energy construction companies distorted competition in total in 322 procurements on performance of construction works of electric facilities and electric installation works, for example, installation, repair and modernization of power lines. The fines were imposed in total of 2 862 187 euros on the involved companies. In this case, the Authority imposed so far the highest percentage fine – 7.5 % of the turnover of the previous year on three infringers.

2.3. Investigation of Violations of the Competition Law

2.3.1. Prohibited agreements

17. In 2019, the Competition Council adopted four decisions regarding prohibited agreements. In three cases the Authority terminated the further investigation and no infringement was detected. By one decision an infringement was detected and imposed fines on two companies for the total amount of EUR 2 417 700 thereof.

18. The Competition Council found that six tenderers and the organizer of the procurement were involved in a cartel. Companies agreed on prices on supply of nanotechnology chemicals in tenders organized by the Riga municipality owned public transport company SIA “Rīgas satiksme”. The evidence obtained during the case investigation confirms that the parties involved in the infringement have coordinated prices in two tenders, implemented from 2012 to 2014 with the total contract sum exceeding EUR 800 thousand.

19. The information obtained by the Authority shows that the official of SIA “Rīgas satiksme” who was responsible for purchase of the specific product, actively engaged in the preparation and coordination of tenders, and preliminary determination of the winner. Staff of municipal company facilitated bid-rigging coordinating activities among the tenderers.

20. Organizer of fair and competitive bids plays crucial role not to distort competition in such procedures. The Competition Council based on companies turnover imposed fines where organizer of the bid SIA “Rīgas satiksme” was fined with EUR 2 417 000 fine, one tenderer with EUR 700 fine. The other five bid-rigging participants have been liquidated; therefore, no fines were imposed on these companies by the Authority.

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

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

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

24. The initial information shows that for several years the involved construction companies have allegedly coordinated their conduct and concluded prohibited agreements on market distribution and conditions for participation in procurements of public and private customers all across Latvia. In order to make obtaining of evidence more efficient, the Competition Council together with the Corruption Prevention and Combating Bureau carried out joint and extensive investigation (dawn-raid) activities. Further investigation is conducted by both authorities independently within the framework of their competence.

2.3.2. Abuse of a dominant position

25. In 2019, the Competition Council took decision in abuse of a dominance case imposing interim measures for first time in the history of the Competition Council of Latvia.

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

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

28. On 18 July, the Authority initiated a case against Riga City Municipality and SIA “Getliņi EKO” on alleged infringement under Article 102 of the TFEU. In order to stop the harm caused to competition until completion of investigation, on 9 September the Competition Council adopted a decision on interim measures. The interim measures imposed several obligations on the Municipality and SIA “Getliņi EKO”, including immediate termination of implementation of the concession agreement on collection and transportation of unsorted and separately collected household waste.

29. The Municipality appealed the decision of the Authority on interim measures in the court, and the proceedings ended in favour of the Competition Council. The Authority continues case investigation in 2020.

2.3.3. Procedural infringements

30. In 2019, the Competition Council took 2 decision on procedural infringements of the Competition Law. In both cases the involved companies failed to provide the Authority with information to the required extent or in a timely manner and were imposed with fines in the total of EUR 702 649.

31. One of the 2 decisions must be highlighted. In the period from 2015 to 2017, the Authority investigated a prohibited agreement of four building materials traders and two building materials manufacturers. In 2017, the Authority adopted a decision, detected long-term price coordination and maintaining of artificially set price level, and imposed fines in total of EUR 5.8 million.

32. During the case investigation, retailer SIA “DEPO DIY” provided written explanations in relation to the evidence obtained by the Competition Council. After completion of investigation and adoption of the final decision, the Authority established that the explanations provided by the company were incomplete. Namely, during the investigation, SIA “DEPO DIY” refused to comment on specific e-mail correspondence of the company due to its oldness, but several years later provided detailed explanations regarding this correspondence during court proceedings although evidently being unable to provide these explanations during investigation.

33. The Competition Council imposed a fine equal to EUR 701 811 on SIA “DEPO DIY” for the procedural infringement, namely, failure to provide complete information required for investigation.

2.4. Unfair Retail Trade Practices Prohibition Law

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

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

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

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

38. According to guidelines for the application of URTPPPL, application of charge for additional placement of goods at special places is admissible but only in cases when the retailer and the supplier have agreed on such conditions in writing before provision of service. Setting a charge for placement of goods at the area near the cash register, only based on certain exclusivity criteria and availability of limited space, is inadmissible and does not comply with requirements of the URTPPPL. To observe consistency on the market,

the Competition Council indicated – if the area near the cash register is a place for basic placement of goods, a supplier shall not be additionally charged for placement of goods at this area.

39. The Authority also updated the guidelines for application of the URTPPL. The document was supplemented with criteria, which the Authority will follow to assess compliance of conduct by retailers with the law.

2.5. Mergers and Notified Agreements

40. In 2019, the Competition Council adopted 18 decisions regarding mergers and notified agreements. As the Authority did not detect possible harm to competition, all 16 mergers were cleared. The Competition Council also cleared one notified cooperation agreement. Also, in one case violation of the Competition Law was detected and fine was imposed on the undertaking for failure to submit full information during the merger review.

41. In 2015, the Competition Council cleared the Estonian company's OÜ "MM Grupp" acquisition of the Latvian news agency service provider SIA "LETA". Before submission of the merger notification, the Estonian company owned news agencies operating in Latvia – SIA "BNS-Latvija" and SIA "Mediju Monitorings". To minimize the risks that merger might be prohibited due to significant concentration in the market, prior notification of the merger to the Authority OÜ "MM Grupp" divested SIA "BNS-Latvia" and SIA "Mediju Monitorings" with all assets to an independent third party – Estonian company OÜ "AMP Investeeringud".

42. However, during the merger review SIA "LETA" recruited majority of employees of SIA "BNS-Latvija" and SIA "Mediju Monitorings" without notifying such substantial changes to the Authority. The Competition Council concluded that the employees of news agencies are significant part of the asset and essential to their economic activity.

43. In merger notification and during the merger review merging parties are obliged to submit entire information, which fully reveals the nature and most significant stages of merger. The Competition Council concluded that by not reporting about changes to the conditions and facts of the merger OÜ "MM Grupp" prevented the Authority from making full review of the merger. In 2019, fine equal to EUR 32 200 was imposed on the OÜ "MM Grupp".

44. Later during court proceedings OÜ "MM Grupp" admitted the committed infringement and concluded an administrative agreement with the Competition Council.

2.6. Sector inquiries

45. In 2019, the Competition Council concluded sector inquiries into 10 markets.

2.6.1. *Transparent car insurance market*

46. In 2017, after significant increase of price of compulsory civil liability insurance of owners of land transport vehicles (OCTA), the Competition Council commenced sector inquiry in order to identify, what circumstances promoted such price changes, also with the aim to assess the risks of possible coordination.

47. In 2019, the Competition Council concluded inquiry, coming to a conclusion that the average range and amount of the increase of OCTA prices differs for each insurance company. However, not in all cases such price increases can be justified by the economic factors and poor OCTA financial indicators.

48. OCTA insurance is administered by insurers via Latvian Motor Insurance Bureau according to national legislation. Due such intensive cooperation market participants have access to essential individual commercial information and average historical data about the competitors. Such transparency provides significant benefits to insurance companies planning commercial offers in OCTA market, but not consumers. This situation makes OCTA system excessively transparent, allows insurance companies to monitor the market and adjust their activities to the behaviour of their competitors.

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

50. In order to mitigate the possibility of further increase of OCTA prices, the Authority encouraged the responsible institutions to make significant corrections. The Authority prepared specific proposals to the Ministry of Finance, the Financial and Capital Market Commission, and the Motor Insurers' Bureau of Latvia.

2.6.2. Latvian consumers have an unfavourable pricing mechanism for medicines

51. In 2019, the Competition Council concluded inquiry on reimbursable and non-reimbursable pricing mechanisms for medicines, comparing the situation in the Baltic states. The Competition Council concluded: even when manufacturers in Latvia provide lower wholesale prices for medicines than in Lithuania or Estonia, it turns out that in retail most medicines are more expensive for Latvian consumers due to the existing pricing mechanism affected by the regulations.

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

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

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

2.7. Improvements in the Legal Framework

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

56. Competition distortions caused by public administrative bodies are one of the most widespread problems of the competition environment in Latvia, which is confirmed both by the practice of the Competition Council, and public opinion studies. Harm caused to competition by public administrative bodies can manifest itself in various ways. However, most frequently observed infringements involve ignoring of the principle of competitive neutrality and discrimination of private entrepreneurs.

57. Ensuring a level playing field for businesses and public administrative bodies, a new provision is included in the Competition Law, which imposes a prohibition on public administrative bodies and their capital companies: a) to discriminate private companies, creating different competition conditions; b) to create advantages for a capital company, in which the public administrative body has direct or indirect participation; c) to implement activities, due to which another market participant is forced to leave any particular market or which burden entering or operating on the market by a potential market participant.

58. If the Competition Council identifies any competition distortion in the future, first it will carry out negotiations with the specific public administrative body in order to eliminate the alleged infringement. If the infringement will not be eliminated, the Competition Council will be entitled to impose a legal obligation and a fine on the capital company owned by the public administrative body, which may reach up to 3% of the net turnover of the capital company in the previous financial year.

59. The amendments to the Competition Law came into effect on 1 January, 2020. In 2019, the Authority already prepared competitive neutrality assessment guidelines for public administrative bodies to facilitate their adaptation to the new rule.

2.8. Impact on competition of public administrative bodies

60. Additionally to the powers gained for the Authority in the context of supervision of public administrative bodies entering into force on 1 January, 2020, the Competition Council also using advocacy tools deals with other activities of the public administrative bodies affecting competition in the market.

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

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

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

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

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

66. To facilitate adoption of regulatory framework that is favorable for competition, representatives of the Competition Council participated in 65 events advocating for the principles of fair competition, incl. in the Cabinet of Ministers, the Saeima, etc.

3. Management of the Competition Council

3.1. State Budget Financing

67. The planned costs (total) in the reporting year comprise EUR 1 304 484, and their execution – EUR 1 379 900. In 2019, the Competition Council acquired 99.44 % of the financing intended for (allocated to) the Authority. Please, see Table 3.

Table 3. Budget allocation of the Authority

No.	Financial indicators	Previous year (actual performance) EUR	Reporting year; EUR	
			Planned	Actual performance
1.	Financial resources to cover expenditures (total)	1 280 553	1 304 484	1 387 629
1.1.	Grants	1 280 553	1 304 484	1 387 629
1.2.	Chargeable services and other own income			
1.3.	Foreign financial assistance			
1.4.	Donations and gifts			
2.	Expenditures (total)	1 259 593	1 304 484	1 379 900
2.1.	Maintenance costs (total)	1 240 084	1 84 484	1 351 523
2.1.1.	Current expenditure	1 240 084	1 284 484	1 351 523
2.1.2.	Interests expenditure			
2.1.3.	Subsidies, grants and social benefits			
2.1.4.	Contributions to the European Community budget and international cooperation			
2.1.5.	Maintenance cost transfers			
2.2.	Expenditure on capital investments	19 509	20 000	28 377

3.2. Personnel

68. The Authority had 41 position filled at the end of 2019, out of whom 33 had the status of public service officials, and six – the status of employees. There were 49 positions in the list of positions in total, 42 of which were official positions and seven employees' positions.

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

70. Number of employees at each position:

- 3 Council Members;
- 1 Executive Director;
- 20 Case Handlers;
- 10 Support staff members;
- 3 Lawyers;
- 3 Economists;
- 1 Competition Policy Advisor.

71. Human resources applied to:

- Enforcement against anticompetitive practices – 23 (all employees in Legal department, Analytical department and Cartel department). Investigation typically is conducted by a team of one case handler and one lawyer from the Legal Department. In complex cases a project team of several employees is formed.
- Merger review and enforcement – 17 (all employees in Legal Department and Analytical department). Same employees do both, antitrust and merger review cases.
- Advocacy efforts – the Authority does not have exact calculation. In 2019, 3 Board members, and at least two legal counsels focused on advocacy activities. And at least one case handler in parallel with direct tasks was also actively involved in promoting competition culture and advocacy, as well as two persons from the Communication Division, and the Competition Policy Adviser.

72. The average age of personnel of the Competition Council is 36 years. 73% or 30 employees are women, and 27% or 11 employees – men.

73. In 2019, 73% of employees had a Master's degree. Considering the specific nature of the institution, the majority of employees have acquired higher education in either Legal or Economic fields. The rest have acquired education in Business Management, Communication Science and other fields.

74. During the year, employees of the Competition Council attended 37 training courses held by external lecturers, thus raising their professional competence on fraud prevention, data visualization, anti-corruption measures, processing of personal data, entrepreneurship and economics, as well as other topics. To ensure exchange of good practice in the organization and institutional memory, nine internal events took place in the

Competition Council in 2019, incl. training activities, which were implemented through assistance by the Authority employees.

3.3. Improving Performance of the Authority

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

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

77. In 2019, the Competition Council engaged in the IT project of the Ministry of Economics and authorities that are subordinated and supervised by it to strengthen and to streamline Authority management and the IT capacity. The overarching goal of the project is to ensure centralised, modern technology-based provision of information and communication technology services in the entire Ministry department, and to improve the level of digitalization of the main activity processes. The Competition Council contributes to the modernization of its investigation capacity by ensuring digitization of the case materials and improving accessibility to data from various state information systems.

78. In 2019, the Competition Council strengthened its investigation capacity, acquiring new electronic evidence gathering, processing and analysis software, thus starting improvement of the technical provision of the Authority, intended for more efficient investigation of infringements of the competition law. Although successful introduction was undermined by substantial rise of the staff turnover in 2019.

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

4. Communication with the Public

80. One of the key tasks of the Competition Council is promotion of fair competition by improving public understanding of competition law and impacts of violations on business environment and consumers. Improving public understanding increases intolerance towards violations of competition law, thus improving the capacity of the regulatory institution to discover or pre-emptively tackle violations.

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

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

83. To promote development of procurement environment, the Competition Council held eight seminars for organizers of public procurements thus strengthening the competence of this target group and capabilities to recognize features of bid-rigging among

tenderers. The Authority also held a number of workshops targeted to businesses to prevent their involvement into prohibited activities.

84. Taking into consideration that amendments to the Competition Law came into effect on 1 January, 2020, in the second half of 2019 the Competition Council focused on enhanced education of public administrative bodies on the new provisions of the law in accordance with “Consult at first” principle of state administration. The Competition Council educated public administrative bodies in five informative events in collaboration with the Latvian Association of Local and Regional Governments.

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

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

87. Alongside education of various target groups, the Competition Council organized or participated in public activities implemented by other organizations – conferences, forums, thematic events, etc. – in 2019. Among such events there were participation on the state administration Open Doors Day in cooperation with the Consumer Rights Protection Centre and on a popular conversation festival “LAMP” where the Authority offered the visitors to step into shoes of honest and dishonest entrepreneurs by participating in the role play game “Cartel” prepared by the Authority.

88. Alongside joint educational activities, the Competition Council had 32 inter-institutional cooperation meetings on various topics in 2019. Experts of the Authority also held more than 50 meetings with entrepreneurs and non-governmental organizations to discuss competition development and problem issues in various sectors and promote observing of principles of fair competition.

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

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

91. In 2019, the Competition Council also extended its communication channels and started development of the Competition Council Podcast on competition. In this podcast, experts offer to find out about topicalities of the competition law, decisions adopted or sector inquires carried out by the Authority, as well as about topics related to promotion of the competition culture, for example, reporting of infringements, in audio format.

5. Priorities for 2020

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

93. The first priority is to make more efficient and modernize competition surveillance and investigation of infringements in sectors significant for the national economy.

94. The second priority is to promote high competition culture, raising awareness of public benefits brought by fair competition.

95. Fulfilment of these priorities should facilitate development of sectors and entrepreneurship under conditions of unimpeded market economy and should create public benefits, available only under conditions of free and strong competition. Five main tasks are set for the authority according to the said main priorities in 2020.

5.1. To conduct investigation of the most severe infringements

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

97. In cases of indications of minor infringements, the Competition Council will continue the already successfully established practice and will use other preventive measures – warnings used only in cases, when market participants have come to attention of the Competition Council for the first time and the competition restriction has not caused consequences or may have minor effect on the market.

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

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

99. By introducing this new legal framework, the Competition Council will have two types of instruments. Firstly, instruments of consultative nature, intensively continuing the informative activities commenced in 2019 – meeting officials of state authorities and local governments, and explaining the principles of ensuring competitive neutrality, as well as having negotiations on remedies in cases of possible market restrictions. And secondly, use of enforcement if distortive action of public administrative bodies will not be terminated after negotiations.

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

101. In addition, intense and resource consuming consultations are expected due to significant increase of application of Section 88 of the State Administration Structure Law is expected in 2020. State and local governments before planning to establish a new

commercial company, continue their entrepreneurship activity or plan to extend it, are obliged to assess actual competition in the market and notify to the Competition Council for its opinion. Such legal and economic assessment has to be carried out at least once every five years for state and local government commercial companies. Majority of these capital companies have carried out their last assessment in late 2015.

5.3. To participate in improvement of regulatory enactments and markets

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

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

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

5.4. To educate, inform, consult

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

5.5. To strengthen the capacity of the Competition Council

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

107. To fulfil the main tasks set for 2020, the Competition Council plans to improve its internal processes, continue development of resource-efficient, socially responsible and active work environment, also starting transition to fully electronic case management, look for possibilities to recruit professional employees, and attract external experts.

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