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Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Poland

-- 2020 --

This report is submitted by Poland to the Competition Committee FOR INFORMATION.

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Poland

1. Changes to competition laws and policies, proposed or adopted.

1.1. Summary of the new legal provisions of competition law and related legislation

1. In 2020, the Act on interest subsidies for bank loans granted to undertakings affected by COVID-19 and on simplified proceedings for approval of an arrangement in connection with the occurrence of COVID-19, (hereinafter: Anti-Crisis Shield 4.0¹) was enacted. The Anti-Crisis Shield 4.0 changed some provisions of the Act on the control of certain investments.² The President of the Office of Competition and Consumer Protection (hereinafter: President of the Office or President of UOKiK) was granted additional powers to protect Polish enterprises whose business is of importance to public order, public security or public health. The President of UOKiK received a competence to protect Polish strategic entities against takeovers by those from third countries (entities domiciled outside a Member State of the European Union or individuals being nationals of countries other than EU Member States).

2. Upon entry of the Anti-Crisis Shield 4.0 into force, each investment falling under the provisions laid down in this Act which results in the acquisition, gaining of substantial participation or acquisition of dominance by entities and/or individuals domiciled outside of the European Union Member State, the European Economic Area (EEA) and the Organisation for Economic Cooperation and Development (OECD) and shall be placed under the supervision of the President of the Office. The new regulations on control of certain investments shall be in effect for a period of 2 years. Transactions involving the acquisition of a substantial number of shares (i.e. at least 20 per cent) in such companies will be subject to review by the President of the Office.

3. Pursuant to the amendment to the Act on the control of certain investments, President of UOKiK will be able to protect entities based in Poland that are crucial for maintaining public safety, order and health, *inter alia*:

- conducting business activities related to: power, gas, fuels, telecommunications, food processing, manufacture of medicines, chemicals and fertilizers, explosives, weapons and ammunition, as well as military and/or police technologies;
- developing software for core services for society, such as energy, fuels, water supply, cash supply, card payments, hospitals, sales of prescription drugs, transport and food supply, and
- public companies regardless of the type and sector of activity.

4. The prerequisite for protection is also a sufficiently high revenue of the company - it must exceed the equivalent of EUR 10 million in Poland in one of the two financial years preceding the intention to take it over.

¹ Act of 19 June 2020 on interest subsidies for bank loans granted to undertakings affected by COVID-19 and on simplified proceedings for approval of an arrangement in connection with the occurrence of COVID-19 - <https://dziennikustaw.gov.pl/D2020000108601.pdf>

² Act of 24 July 2015 on the control of certain investments - <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20150001272/U/D20151272Lj.pdf>

5. Detailed information is available on the UOKiK website under the title: *“Procedural guidelines for submitting notifications to the President of UOKiK and conducting proceedings covered by the provisions of the Act of the control of certain investments”*³.

1.2. Other relevant measures, including new guidelines.

6. In 2020, the organizational structure of UOKiK changed twice. These actions were aimed at improving efficiency by centralizing certain competences, improving communication and shortening paths of procedures. The following units were created:

- Department for Bid Rigging Prevention (DBRP) - performs the tasks of the President of UOKiK regarding competition protection in the area of combating bid rigging, i.e. anti-competitive practices consisting in tenderers agreeing on the terms of their bids submitted, in particular on the scope of works or the price.
- Department of Contractual Advantage (DCA) - coordinating the tasks of the President of UOKiK specified in the Act of 12 July 2012 on Counteracting the Unfair Use of Contractual Advantage in Trade in Agricultural and Food Products. The DCA performs its activities primarily by conducting preliminary and administrative proceedings, including by issuing decisions, as well as by addressing recommendations to undertakings.
- Department for Analysis Development (DAD) – the department's primary task is to carry out an analysis of the likelihood of excessive late payment in the settlement of financial obligations by entities. The DAD cooperates with the National Revenue Administration with regard to information provided to the President of the Office.
- International Cooperation Office (ICO) - The ICO supports the President of UOKiK in communication with the European Commission, coordinates the cooperation within the European structures in the field of competition and consumer protection, while remaining in constant touch with bodies responsible for the enforcement of consumer protection law in another countries (ECN, CPN, CPC). Outside the EU, the Office is involved in the work of the ICN, ICPEN and OECD.
- Department of Communication - carries out tasks related to media as well as advocacy and educational tasks.
- Office of IT and Security is responsible for planning and implementing tasks related to the maintenance and development of IT systems of the Office and ensuring property protection.

7. At the beginning of the 2020, the President of UOKiK announced that cooperation with the General Counsel to the Republic of Poland (hereinafter: PGRP) would be increased. Main mission of PGRP is to provide high quality legal services at the stage of negotiations and amicable settlement of disputes. PGRP provides litigation representation and legal advice to state bodies using new technologies. The cooperation between UOKiK and PGRP will be strengthened at the appeal stage, where the PGRP where UOKiK will be able to request such assistance. The key aim of this partnership is to enhance the Office's activity at the judicial levels by using the PGRP's knowledge and experience. Cooperation

³ *Procedural guidelines for submitting notifications to the President of UOKiK and conducting proceedings covered by the provisions of the Act of the control of certain investments* - https://www.uokik.gov.pl/news.php?news_id=16638&news_page=11

with the PGRP will make the Office even more able to protect competition and consumers, whereas lesser burden related to court proceedings will enable employees of the UOKiK to focus their attention to a greater extent on new proceedings.

8. In 2020, President of UOKiK published detailed Explanations on the method of determining the amount of fines for managers.⁴ In order to comply with the requirement of proportionality, the amount of the fine shall be determined in several stages involving both objective and subjective circumstances. First of all, the President of UOKiK will take into account the nature of the infringement - its severity, consequences, and scale. The most severely fined will be arrangements made among competitors. However, the President of UOKiK also intends to deal rigorously with certain categories of agreements concerning relations between undertakings operating at different trade tiers (e.g. producer-wholesaler, wholesaler-retailer). Such agreements covering different trade tiers may include, inter alia, the setting of minimum resale prices and a ban on passive sales.

9. Another important prerequisite for determining the amount of the fine is the manager's impact on the infringement which can be: high, medium or moderate. In the next step, the President of UOKiK will take into account aggravating and extenuating circumstances. The former include, for example, the role of the organiser, the significant benefits obtained by the manager, exerting pressure on others to commit the infringement, as well as previous record of a similar infringement. Extenuating circumstances include forced action or cooperation with UOKiK during the proceedings. The amount of sanctions will also be affected by the duration of the infringement for which the manager is responsible. President of the Office will also investigate whether a manager has previously breached the Act on competition and consumer protection. This concerns infringements other than those for which they have been currently held liable (similar offences have already been included as aggravating circumstances).

10. Finally, President of UOKiK will verify whether the sanction is adequate in relation to the manager's income and whether it will have a dissuasive effect. He will also make sure that the fixed amount does not exceed the maximum fine of PLN 2 million. All these stages are aimed at issuing a decision in which the fine imposed will be fair.

1.3. Government proposals for new legislation.

11. Not applicable

2. Enforcement of competition laws and policies

12. In 2020, the total amount of all penalties imposed by decisions of the President of the UOKiK was: PLN 30,882,040,343.62 This amount of penalties was calculated in the context of a merger control, abuse of dominance, agreement restricting competition and using of a contractual advantage. Also UOKiK initiated 64 proceedings to determine whether the case is antitrust, and 7 antitrust proceedings. The Office received 3 leniency applications and issued 273 decisions in the area of competition, including:

- 243 consents (conditional and unconditional) for concentration;
- 15 antitrust decisions (except for interim decisions) including 12 decisions on horizontal agreements;

⁴ *Explanations on the method of determining the amount of fines for managers* – https://www.uokik.gov.pl/news.php?news_id=16655&news_page=11

- 5 decision imposing a penalty in relation to antitrust and 5 decisions regarding mergers;
- 5 decisions related to contractual advantage.

2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions

2.1.1. Summary of activities of:

Competition authorities;

13. In 2020, the President of UOKiK conducted a number of investigations on undertakings whose conduct may have had an impact on internal market what triggered of the competition law. The above-mentioned proceedings concerned, inter alia, the following markets: transport, heat, office equipment and construction.

Bid rigging of Airbus Poland, Adriana Aviation, Aeroklub Podhalański, Aeroklub Ziemi Lubuskiej, Blue Star and Gwiazda PPHU engaged in fox rabies vaccination

14. Red foxes (lat. *vulpes vulpes*) are the main wildlife carriers of rabies virus. One of the most effective ways to fight this disease are vaccines dropped from planes to the foxes' living quarters, such as forests and meadows. UOKiK passed a decision in which it stated that six companies were involved in the provision of such services had implemented a bid-rigging scheme. Evidence obtained by the Office shows that these businesses concluded an agreement in which they agreed the conditions of participation in bids for oral rabies vaccine bait drops organized by the Provincial Veterinary Inspectorates. Above mentioned businesses agreed that they would not compete against each other and would submit bids jointly. If any of them wanted to bid for a contract on its own or become a subcontractor of another entity, it had to obtain a consent from others. Based on the investigation as well as collected evidence, the President of UOKiK imposed fines on those entities in the total amount of PLN 2.7 million for participating in the bid rigging.

Proceedings concerning bid rigging - Firma Transportowo Turystyczna „Jakubas” Krystyna Jakubas, Firma Transportowo Usługowa Magdalena Jakubas and Euro Bus Marek Jakubas

15. In 2019, the Office has launched an investigation into bid rigging against 3 undertakings who competed in tenders for the transport of students to schools. UOKiK suspected that they may have used a bid rigging and withdrawal mechanism. If their proposals were the most advantageous, then the winner of the tender would withdraw from signing the contract. This could have been an intentional measure which was supposed to lead to selection of a more expensive bid by the municipality. According to the information gathered by the Office, above mentioned companies jointly tried to influence the outcome of 10 public procurement contracts, of which in 6 cases they succeeded, so in 2020, President of UOKiK imposed fines in the total amount of nearly PLN 200 thousand on the participants of the bid rigging.

Polmass and Ekoplón

16. Producers of feed for breeding animals – Polmass and Ekoplón – have concluded competition-restricting agreements. They shared two markets, thus limiting customers in their free selection of products. Findings of UOKiK indicates that businesses concluded market-dividing agreements under which they did not sell their products to clients of the

other party to the agreement, even if a potential trading partner contacted them on their own. The agreements were related to two groups of feed products used for rearing cattle – milk replacers as well as mineral and vitamin mixtures. As a result of the collusion between companies, cattle farmers or feed sellers could not choose products freely. If they had been clients of one company before, they could not purchase products of the other one. Consequently, the market offers for farmers and cattle farmers as well as feed sellers was limited. The fine imposed on Polmass and Ekoplon was approximately PLN 17 million.

Yamaha Music Europe

17. Yamaha Music Europe is a manufacturer of musical equipment marketed under the Yamaha, Line 6 and Steinberg brands, marketed, inter alia, in Poland. Since 2004, the company has been setting prices using a specific mathematical formula, and then the price list available on the Internet was the basis for determining minimum prices. Furthermore, the representatives of Yamaha have been setting minimum selling prices for products directly to online stores. Due to the price collusion, consumers were overpaying for musical equipment on the Internet for 13 years. Not only did Yamaha enforce prices, but it also monitored their adoption, intervening if one of its contractors tried to sell equipment cheaper. In the course of the proceedings, Yamaha filed a request to waive or reduce the penalty under the leniency programme. Yamaha could not count on being granted a full immunity from penalty, as the evidence gathered showed that the company urged its business partners to participate in the collusion. The company, however, was granted a 50 percent reduction in the penalty as it cooperated with the UOKiK and provided substantial evidence of the existence of the collusion, which proved useful in issuing the decision. Also, the enterprise got an additional 10% reduction in the fine since it had voluntarily yielded to the penalty. Such a solution is beneficial both for the undertaking (reduced sanction) and the Office (chance to conclude the case faster).

Collusion on Warsaw heat market - first penalty for manager

18. Warsaw's heating system is the largest of its kind in all of European Union. The key players include the following entities: Polskie Górnictwo Naftowe i Gazownictwo S.A. (hereinafter: PGNiG) Termika – as far as generation of heat is concerned, and Veolia Energia Warszawa - in terms of distributing heat and selling it to end-users, such as housing co-operatives, homeowner associations, businesses, schools and offices. According to information gathered by UOKiK, the company concerned concluded a competition-restricting agreement that was in effect from 2014 to 2017.

Courts:

19. Due to COVID pandemic and partial administrative lockdown some procedural limitations appeared. However, in the cases that were heard, the Office was very successful.

PGNiG - Case No. I NSK 105/18

20. In 2020, the litigation against PGNiG was over and subsequent decision was finally decided. The case concerned a decision imposing a fine for non-compliance with UOKiK 2013 commitment decision regulating PGNiG's actions on the gas market. UOKiK's non-compliance decision was confirmed by the competition court, then the court of appeals, and in 2020 by the Supreme Court. The rulings in the case was important, as it is not very often that undertakings which approach the Office with commitments decide not to comply with them.

PHU Jubiler Sp. z o.o. Case No. VII AGa 363/19; Anyo – Case No. VII AGa 330/19

21. The court of appeals gave its ruling on the 2015 Offices decision.
- In the case of PHU Jubiler Sp. z o.o., the Court of Appeal found that an agreement restricting competition had been concluded between undertakings.
 - In the case of Anyro, the Court of Appeal overruled the judgment of the Court of Competition and Consumer Protection (hereinafter: SOKiK) and referred it for re-examination by SOKiK (to answer, inter alia, whether an agreement restricting competition has been concluded). The SOKiK in its judgment from 2020 (Case No. XVII Ama 14/20) stated that there was an agreement restricting competition between parties.
22. Nevertheless, these judgments are noticeable and important for one another reason. The Court of Appeal returned to the correct line of jurisprudence, according to which the resale price maintenance agreements, are agreements which restrict competition by object and it is not necessary to examine their anti-competitive effects.

Cement cartel - Case No. I NSK 8/19, Bombardier - Case No. I NSK 110/18

23. In 2020, we also welcomed two other judgements by the Supreme Court.
- Firstly, in relation to the largest cartel investigation – the cement cartel. Here, the UOKiK 2009 decision was upheld by the court and the complaint regarding a 2018 court of appeals judgement was partly accepted.
 - Secondly, in relation to our 2014 bid-rigging decision concerning Bombardier and a number of other undertakings. In this case, the Supreme Court confirmed that the first and second instance courts erred when they refused to analyse evidence presented by the President of the Office during the proceedings, which also led them to overturn the decision. More precisely the courts' error was that they rejected the evidence without examining whether it was admissible. The case will need to be heard again.

2.1.2. Description of significant cases, including those with international implications

24. To In 2020, the President of UOKiK imposed a record-high fine exceeding PLN 29 billion on Gazprom and a fine over PLN 234 million on 5 other companies participating in the gas pipeline construction, which is a result of the lack of Office consent for the deal. The entities involved also have to terminate contracts concluded for financing the Nord Stream 2 (hereinafter: NS2) gas pipeline. The unprecedented decision and the imposition of the maximum penalty are the outcome of the proceedings UOKiK has concluded with regard to a company that is responsible for constructing and operating Nord Stream 2 gas pipeline without the required consent of the President of the Office. Charges against six economic operators were pressed in this particular case two years ago. The entities concerned included: Gazprom from the Russian Federation, the French Engie Energy (country of registration: Switzerland), the German Uniper, the Austrian OMV, the Dutch-British Shell and the German Wintershall (the last four companies are registered in the Netherlands). The investigation conducted by UOKiK has shown that 6 companies (participants of the Nord Stream 1 consortium) concluded, without having received the approval to establish a joint venture, a number an agreements concerned with the financing of NS2, which effectively confirmed their significant and indispensable role in the entire project. The agreements concluded between participants were concerned both with

financing and a number of other authorizations, such as, for instance, the ability to interfere with the operation of NS2.

25. Furthermore, by establishing a pledge on the stocks of NS2, the financing parties became “quasi” stockholders of that company - in the event of its default under the loan agreement, they would be entitled to take over the stocks of the company constructing the gas pipeline. The advantages and obligations stemming from participation in the undertaking were clearly defined for all parties involved. Accordingly, the investigation revealed that the Companies acted intentionally. Based on the above, as a result of the investigation, the companies financing the gas pipeline were acting knowingly. Therefore, they have been penalized with the highest financial sanctions available, equalling, in each case, 10% of their annual turnover. Additionally, the President of UOKiK ordered the parties involved to terminate the agreements concluded in order to finance NS2. This will reinstate the state of competition from prior to the concentration. The parties appealed the decision to the SOKiK.

2.2. Mergers and acquisitions

2.2.1. Statistics on number, size and type of mergers notified and/or controlled under competition laws;

26. In 2020, the Office conducted 264 merger proceedings. 233 mergers were cleared in phase I and 10 mergers were cleared in phase II. The UOKiK distinguishes between so-called “phase I” and “phase II” proceedings. An in-depth review is defined as one that takes place when a case is transferred to the phase II. Such transfer is initiated when the case is complex and requires market inquiry or preliminary assessment shows competition issues that need to be investigated. According to Article 96a of the Act of Competition and Consumer Protection (hereinafter: Competition Act), UOKiK may initiate phase II in cases:

1. which are particularly complicated,
2. in which it appears from the information contained in the notification of intent to concentrate or from other information, including information obtained by the President of the Office in the course of conducted proceedings, that there is reasonable probability of competition being impeded on the market as a result of the concentration, or
3. where a market study is required.

27. In 2020, the average number of days that in-depth merger reviews lasted 190 days. It is worth to note, that in “phase I”, the average number of days lasted 33 days, as in this phase there are more than 95% cases.

2.2.2. Summary of significant cases

Conditional consent to concentration between Vectra and Multimedia Polska

28. In 2020, there was one merger resolved with remedy. The case involved a merger between two cable TV and Internet providers (Vectra and Multimedia). UOKiK identified competition concerns and referred the case to the second stage of the proceedings and raised objections to the transaction.

- After negotiations with the parties, UOKiK gave a conditional consent to a concentration allowing Vectra to takeover Multimedia, on condition that it sells the chain in eight towns, and in 13 other it provides consumers with an opportunity to

change the operator. Vectra and Multimedia, operate on the market of cable television and provide services for accessing the Internet.

- Vectra should set up new companies to which it will transfer both tangible and intangible assets, including contracts with subscribers, telecommunications infrastructure, contracts with employees, accounting and technical and subscriber databases in the above-mentioned towns. Then these companies should be sold to an independent investor that cannot be a member of the Vectra capital group or be jointly controlled by any entity from this group. The buyer must be accepted by UOKiK.
- Once new companies are sold, they are obliged to provide access to pay-TV and broadband fixed-line Internet at least at the same level Vectra or Multimedia provided their services. In addition, Vectra should not take any marketing actions to acquire subscribers until the companies are sold.
- Within seven months of the decision becoming valid, Vectra must notify its customers that during the next nine months they may terminate the contract for access to pay-TV and/or broadband fixed-line Internet free of charge. It should apply to contracts with Vectra and its subsidiaries, including Multimedia.

The Dino Polska chain took over some of the Domex-Kuśnierek assets without consent

29. On December 21, 2019 the owner of Dino notified UOKiK of its intention to purchase some of the Domex-Kuśnierek assets, namely 12 stores. In the application, the company announced that the transaction would be carried out in three stages, i.e.: (1) purchasing the real estate, (2) leasing it to Domex-Kuśnierek and (3) taking over tangible and intangible assets of the stores having obtained the consent from the President of UOKiK. The Office decided that on the day of filing the application, Dino had already owned 12 stores run by Domex-Kuśnierek based on a lease agreement. Furthermore, Dino shaped the prices of goods and the terms of delivery and sale based on a franchise agreement. Dino chain acquired these stores without UOKiK's prior consent. The Office imposed a fine in the amount of PLN 100 000 on the company for breaking the competition law.

Fines for concentration without the consent of the President of the Office – AmeriGas Polska

30. AmeriGas took over control of the Gas Distribution Center in Gdynia without obtaining the prior consent of the President of UOKiK despite the fact that the entity was obliged to do so. The companies entered into a lien agreement that guaranteed AmeriGas additional powers to influence key management decisions of the Gas Distribution Center. Conclusion of a lien agreement on shares or stocks, pursuant to the provisions of the ACCP, does not require the consent of the President of UOKiK, provided that the firm does not exercise the rights arising from those shares or stocks (except for the right to sell them). AmeriGas, in turn, exercised these rights, e.g. by blocking the sales of an organized part of the assets of the Gas Distribution Center, which was then partly acquired by AmeriGas. Based on the above, the fine imposed on AmeriGas by President of the Office was PLN 730 000.

Fines for failure to provide information during the proceedings – Linde Gaz Polska

31. Another decision imposing a financial fine concerns Linde Gaz in Kraków, which failed to provide the information requested by UOKiK. When assessing one of the reported cases of concentration on the liquid carbon dioxide market, the President of the Office decided to conduct a market study and addressed questions to all the undertakings operating in this sector. Under the law, they are obliged to provide all necessary information and documents, otherwise they risk a financial sanction. As Linde Gaz failed to respond within the deadline, the President of UOKiK has instigated an investigation procedure for imposing a fine. The fine imposed on Linde Gaz was PLN 120 000.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

32. There were innumerable occasions to appear before lawmakers due to the fact that UOKiK is continuously involved in legislative processes. UOKiK acts in the following roles in the legislative process.

- First, UOKiK prepares and submits to the Council of Ministers legislative proposals concerning the protection of competition and consumers. In 2020 UOKiK was preparing draft act transposing Directive (EU) 2019/1 of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market.
- Second, UOKiK participated in works conducted by other governmental bodies regarding two other acts (transposition of the Directive (EU) 2019/633 of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain, Anti-crisis shield 4.0 – provisions regarding control of takeovers of enterprises whose business is of importance to public order, public security or public health).
- Third, UOKiK participates in the governmental legislative processes and evaluates drafts of legal acts in terms of their impact on the competition and compliance with competition protection provisions. In 2020 UOKiK reviewed approximately 550 drafts.

4. Resources of competition authorities

4.1. Resources overall (current numbers and change over previous year):

33. As per the act of 2020 the planned budget for UOKiK was PLN 102 511 000 giving an increase of 30,58% compared to PLN 78 506 736 in 2019. However, due to the reasons listed below, the planned budget of 2020 needed to be decreased to PLN 95 573 718, still giving an increase of 21,74% compared to 2019.

- Blockade of funds for the purpose of battling Covid19;
- A transfer of total of five control units - analytical laboratories to the Trade Inspection for the Quality of Consumable Goods, this included a transfer of 53 employees of those units;

- A reduction of a budgetary plan due to the implementation of the Technical Assistance Operational Program (Decision of the Ministry of Finance).
34. Regardless of the above, the budget for the salaries of UOKiK employees increased considerably in 2020 relative to 2019.

4.1.1. Annual budget (in your currency and USD):

Table 1. The UOKiK's annual budget, according to the Budget Act, after changes

PLN 95,573,718.00	USD 25,429,363.03
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4.1.2. Number of employees (person-years):

- Economists – 116;
- Lawyers – 232;
- other professionals – 32;
- support staff – 155;
- all staff combined – 535;

4.2. Human resources (person-years) applied to:

4.2.1. Enforcement against anticompetitive practices

35. There were 177 people at the Office who worked on competition enforcement.

4.2.2. Merger review and enforcement

36. There were 15 people at the Office who worked on merger review and enforcement.

4.2.3. Advocacy efforts

37. In 2020, several advocacy initiatives were undertaken or continued in the following:

- There was created a website http://www.uokik.gov.pl/dla_przedsiębiorcow.php which contains valuable information for undertakings regarding business conditions during pandemic COVID-19. Section entitled "*Coronavirus and competition law - Guidelines for Undertakings*" contains, *inter alia*, a special email address: covid-konkurencja@uokik.gov.pl for undertakings to receive an informal information from UOKiK for understanding whether their actions caused by the epidemic are in compliance with competition law.
- A website <https://konkurencja.uokik.gov.pl/> presents the most important issues concerning the activities undertaken by the President of the Office in the field of competition protection. This website promote awareness of antitrust law, including special sections devoted to the leniency and whistle-blower programme. The latter contains a link to an external online platform which enables individuals to report any anticompetitive practices anonymously, a package of information on the procedure and the nature of infringements which can be notified to the Office.

- Completion of online training "*Conscious Orderer - Competition Law in Public Tenders*". The project was implemented in 2017-2020 from the European Social Fund under the Operational Programme Knowledge Education Development 2014 – 2020. The aim was to increase the knowledge of competition law in public procurement, in particular among employees of the public administration, dealing with the conduct of tender proceedings. 4,285 users registered on the platform.
- Competition Week (December 7-11, 2020) conducted online including a campaign on aspects of competition law based on recent decisions, leniency programme, voluntary submission to penalties, the whistle-blower programme, a discussion between President of the UOKiK Mr. Tomasz Chróstny and President of the Bundeskartellamt Mr. Andreas Mundt and a video message from Director-General of DG COMP Mr. Olivier Guersent
www.uokik.gov.pl/komentarze_wyjasnienia_i_stanowiska.php?news_id=17019
- The 11th edition of the competition for Master's thesis and an ongoing competition for the doctoral thesis.
- A book "*Antitrust proceedings in the case law of the European Court of Human Rights*" published in UOKiK's website. In addition, the Office published on its website extensive procedural clarifications and the conduct of proceedings covered by the Investment Control Law (part of the Anti-Crisis Shield 4.0):
www.uokik.gov.pl/news.php?news_id=16638&news_page=11.
- Moreover, clarifications have been published on how to assess fines for managers responsible for conducting anticompetitive agreements:
www.uokik.gov.pl/news.php?news_id=16655&news_page=11. UOKiK published 45 antitrust press releases and held 3 press conferences dedicated to this area.

38. In 2020, President of UOKiK remained an active member of the Standing Committee of the Council of Ministers and of the Committee for European Affairs as well as Polish Financial Supervision Authority. Both committees are responsible for relevant legislation with ministers sitting in them which has given the President many opportunities to impact policy-making. Moreover, in 2020, President of UOKiK joined the Economic Crisis Staff, chaired by the Prime Minister (the team also included the Minister of Finance, Economy or the Head of the Central Bank) as well as became a member of the board of the Polish Economic Institute - an economic think tank of the Polish government. This involvement reflects the importance of UOKiK in national law-making process and deepens interaction possibilities with lawmakers, officials and government leaders, including law-making.

4.3. Period covered by the above information:

39. The above information concerns the period from 1 January 2020 to 31 December 2020.

5. Summaries of or references to new reports and studies on competition policy issues:

5.1. Market study on municipal waste management services in installations 2014-2019

40. In 2019, UOKiK published a report on waste management in municipalities (*urban gminas and urban communes*). The report examined the situation in all the municipalities

(*urban gminas and communes*) in Poland and identifies the reasons for the increase in fees that households pay for waste collection.

41. In 2020, second stage of the study was examination report on waste management services in installations. The examination covered the market situation in 2014-2019 and included all facilities using Poland's most popular mechanical biological waste treatment method - 171 facilities in total. Most of them are managed by public capital operators, mainly local governments, and about 30% of the companies operating the facilities are private-owned. As the Office's report shows, the facilities' operating costs increased by over 30% between 2015 and 2018. The major reasons were as follows:

- Rising costs of managing the calorific (combustible) fraction, i.e. processed mixed waste to be incinerated in the form of the so-called refuse-derived fuel (RDF). In recent years, facilities have had to pay up to four times more for incinerating this waste than before
- Increased cost of storage of the so-called subscreen fraction remaining after the recycling of raw materials. This is mainly due to a significant increase in the so-called marshal fee. Its increase was largely driven by EU requirements to reduce the amount of waste deposited in landfills.
- Problems in the market of raw materials to be recycled, mainly paper and plastics. The main reason for this is the drop in the price of secondary raw materials recycled by the facilities, which is due to China's ban on imports of this waste.
- In his report, the President of UOKiK did not limit himself to identifying problems and reasons for the increased prices. He also set out recommendations on how to improve the market performance. In the context of the lack of competition on the market, one idea worth considering is greater supervision of the industry. This would require a market regulator to monitor costs and prices until sufficient and reasonable competition in the waste collection and treatment industry has evolved. This would protect municipalities and residents against uncontrolled increases in prices.
- The gminas, i.e. communes, also have an important role to play. They should engage in a more active policy aimed at boosting competition among facilities, following last year's regulatory amendment. Price competition would also be fostered by local government investments in increasing the facilities' production capacity.
- The President of the Office also outlined some proposals which, if implemented, would result in lower costs for facilities. The first one is further investment in increasing the potential for managing combustible fractions stored in warehouses. At present this task is outsourced to external commercial entities, mainly cement plants, which increases costs significantly. The Office also supports the proposals of the Ministry of Climate to establish a new packaging waste management system and to increase the scale of industry-financed recycling, as well as measures to separate waste at source and the deposit system. This too, should further reduce the facilities' operating costs.

5.2. 30 years of competition protection in Poland

42. In 2020, UOKiK has celebrated 30 years of competition protection in Poland. Initially, the responsibilities of the Anti-monopoly Office included control of the ownership transformations of state-owned enterprises and the merger of market players as well as

combating monopolistic practices through eradication of market position abuse and anti-competitive alliances. Over the years, the President of the Office has gained new powers in the field of broadly understood competition protection.

- Since 2000 the Office has been monitoring public aid granted to the Polish businessmen, and since 2004 it has been coordinating its proceedings in front of the European Commission.
- Since 2017, under the Act on Counteracting the Unfair Use of Contractual Advantage, the President of the Office has been intervening in the agri-food market to eradicate unfair commercial practices against weaker market players such as farmers.
- Effective from 2020 the Office has been equipped with the power to combat payment backlogs with an option to impose penalties on the largest debtors.

43. During the 30 years, the President of the Office issued 4250 decisions on anti-competitive practices and 12 143 decisions on corporate structure. Between 2002 and 2019 The President of the Office issued 3485 merger control decisions, 1599 decisions on the abuse of dominant market position and 404 decisions on competition restricting agreements. In total, in 2000-2019, the President of the UOKiK imposed over PLN 1.36 billion of fines for entering into anti-competitive agreements and almost PLN 620 million of fine for abuse of the dominant market position