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**COMPETITION COMMITTEE**

## Annual Report on Competition Policy Developments in Estonia

-- 2021 --

The report is submitted by Estonia to the Competition Committee FOR INFORMATION.

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## *Estonia*

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## 1. About the Estonian Competition Authority<sup>1</sup>

1. The Estonian Competition Authority exercises state supervision in the fields of competition, electricity, natural gas, district heating, postal services, public water supply and sewerage, railways, and ports. In addition, the Authority resolves disputes and complaints related to airport and port charges and monitors unfair commercial practices. The Authority is in the area of government of the Ministry of Justice.

2. The functions of the Authority are divided between two divisions. **The Competition Division** supervises competition, controls mergers, analyses the competition situation in various sectors, and raises competition awareness. As of 1 November 2021, the Competition Division also monitors unfair commercial practices. **The Regulatory Division** supervises and regulates prices in the areas of electricity, natural gas, district heating, and water. The focus of the divisions is on controlling these sectors and in the rail and postal services market. Additionally, the Authority resolves disputes related to airport and port fees. The **Cooperation and Support Services Department** is responsible for ensuring effective support services (including international and public relations, personnel work, organisation of trainings and events, and property and document management).

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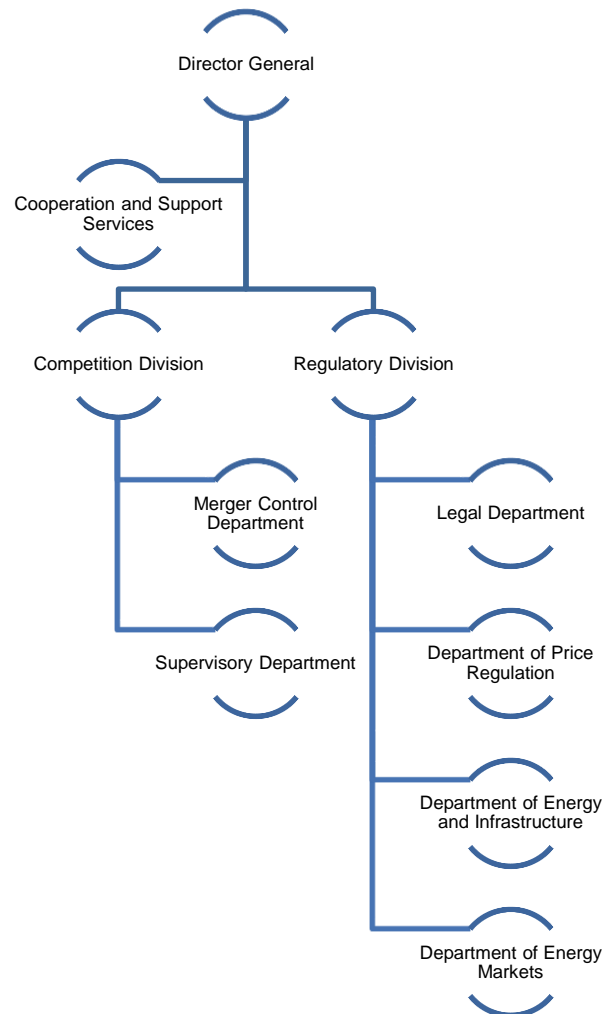
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Figure 1. Structure of the Estonian Competition Authority



3. The Estonian Competition Authority employed **42** people as at the end of the year 2021, of whom 39 were officials and 3 were employees. 69% of them were women and 31% were men. The average age of a staff member was 45 years and the average number of years spent working at the Authority was 12.5.

4. Most staff members have higher education in economics or law. In addition, there are employees who specialise in, for example, thermal engineering, public administration, and materials technology.

5. As an employer, the values of the Authority are employee friendliness, flexibility, focus on innovation, and transparency in internal communication. In order to follow these values in everyday life, the Authority participates in the Family-Friendly Employer Label Programme, which is a good opportunity to analyse all aspects of employee experience, promote job satisfaction and commitment, and therefore be more efficient in performing the core functions of the Authority. The programme covers various categories related to employee experience, from recruitment, the creation of a physical work environment, to the flow of information in the organisation and promotion of health. The interim evaluation of the programme took place in autumn 2021 and was a success for the Authority. In addition, useful suggestions were made regarding topics that could be further addressed. The final evaluation of the label will take place in 2022.

6. In the second half of 2021, preparations were made for merging the support services of the Estonian Competition Authority, the Estonian Data Protection Inspectorate, and the Estonian Patent Office to save public costs and create synergies. The joint Cooperation and Support Services Department of the three agencies started working within the Estonian Competition Authority in the beginning of 2022. The services portfolio of the new department includes:

- information management and communication;
- personnel management;
- administrative organisation;
- management of state assets and funds;
- financial accounting and reporting;
- foreign relations;
- coordination of development projects.

7. The agencies are relatively small, so it was useful to bring together their different competencies. The Cooperation and Support Services Department provides an opportunity for a better distribution of tasks with an uneven volume, development opportunities and competitive conditions for employees, and modern solutions for the agencies. When merging support services, the processes are reviewed and duplicated activities or activities with very little impact are eliminated.

## 2. Cooperation

8. The Estonian Competition Authority participates in the work of working groups and associations in various fields of activity. Most of the international communication takes place through various cooperation networks and organisations, but also in the form of bilateral relations.

9. The **European Competition Network (ECN)** is the forum for cooperation between the Directorate-General for Competition of the European Commission and the national competition authorities. The European competition rules are applied by all members of the network, and the uniform application of the rules requires the exchange of information and the sharing of best practices.

10. **European Competition Authorities (ECA)** is an informal network of competition authorities from the European Union, the European Commission, and the competition authorities of the EFTA States to discuss competition issues and share experiences.

11. The **OECD Competition Committee** is a committee of the Organisation for Economic Co-operation and Development that focuses on competition issues in the region covering all its member countries.

12. The **International Competition Network (ICN)** is a global network of competition authorities of very different sizes and capacities from every region in the world. The network is informal and aims to maintain contacts and a common understanding of competition rules and their implementation.

13. The **Agency for the Cooperation of Energy Regulators (ACER)** has a key role to play in developing common EU network and market rules to increase competition. The Agency coordinates regional and trans-regional initiatives promoting market integration. It

monitors the work of the European Network of Transmission System Operators for Electricity and the European Network of Transmission System Operators for Gas, in particular their EU-wide network development plans.

14. The **Council of European Energy Regulators (CEER)** was established for the cooperation of the independent energy regulators of Europe. The Council seeks to facilitate the creation of a single, competitive, efficient, and sustainable EU internal energy market.

15. The **Energy Regulators Regional Association (ERRA)** is an international association of energy regulators established in 2000 to exchange information between energy regulators.

16. The aim of the **OECD Network of Economic Regulators** is to exchange different regulatory practices in different sectors and to compare the effectiveness and independence of regulators.

17. The objective of **Regional Gas Market Coordination Group** is to develop a single Baltic and Finnish gas market. The aim of the regulators is to develop a unified pricing scheme based on input-output points.

18. The **European Water Regulators (WAREG)** was established under the leadership of 12 European water regulatory or development organisations. The WAREG working group on regulation monitors the implementation of benchmarking in the water regulation of different countries, and the institutional working group addresses the issue of affordability of water services.

19. The **Independent Regulators' Group-Rail (IRG-Rail)** is a group of independent national rail regulators made up of representatives from 29 countries. The IRG-Rail analyses changes to the legislation planned by the European Commission and proposes the necessary additions or amendments.

20. The **European Network of Rail Regulatory Bodies (ENRRB)** is an institution set up by the European Commission to bring together national rail regulatory bodies and it includes representatives from the Member States of the European Union. The main task of the ENRRB is to assist the European Commission in the preparation of legislation and to facilitate active cooperation and exchange of information between national railway regulatory bodies.

21. The members of the **European Regulators Group for Postal Services (ERGP)** are EU Member States. The role of the ERGP is to advise the European Commission in the field of postal services and to promote cooperation and communication between the Member States and the European Commission.

22. The role of the **European Committee of Postal Regulation (CERP)** is to examine postal regulation issues in a European context, while also considering regulatory changes. The CERP also assesses the impact of international regulation on countries and liaises with relevant international postal regulatory organisations.

23. European Working Groups of the **Universal Postal Union (UPU)**. The UPU is the main form of cooperation between the parties in the postal sector. The UPU also acts as an advisor and contact point, providing technical support as needed. The UPU establishes rules for international correspondence and makes recommendations to promote the growth of letter, parcel, and financial services and to improve the service quality for users.

24. The Estonian Competition Authority cooperates most closely with colleagues from neighbouring countries. Annual meetings are held with Latvian, Lithuanian, and Finnish colleagues from the corresponding competition authorities as well as energy and postal regulators.

### 3. Changes in legislation

#### 3.1. Monopolistic undertakings will pay a supervision fee

25. On 1 January 2022, an amendment to the Competition Act entered into force, pursuant to which part of the budget of the Estonian Competition Authority is financed by supervision fees paid by monopolies with regulated prices. The purpose of the amendment is to better ensure the ability of the Estonian Competition Authority to perform additional tasks and to enhance supervision by providing additional funding. The Authority has a number of new tasks at the level of the European Union and more tasks will be added in the near future, such as organising the functioning of the EU-wide electricity and gas market. In addition, the Authority coordinates EU-wide infrastructure projects on the Estonian side, such as the synchronisation of the electricity system and the Estonian–Finnish gas connection.

26. The supervision fee will be paid by electricity and gas network operators and network operators and heat producers in the district heating sector. The principle is similar in the water sector. The supervision fee will also be paid by universal postal service providers, railway infrastructure managers, and airport and port operators. The amount of supervision fees is 0.02–0.2% of the turnover of the regulated undertaking.

27. In addition to the Competition Act, the Public Water Supply and Sewerage Act was amended, which now places the price regulation of all water undertakings under the control of the Estonian Competition Authority. In connection with the establishment of supervision fees, a reference was added to the Electricity Market Act, the District Heating Act, the Aviation Act, the Natural Gas Act, the Postal Act, and the Ports Act that supervision fees are paid to the Estonian Competition Authority on the bases and pursuant to the Competition Act. The supervision fee will be included in the price of the services provided to end-users. The fees are set by law and cannot be negotiated. There is no additional administrative burden for the undertaking.

28. With the implementation of the new financing model, it is possible to regulate the prices of the services of monopolistic undertakings more effectively, so consumers will receive a high-quality service at a reasonable price. The changes will also ensure that the goal of climate neutrality is achieved in a less burdensome way for consumers.

29. As the supervision fee is paid by the regulated undertakings, the money added to the budget of the Authority will only be used to finance economic regulation. The Authority will keep separate records of the operating costs of competition supervision and economic regulation, as well as records of the receipt of fees.

#### 3.2. Unfair trading practices

30. On 1 November 2021, the Act on Combating Unfair Trading Practices in the Agricultural and Food Supply Chain entered into force, transposing into Estonian law Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain. The Estonian Competition Authority began to supervise compliance with the law.

31. The purpose of the Act is to protect sellers of agricultural products and food from unfair trading practices of buyers. The Act establishes public legal remedies applicable to the protection of the seller in addition to private legal remedies in the event of the use of an unfair trading practice, and provides the bases and procedure for state and administrative supervision over compliance with the law.

32. Under this Act, unfair trading practices are transactions or acts carried out by only one party, the buyer, which deviate significantly from good commercial practice, are contrary to the principles of good faith and fair dealing, and are imposed unilaterally on the seller. This is because the buyer is usually in a stronger bargaining position.

33. The Act affects operators that buy or sell agricultural products and food to another operator. The list of products classified as agricultural products and food within the meaning of the Act is set out in Annex I to the Treaty on the Functioning of the European Union. Products not listed in that Annex but which are processed into food using a product listed in Annex I to the same Treaty are also considered agricultural products and food. For example, in addition to conventional agricultural products and food (milk, bread, white bread, cheese, etc.), agricultural products also include live animals, cut flowers, plants, bulbs, cereals, and animal feed.

34. The Act lists 16 unfair trading practices, nine of which are in any case and always prohibited (e.g. the buyer is prohibited from paying for the agricultural product and food later than within 30 days as of the date provided in the Act) and seven of which are prohibited unless they have been clearly and unambiguously agreed in advance in a form that can be reproduced in writing (e.g. the buyer is prohibited from requiring the seller to pay for the marketing by the buyer of the agricultural products and food).

35. In Estonia, unfair trading practices have not been regulated at the legislative level before, so these are completely new tasks for the Estonian Competition Authority in a new field.

#### 4. Competition supervision

36. In 2021, one of the keywords in competition supervision was the transposition of the ECN+ Directive. This directive is one of the most fundamental reforms of EU competition law in the last decade. It aims to streamline and harmonise the way Member States deal with infringements. It is necessary to implement especially extensive changes in the Estonian legal system, because our procedural system has historically been quite different from the solutions traditionally used in Europe.

37. Namely, while in the EU Member States, competition infringements have generally been prosecuted and sanctioned in administrative proceedings, Estonia is one of the few Member States where they have been prosecuted in criminal or misdemeanour proceedings. However, the latter have been considered relatively inefficient, which is why the ECN+ Directive essentially excludes the use of criminal proceedings and makes the use of misdemeanour proceedings quite difficult. With this in mind, Estonia has chosen to create a completely new administrative fine procedure for competition infringement proceedings. This is a fundamental change in the Estonian legal system – we have not used sanctions at all outside criminal and misdemeanour proceedings.

38. At the end of 2021, the Ministry of Justice submitted for approval a draft amendment to the Competition Act transposing the ECN+ Directive. As this is, as has been said, a fundamental change in the Estonian legal system, the draft will certainly cause a lot



of discussions. Hopefully, the Estonian Competition Authority will be able to start investigating competition cases within the new framework within a year.

39. In 2021, the Estonian Competition Authority processed cases from very different areas of life. More and more competition concerns are emerging in different digital markets. Estonia is no exception – the same can be observed in many other countries. Many digital markets are characterised by very high market concentration, which is clearly a challenge for competition authorities. At the same time, it is often not possible to proceed from the so-called traditional monopoly approach to competition law, which is why competition law in digital markets is still evolving. The reasons why, for example, Google or Facebook have market power are very different from the reasons why, for example, railway infrastructure has market power. Distortions of competition are also of a different nature. With this in mind, legislation on digital markets is being prepared in the European Union. In addition, the new block exemption on vertical restraints addresses more issues related to the sale of goods online.

40. This yearbook describes a number of events in digital markets. These concern the pricing conditions of online platforms and the automatic exchange of data with online portals for goods or advertisements. These cases are generally characterised by a relatively high level of market concentration, so it is particularly important that undertakings do not restrict competition through their activities.

#### 4.1. Cases related to pricing conditions

41. For several years now, competition authorities have been focusing on various clauses limiting pricing, especially between undertakings who are not competitors and where an online platform is often a party. Such pricing clauses are called price parity clauses and can be broadly divided into two types: wide price parity clauses and narrow price parity clauses. A wide price parity clause means that the supplier of the goods agrees that the price of the goods on the platform of the counterparty is not higher than in other sales channels (e.g. on other platforms). A narrow price parity clause means that one party agrees to the restriction that the price is not higher on the platform of the counterparty than in other sales channels or in the sales channel of the supplier (e.g. on a website). Although both wide and narrow price parity clauses are covered by the block exemption for vertical agreements, provided that the market share of the parties is within 30%, the general view of competition authorities is that wide price parity clauses are more harmful because it raises horizontal competition concerns. Opinions may differ on narrow price parity clauses – competition authorities have taken into account, in particular, the free-rider problem. The Estonian Competition Authority is of the opinion that the greater the market power of the platform using price parity clauses and the less concentrated the market of the other party, the more likely it is that such an agreement may distort competition.

42. Although the Authority has not made any final decision on narrow price parity clauses, the Authority analysed two cases related to the use of such clauses by undertakings.

43. In the summer of 2020, several articles appeared in the press which raised problems regarding the fees for food couriers. Therefore, the Authority initiated an investigation into the activities of the Wolt Eesti OÜ (hereinafter Wolt). Restaurant and retail partners can sell food, beverages, and other products through the [www.wolt.com](http://www.wolt.com) platform to its users. In the course of the proceedings, the Authority found that the service agreement of Wolt with restaurant and retail partners contained clause 2.3 of the General Terms and Conditions, pursuant to which, ‘The partner is responsible for updating the prices and menu provided in the Wolt service. The partner independently determines the prices of its products used in the Wolt service. The prices may not be higher than the prices charged by

the partner at their own point of sale.’ According to the initial assessment of the Authority, clause 2.3 of the General Terms and Conditions to that contract was a ‘narrow price parity clause’, pursuant to which the prices used in the restaurant and on the platform must be the same for the consumer.

44. As the platform charges a commission from the final price of the user, the platform can increase the commission for the restaurant and the restaurant cannot increase the price to the customer (by transferring the commission) only on the platform due to the narrow price parity clause. The restaurant can only increase the prices used in the restaurant and therefore consumers who do not use the platform will pay for some of the sales on the platform. If a platform using a narrow price parity clause has some market power, it is all the more likely that restaurants will not be able to cover the increasing commissions other than by raising prices in the restaurants.

45. If the restaurant is unable to increase the price of the product due to the competitive situation, it must cover the commission at its own expense and there will be no significant competitive pressure on the commission of Wolt as a result of this provision. Therefore, the Estonian Competition Authority was of the preliminary opinion that the relevant clause of Wolt’s General Terms and Conditions is in conflict with competition law. However, the Authority clarified that an exemption is possible if all conditions are met. In the course of the proceedings, Wolt informed the Authority that, although it still considered that it did not infringe competition law, it had decided to amend the standard terms and conditions of the service contract for partners and to remove the narrow price parity clause. As the undertaking changed the terms of the contract, the Authority terminated the procedure.

46. The second case concerned the IIZI Kindlustusmaakler AS (hereinafter IIZI), which asked the Authority whether agreements where the insurer undertakes to offer its insurance products to the customers of the insurance broker on at least the same basis and at the same prices as are available in the campaigns or sales channels of the insurer to the public are in accordance with competition law. The Authority found that some cooperation agreements concluded by IIZI contained a similar provision. According to the initial assessment of the Authority, the conditions listed above were narrow price parity clauses used in vertical agreements and falling within the scope of competition law. However, the Authority clarified that if the agreement fulfils the conditions for exemption under the Competition Act, the agreement may be allowed. In its reply, IIZI disagreed with the preliminary views of the Authority on price parity. IIZI explained that with this condition, the broker wanted to avoid the insurers pricing the insurance service in such a way that the price of the insurance service offered in the direct sales channel of the insurer would be higher.

47. In other words, they did not want to increase or agree on the price of the insurance service, but to create the conditions to meet the reasonable expectation of the policyholder that when assessing the insurance risk and concluding an insurance contract with their broker, they would be offered the same gross insurance premium (not much larger) for the same insurance risk by the same undertaking as they would be offered from the direct sales channel of the undertaking, such as the website of the undertaking. They also wanted to prevent situations where the undertaking charges an unreasonably high price for equivalent insurance cover for the service of the broker, i.e. independent analysis and the recommendation to use preferred customers (policyholders), including a price that is significantly higher than the price the undertaking charges for equivalent insurance coverage offered through other so-called insurance intermediaries, i.e. through so-called insurance agents.

48. The procedure was terminated as IIZI stated that the parties to the cooperation agreement revoked the relevant clauses to remove any suspicion that this might be an anti-competitive practice.

#### **4.2. Access to advertising portals via automatic data exchange (XML)**

49. In 2021, the Estonian Competition Authority processed a number of cases concerning the conditions of access to online advertising portals. The emergence of such portals with high market power on the Internet is a new challenge for competition law. Often, the market power of these undertakings and their potential anti-competitive behaviour are significantly different from the so-called traditional monopolies. The corresponding competition law is still evolving in Europe in some respects.

50. Below are two cases in which the automatic exchange of data with a portal with market power was investigated. For example, the average consumer enters a real estate sale advertisement on the respective portal manually. However, in the case of a real estate agency, it can be arranged so that the advertisements automatically move from their website to the portal. Special technical solutions are used for such automatic data exchange. On the one hand, automatic data exchange makes the work of real estate agencies easier. Secondly – and this is particularly important in terms of competition law – it makes it easier for competing portals to enter the market. If the advertisement were to be entered manually on each portal, real estate agencies would probably not be willing to use many portals. However, if the data is shared automatically in the market, the additional cost of adding advertisements to new portals is minimal.

51. In the first case, the Estonian Competition Authority investigated the conditions for the automatic exchange of data applied by the real estate portals of AllePal OÜ (kv.ee) and Kinnisvaraportaali OÜ (city24.ee) on the basis of a complaint from five real estate agencies. These real estate portals had imposed various restrictions on the free use of the XML service for automatic data exchange. The service could be used only by real estate agencies with more than 10 users, which is why smaller real estate agencies did not have access to the service. The portal kv.ee did not allow the export of advertisements via XML. The contracts of city24.ee restricted the use of the XML export interface only for exporting advertisements to the official website of the real estate company, which means that real estate agencies could no longer export data to competing portals via XML. It also turned out that city24.ee and kv.ee added their own trade mark to the photos published by the customers on the portals. Third parties (including competing real estate portals) may not use the registered trade mark of city24.ee/kv.ee, so other portals cannot receive such photos from customers or benefit from the XML service.

52. In the course of the proceedings, kv.ee and city24.ee removed all restrictions. The Authority therefore terminated the surveillance procedure for XML imports and exports due to a significant improvement in the competitive situation.

53. Another example is the supervision procedure against AllePal OÜ (the car purchase and sale advertisement portal Auto24). According to the data submitted to the Authority, Auto24 offered the possibility to transmit data and advertisements in XML format only to certain undertakings, but not to all interested parties.

54. During the supervision process, Auto24 explained that it has previously allowed a few trusted and long-standing customers to enter advertisements through the XML service, but this service was not offered to new customers. According to Auto24, extending the provision of the XML service to new customers would have caused a number of technical and commercial problems, as the existing system did not allow for a large-scale XML service provision. Despite several problems related to the XML service, Auto24 was

willing to offer the XML service to all customers, making the necessary investments. As the service was thus provided to all customers who requested it, the procedure was terminated due to a significant improvement in the competitive situation.

### 4.3. Organisation of border services on the Estonian railway

55. AS E.R.S asked the Estonian Competition Authority for an opinion on the manner in which AS Eesti Raudtee (hereinafter Eesti Raudtee) found a provider of border services. The border service is a set of services provided at the Estonian border to trains arriving there, the purpose of which is to ensure that all trains running on Estonian railways are safe for both traffic and infrastructure. The service set includes the technical and commercial delivery and receipt of trains, including technical and commercial inspection, rectification of deficiencies, preparation of documents, data processing, etc. In practice, the provision of this service is primarily organised by the freight operators themselves. At the time of initiating the procedure, Eesti Raudtee used a public procurement procedure to find a provider of border services, as a result of which the right to provide the service was granted only to one or two undertakings. As a result of the tendering procedure, the remaining carriers had to purchase border services from the winning undertakings, which could mean an obligation to purchase border services from their competitors. The goal of the Authority was to check whether such a restriction of the list of undertakings providing the service is justified or whether all persons wishing to provide the service should be able to do so.

56. During the procedure, it became clear that all railway undertakings purchasing border services wished to provide those services themselves. The Public Procurement Act also does not explicitly prescribe that Eesti Raudtee should, in any case, organise a concession procurement that restricts the circle of service providers. According to the Ministry of Finance, Eesti Raudtee has two alternatives – to carry out the transaction on the basis of a concession agreement or a procurement contract, or alternatively to enter into authorisation agreements with all eligible undertakings.

57. The Competition Authority sent a preliminary position and a precept warning to Eesti Raudtee, pursuant to which the restriction of the list of border service providers by the procurement procedure by Eesti Raudtee is in conflict with subsection 18 (1) of the Competition Act. The purpose of the provision is to protect free competition in access to essential facilities, i.e. to place market participants in a position as similar as possible to free competition. This means that Eesti Raudtee must make the least restrictive choices when organising access to the railway infrastructure and restrict competition only if there are clear and overriding reasons for doing so. The Authority found that finding a provider of border services through a procurement procedure that closes the goods market to other undertakings for a period fixed in the contract is restrictive of the market compared to a situation of free competition, where all undertakings have the right to provide the service themselves if the conditions prescribed by Eesti Raudtee are met.

58. In accordance with the Competition Act, such restrictions must have clear and overriding reasons. The objectives of the Competition Act are met to a greater extent if an undertaking is able to enter and exit the market as flexibly as possible. However, the number of service providers is limited as a result of the public procurement. In addition, restricting the list of border service providers leads to a situation where a carrier may need to purchase border services from a competitor. In the opinion of the Authority, the creation of a new dominant undertaking in a situation where there could be free competition in the goods market is not permissible, apart from exceptional and clearly justified situations.

59. In the course of the proceedings, Eesti Raudtee proposed to the Authority a solution that waived the procurement procedure so that any undertaking meeting certain conditions

could provide border services. Border services will henceforth be regulated through the annual network statement of the traffic schedule period, and each carrier is obliged to enter into a corresponding agreement to regulate the conditions for the provision of border services. This solution achieved a situation that was considered reasonable by all carriers operating in the market. Consequently, the Authority terminated the supervision proceedings against Eesti Raudtee in connection with the significant improvement of the competition situation.

#### **4.4. Recommendation for granting the right to import medicinal products to hospital pharmacies**

60. The Estonian Competition Authority has repeatedly raised the question of why hospitals are not allowed to import medicinal products into the country independently under the Medicinal Products Act, as this right is reserved for wholesalers of medicinal products. The Authority has previously published its respective positions in letters sent to the Minister of Social Affairs on 8 August 2019 and to the Minister of Justice on 8 November 2019.

61. In its letter to the Economic Affairs Committee of the Riigikogu of 8 December 2021, the Authority reiterated its recommendation to grant the right to import medicinal products to hospital pharmacies in the procedure of the [draft 205 SE](#). The intent provided for the granting of the right to import medicinal products without a marketing authorisation and active substances necessary for the manufacture of medicinal products to hospital pharmacies. The bill pending before the Riigikogu no longer contained this right. This choice was not substantiated. However, the issue is on the agenda and market participants have expressed their views on it during the draft procedure. The Authority found that the dependence of hospitals on pharmaceutical wholesalers is too high and should be reduced, taking into account, inter alia, the following considerations:

- in Estonia, the competitive situation in the field of pharmaceutical wholesale is poor, as the market is concentrated in the hands of a small number of undertakings. Despite the ban on the integration of the general pharmacy and the pharmaceutical wholesaler, which entered into force on 1 April 2020, there has been no real recovery in the wholesale market or a decrease in the market power of large wholesalers. On the contrary, the role and bargaining power of the market leader have increased. According to the State Agency of Medicines, in 2020, 31 undertakings with the right to wholesale medicinal products sold human medicinal products to general and hospital pharmacies and other institutions. The three largest wholesalers accounted for 81% of the market share for human medicinal products: Tamro Eesti OÜ (32%), Magnum Medical OÜ (32%), and Apteekide Koostöö Hulgimüük OÜ (17%). The latter ceased operations at the end of 2020, increasing the market share of Magnum Medical to around 50%.
- The review of the pharmaceutical market shows that sales to hospital pharmacies account for 107.1 million euros of the sales turnover of Estonian wholesalers, which is 30% of the market volume of human medicinal products (compared to 69% or 247.8 million euros for sales to general pharmacies). This is a significant part of the pharmaceutical market with significant potential for competition.
- If hospital pharmacies were given the right to buy medicinal products not only from wholesalers in Estonia, but also from other EU Member States, as well as directly from manufacturers, they could buy medicinal products at a lower price. In addition, the resulting price competition would put pressure on Estonian

wholesalers to offer medicinal products at lower prices to hospitals and the health and social care institutions they supply.

62. In the case of a hospital pharmacy, the organisation of the handling of medicinal products is fundamentally different from the situation outside the hospital in the doctor–pharmacy–patient triangle. In the latter case, it is important to ensure strict separation between the prescriber on the one hand and the seller on the other, so that doctors remain independent of the sellers and manufacturers of medicinal products when choosing which products to prescribe. The choice of medicinal products used in hospitals, however, becomes clear as a result of the procurement, and regardless of whether the hospital has the right to import or not, the hospital doctor will not be faced with such choices. Hospital pharmacies are used to supply the health care provider with the medicinal products necessary for hospital treatment – the main activity of the hospital is the provision of health care services and not the trade in medicinal products.

63. In view of the above, the Authority found that granting the right to import medicinal products without a marketing authorisation to hospital pharmacies in combination with the right to supply provided for in subsection 30 (4) of the Medicinal Products Act would be a step in the right direction to improve the availability of medicinal products to hospital patients. To stimulate competition, further consideration should be given to extending the right of hospital pharmacies to import medicinal products with a marketing authorisation in addition to those without a marketing authorisation (less than 2%).

## 5. Control of concentrations

### 5.1. Control of concentrations and the functioning of competition

64. *Ex ante* regulation of concentrations plays a crucial role in the functioning of competition. The control of concentrations can prevent anti-competitive mergers and acquisitions and thus the creation of a dominant position (including a monopoly).

65. By ensuring that competition is maintained and that a dominant position (including a monopoly) is not created, the control of concentrations helps to prevent harm that a dominant undertaking could cause to consumers or to the society as a whole. As a monopolistic market structure can be expected to lead to output constraints and reduced economic efficiency, competition policy should not tolerate any activity that disrupts the market structure (in particular activities hindering market access or concentrations leading to a reduction in the number of market participants).<sup>2</sup> However, it is important to note that the control of concentrations can only limit the growth of undertakings through mergers and acquisitions and not organic growth, meaning that the control of concentration does not preclude the creation of monopolies.

66. At the same time, the control of concentrations is not only about preventing possible future abuses by a dominant position, but also about maintaining pro-competitive market structures, which, in turn, leads to greater consumer welfare. In markets where there is effective competition, there are many undertakings and consumers have the opportunity to choose a product or service at a price and quality that suits them. The lack of competitive pressure, in turn, allows an undertaking to profitably raise prices, reduce the volume, range, or quality of goods and services, as well as reduce innovation, new product development, and so on.

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<sup>2</sup> Richard Whish, *Competition Law*, 6<sup>th</sup> edition (Oxford University Press, 2009), p. 6

67. How to measure the functioning of competition? There is no universal measure, as product markets are different and specific market factors need to be taken into account. However, the market shares of undertakings and the general level of concentration in the product market are one of the most common ways of characterising the competitive situation on the product market. The Herfindahl–Hirschman Index (HHI) is generally used to measure the level of concentration in a commodity market.<sup>3</sup> The HHI can range from close to zero to 10,000 (for a monopoly).

68. The Authority has monitored the level of concentration in the markets for products and services that are important to consumers (banking, retail trade, retail sale of motor fuels). These are areas that are highly concentrated in some neighbouring countries and are therefore subject to special regulation. In Estonia, these areas are moderately concentrated, despite some concentrations and exits from the market.

### **5.1.1. Banking**

69. Swedbank AS has traditionally been the market leader in banking and AS SEB Pank has the second largest market share. At the same time, there are several other banks in the market that exert competitive pressure on the larger ones – in 2021, the largest of them were AS LHV Pank, Luminor Bank AS, and Coop Pank AS.

70. There have also been some concentrations in the banking sector in recent years. In 2017, the European Commission approved a concentration by which DNB Bank ASA and Nordea Bank AB combined their banking business in the Baltics, establishing Luminor Bank.<sup>4</sup> The Authority processed transactions related to the exit of Danske Bank A/S from the market and the transfer of the customer portfolio. AS LHV Pank received permission to acquire the part of the Estonian branch of Danske Bank A/S which consisted of loan and leasing agreements for private customers with employees serving them<sup>5</sup>, and the part of the Lithuanian branch which offered loan products to business customers.<sup>6</sup> These concentrations have not had a significant effect on the level of concentration, but rather have had a positive effect on the competitive situation.

71. The Authority observed the market shares of banks and the level of market concentration in bank deposits and bank loans as at 30 June in 2011, 2016, and 2021. The HHI was 2,878, 3,010, and 2,790 for bank deposits and 2,600, 2,484, and 2,668 for bank loans, respectively. Thus, the level of concentration in the bank deposits and loans market has not changed significantly, which shows that although the market leader Swedbank AS

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<sup>3</sup> The HHI is calculated by summing the squares of the market shares of all undertakings operating in the commodity market

<sup>4</sup> Decision of the European Commission of 14 September 2017 in case No. M.8414 *DNB / Nordea / Luminor Group*, [https://ec.europa.eu/competition/mergers/cases/decisions/m8414\\_977\\_3.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m8414_977_3.pdf)

<sup>5</sup> Decision No. 5-5/2019-032 of the Estonian Competition Authority of 19 June 2015, *Estonian branch of AS LHV Pank / Danske Bank A/S*, [https://www.konkurentsiamet.ee/sites/default/files/varasem/public/Koondumised/2019/Avalik\\_otsus19-06-2019.pdf](https://www.konkurentsiamet.ee/sites/default/files/varasem/public/Koondumised/2019/Avalik_otsus19-06-2019.pdf)

<sup>6</sup> Decision No. 5-5/2020-025 of the Estonian Competition Authority of 17 July 2020, *Lithuanian branch of AS LHV Pank / Danske Bank A/S*, [https://www.konkurentsiamet.ee/sites/default/files/varasem/public/Koondumised/2019/Avalik\\_otsus19-06-2019.pdf](https://www.konkurentsiamet.ee/sites/default/files/varasem/public/Koondumised/2019/Avalik_otsus19-06-2019.pdf)



has a market share of about 40%, it is still a competitive area where consumers have a choice.

### 5.1.2. Retail

72. In Estonia, the retail trade of food and consumer goods has been an area that can be cited as an example of a competitive commodity market. Compared to, for example, neighbouring countries, where the product market is divided between a few retail chains, Estonian consumers have a significantly greater choice – Coop Eesti Keskühistu, MAXIMA Eesti OÜ, Selver AS, Rimi Eesti Food AS, AS Prisma Peremarket, public limited company OG ELEKTRA, and public limited company RRLehtus. The above is also illustrated by the level of market concentration – in 2017–2020, the HHI was 1,405, 1,454, 1,487, and 1,470, respectively.

73. In the field of retail trade of food and consumer goods, the Authority has, in recent years, processed one concentration: authorising the concentration of Selver AS and ABC Supermarkets AS.<sup>7</sup>

### 5.1.3. Retail sale of motor fuel

74. In the field of motor fuel retail, the market is mainly divided between four major filling station chains – public limited companies Olerex, Circle K Eesti, Alexela, and Neste Eesti. In addition, several other undertakings are engaged in the retail sale of motor fuels, such as AS TARTU TERMINAL, public limited company KROONING, and others.

75. There have also been some concentrations in the retail sector of motor fuels in recent years. In December 2017, the Authority approved the concentration of public limited company AQUA MARINA and a part of the public limited company ‘Johnny’ provided that Aqua Marina fulfils its obligations.<sup>8</sup> AQUA MARINA is related to the public limited company Olerex through control and the public limited company ‘Johnny’ operated Favora’s filling stations. Based on the information gathered during the proceedings (including the results of a consumer survey), the Authority found that after the concentration, the public limited company Olerex would have had significant market power in the Põlva and Võru regions. In order to avoid restriction of competition, Aqua Marina undertook to transfer two filling stations in Võru and one in Põlva.

76. In February 2018, the Competition Authority approved the concentration of Alexela Tanklad OÜ and the public limited company Euro Oil, provided that Alexela Tanklad OÜ fulfils its obligations.<sup>9</sup> The Authority found that the concentration would strengthen the position of Alexela Tanklad OÜ as the market leader in retail sales of motor fuels in the Karksi-Nuia and Ellamaa regions and Alexela Tanklad OÜ undertook to

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<sup>7</sup> Decision No. 5-5/2020-013 of the Estonian Competition Authority of 27 May 2020 *Selver AS / ABC Supermarkets AS*, [https://www.konkurentsiamet.ee/sites/default/files/content-editors/09-2020\\_arakiri\\_27.05.2020\\_otsus\\_5-5-2020-013.pdf](https://www.konkurentsiamet.ee/sites/default/files/content-editors/09-2020_arakiri_27.05.2020_otsus_5-5-2020-013.pdf)

<sup>8</sup> Decision No. 5-5/2017-070 of the Estonian Competition Authority of 6 December 2017 *Public limited company AQUA MARINA / Share of public limited company ‘Johnny’*, [https://www.konkurentsiamet.ee/sites/default/files/varasem/public/Koondumised/2016/avalik\\_otsus.pdf](https://www.konkurentsiamet.ee/sites/default/files/varasem/public/Koondumised/2016/avalik_otsus.pdf)

<sup>9</sup> Decision No. 5-5/2018-013 of the Estonian Competition Authority of 19 February 2018 *Alexela Tanklad OÜ / Public limited company Euro Oil*, [https://www.konkurentsiamet.ee/sites/default/files/varasem/public/otsuse\\_arakiri.pdf](https://www.konkurentsiamet.ee/sites/default/files/varasem/public/otsuse_arakiri.pdf)



transfer the Euro Oil filling station in Karksi-Nuia and Ellamaa to avoid restriction of competition. In 2018, the Authority also granted permission for the concentration of public limited company AQUA MARINA and a part of public limited company Circle K Eesti, the object of which was a filling station in Kukruse, Ida-Viru County.<sup>10</sup>

77. However, the concentrations have not significantly affected the level of concentration in the retail sale of motor fuels. In 2017, the HHI was 2,043 and in 2020, it was 2,280.

78. The above shows that there are several undertakings operating in Estonia in the field of bank loans, bank deposits, retail trade, and retail sale of motor fuels, and the markets are moderately concentrated. Regulatory deterrence, which is a very important aspect of the control of concentrations, may have a role to play here. The mere fact that concentrations are controlled may induce an undertaking not to engage in an anti-competitive transaction. Thanks to the control of concentrations, it is rare for undertakings to try to concentrate into a monopoly. This is mainly because the undertaking is aware of the possible prohibition of such a transaction by the Authority.

79. The Authority has taken the maintenance of market structures that promote the functioning of competition in all areas very seriously, but it pays special attention to those product markets where the goods or services in circulation are of primary importance to consumers.

#### ***5.1.4. Control of concentrations in 2021***

80. The control of concentrations applies if the total turnover of the parties to the concentration in Estonia in the previous financial year exceeds 6,000,000 euros and the turnover of at least two parties to the concentration in Estonia exceeds 2,000,000 euros each. A concentration that must be controlled by the Authority may not be enforced until a decision approving the concentration has been made.

81. The concentration must be notified to the Authority after the conclusion of the agreement, the conclusion of a transaction or act for the acquisition of control, or the announcement of a public offer, but before the entry into force of the concentration. A concentration may also be notified to the Authority as soon as the parties indicate with sufficient certainty their intention to complete the concentration.

82. 2021 was a record year in terms of the number of notices of concentration. In 2021, 53 notices of concentrations were filed. In addition, seven proceedings were pending from 2020. Thus, a total of 60 notices of concentrations were processed in 2021. 55 decisions approving the concentration were made within the 30 days prescribed by law, and supplementary proceedings were initiated in respect of three concentrations notified in 2021.

83. Supplementary proceedings will be carried out to gather additional information and to determine whether there are circumstances restricting competition in case of concentration subject to control. In accordance with the law, the length of supplementary proceedings may be up to four months. In one case of supplementary proceedings initiated in 2021 regarding the concentrations notified to the Estonian Competition Authority, the

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<sup>10</sup> Decision No. 5-5/2018-002 of the Estonian Competition Authority of 10 January 2018 *Public limited company AQUA MARINA / Share of public limited company Circle K Eesti*, [https://www.konkurentsiamet.ee/sites/default/files/varasem/public/35\\_ARAKIRI\\_Konkurentsiameti\\_10.01.2018\\_otsus\\_nr\\_5-5-2018-002.pdf](https://www.konkurentsiamet.ee/sites/default/files/varasem/public/35_ARAKIRI_Konkurentsiameti_10.01.2018_otsus_nr_5-5-2018-002.pdf)

Authority authorised the concentration on the condition that the parties to the concentration fulfil their obligations (Elektrilevi OÜ / Imatra Elekter AS) and two proceedings will continue in 2022 (A/S Dobeles Dzirnavnies / AB Baltic Mill, RAGN-SELLS AS / public limited company Väätsa Prügila).

84. By type of concentration, the concentrations were as follows:

- 45 concentrations involved the acquisition of control by an undertaking over another undertaking or a part thereof (clause 19 (1) 2) of the Competition Act);
- seven concentrations concerned the acquisition of joint control by undertakings over a third undertaking or a part thereof (clause 19 (1) 3) of the Competition Act).
- In one case, it was a concentration of undertakings that had previously operated independently (clause 19 (1) 1) of the Competition Act).

### *5.1.5. Judicial proceedings*

85. In 2021, two court actions concerning the concentration decisions made by the Authority in 2018 were finally resolved.

86. The Authority had prohibited the concentration of OÜ R-S Valdus and a part of public limited company Väätsa Prügila with its decision No. 5-5/2018-058 of 21 September 2018. OÜ R-S Valdus is controlled by RAGN-SELLS AS, an undertaking engaged in waste collection and transportation. Public limited company Väätsa Prügila manages the landfill. In the course of the concentration proceedings, it became apparent that the concentration would affect, in particular, two vertically integrated waste management services: (i) collection and transport of municipal waste; and (ii) final disposal of mixed municipal waste in landfills. As both product markets were highly concentrated, the Authority assessed that the concentration would have distorted competition in both product markets. The concentration of vertically integrated municipal waste management services to a single undertaking would have given it a significant advantage over a small number of competitors and thus distorted competition.

87. OÜ R-S Valdus filed an appeal with the Tallinn Administrative Court to annul the decision of the Authority and to establish the admissibility of the concentration. OÜ R-S Valdus also found that the Authority did not make a decision prohibiting the concentration in a timely manner. In the court proceedings, the dispute over the timeliness of the decision was separated from the dispute over the substance of the decision. The dispute over the timeliness of the decision regarding the interpretation of subsection 28 (3<sup>1</sup>) of the Competition Act was resolved in 2020, when the Supreme Court did not accept the appeal in cassation of OÜ R-S Valdus. Both the Tallinn Administrative Court and the Tallinn Circuit Court supported the position of the Authority and found that the Authority had made a decision prohibiting the concentration of OÜ R-S Valdus and Väätsa Prügila in a timely manner.

88. In November 2020, the Tallinn Administrative Court made a decision dismissing the appeal of OÜ R-S Valdus, after which R-S Valdus filed an appeal with the Tallinn Circuit Court. In October 2021, OÜ R-S Valdus filed an application to withdraw the complaint and the Tallinn Circuit Court terminated the proceedings and annulled the decision of the Tallinn Administrative Court. The waiver of the complaint was due to the fact that RAGN-SELLS AS successfully participated in the public auction organised by the Paide City Government and the Türi Rural Municipality Government for the sale of the shares of Väätsa Prügila. In December 2021, RAGN-SELLS AS submitted a notice of a concentration to the Authority, pursuant to which it wishes to acquire control over Väätsa Prügila.

89. In November 2018, the Authority approved the concentration of Enefit Green AS, a subsidiary of public limited company Eesti Energia, and Nelja Energia AS. Eesti Energia is a state-owned vertically integrated company operating in several fields of activity. In addition to electricity generation and wholesale and retail, the activities of the undertaking include mining, processing, and transportation of oil shale, distribution network management, balance provider services, and electric discharge services. Nelja Energia AS produces electricity from renewable energy sources (wind, biogas). There was a horizontal overlap between the business activities of the parties to the concentration in the electricity generation and sales market. In line with the practice of the European Commission, the Authority did not differentiate between electricity produced from renewable energy sources and electricity produced from other energy sources and found that the concentration would not significantly impede competition. The Authority had no reason to conclude that Eesti Energia would have been able to significantly influence electricity prices and independently of other electricity producers through the concentration, especially considering the principles of operation of the Nord Pool power exchange, the position of Eesti Energia in the electricity generation and wholesale commodity market, and the dependence of wind energy on weather conditions.

90. The decision of the Authority was contested by ELEON AS, AS Eesti Elekter, Eurowind OÜ, Vaivara Tuulepark OÜ, Roheline Elekter AS, Aidu Tuulepark OÜ, Audru Tuulepark OÜ, and Estwind Energy OÜ (hereinafter together ELEON AS and others). In July 2020, the Tallinn Administrative Court made a decision dismissing the appeal of ELEON AS and others. ELEON AS and others filed an appeal with the Tallinn Circuit Court. In June 2021, the Tallinn Circuit Court made a decision dismissing the appeal. ELEON AS and others filed an appeal in cassation with the Supreme Court. The Supreme Court did not accept the appeal in cassation of ELEON AS and others, which is why the judgment of the Tallinn Circuit Court, which dismissed the appeal and left the resolution of the Tallinn Administrative Court unchanged, remains in force. It is therefore clear that the Authority has made a lawful decision in the concentration proceedings of Enefit Green AS and Nelja Energia AS.

#### ***5.1.6. Concentration of Elektrilevi OÜ and the public limited company Imatra Elekter***

91. On 9 June 2021, the Authority approved the concentration of Elektrilevi OÜ and the public limited company Imatra Elekter. The condition for the approval of the concentration was the fulfilment of the obligations assumed by the parties to the concentration. As competition concerns raised by a concentration can be remedied in certain situations by imposing obligations on the parties to the concentration, the parties took on obligations to avoid restriction of competition. The obligations were that Elektrilevi could acquire control over Imatra Elekter only on the condition that Imatra Elekter transfers the part of the undertaking of Imatra Elekter engaged in the retail sale of electricity to contractual customers to an acquirer not connected to Elektrilevi through control. Imatra Elekter will continue to operate independently in the retail sale of electricity and compete in the usual way until the sale of the share of the undertaking.

92. Both parties to the concentration are engaged in the operation of the electricity distribution network, the provision of distribution network services, including the provision of universal service, and the retail sale of electricity. Elektrilevi OÜ (the acquirer), a party to the concentration, operates in a service area that covers the territory of Estonia, except for the larger areas of Narva and its surroundings, Viimsi, Lääne County, and part of Pärnu County. More than 500,000 private and business customers are connected to the distribution network of Elektrilevi OÜ. The other party to the concentration, Imatra Elekter

(acquired undertaking), operates in its service area in Viimsi rural municipality, Lääne County, and Northern Pärnu County. More than 25,600 private and business customers are connected to the distribution network of Imatra Elekter. The parties to the concentration, both Eesti Energia, the parent company of Elektrilevi, and Imatra Elekter, are also engaged in the retail sale of electricity in Estonia.

93. In assessing the concentration, the Authority had to find out whether the acquisition of control over Imatra Elekter by Elektrilevi would change the structure of product markets in a way that would lead to significant restriction of competition. Therefore, the Authority defined the product markets affecting the concentration and assessed the competition situation and its change in these product markets.

94. For this concentration, the Authority defined the retail market for electricity, the object of which is the sale of electricity to final consumers and the geographical scope of which is the entire territory of Estonia. As both parties to the concentration – Eesti Energia, the parent company of Elektrilevi OÜ, and Imatra Elekter – are engaged in the retail electricity market in Estonia and accounted for 50–60% of total electricity sales in Estonia in 2020, the Authority concluded that the sale of electricity is a horizontally affected product market and that the concentration will further strengthen the position of the market leader of Eesti Energia in the retail electricity market.

95. In the case of the distribution network goods market, the Authority concluded that as the distribution of electricity through a distribution network to a particular customer is not substitutable for distribution through any other distribution network, the distribution networks each constitute a separate product market – a market for the provision of distribution network services with a geographic scope covering the distribution network or service area. Thus, distribution system operators are natural monopolies with a market share of 100% in the market for the sale of distribution network services and, unlike other activities, there is no so-called normal competition in the provision of distribution network services.

96. As Elektrilevi and the undertakings connected to it through control are major undertakings engaged in the provision of distribution network services and retail sale of electricity in Estonia, the Authority considered the specific nature of non-horizontal concentrations (in particular the risks that may arise from the concentration of undertakings active in the same field but in different geographic markets for the production and distribution of goods and services) in assessing the concentration. The Authority also analysed whether, as a result of the concentration, an undertaking may have the opportunity to significantly restrict competition, i.e. in this case, the effect of the concentration in the field of electricity distribution network services.

97. In approving the concentration, the Authority proceeded on the basis of the need to maintain and develop competition. In the assessment of the concentration, the Authority reached the following conclusions:

- the turnover area (geographical scope) of Elektrilevi related to the provision of distribution network services will increase, but as the distribution of electricity through a distribution network is not substitutable for distribution through any other distribution network for consumers and as distribution networks form a separate product market, the structure of the goods market for the provision of distribution network services after the concentration will remain at the pre-concentration level, i.e. the share in the goods market, which is 100% for each network operator, will not change. Therefore, the concentration will not have a significant effect on the structure of the product market for the provision of distribution network services or on the competitive situation. After the concentration, only the control structure of

Imatra Elekter will change so that the owner of Imatra Elekter will change – Elektrilevi OÜ will replace the company Imatra FNW Oy.

- In essence, there is no potential competition in the market for the provision of electricity distribution network services. The share of competitors entering the goods market is also very small, i.e. the number of undertakings that would enter the goods market through the construction of electricity distribution networks is marginal. Therefore, the concentration will not have a significant effect on the entry of the product market or the potential for competition.
- The purpose of the control of concentrations is to prevent undertakings from being in a position to increase their prices independently of competitors, suppliers, and buyers. The parties to the concentration are, by their very nature, undertakings with a natural monopoly operating in an area where competition is generally not possible and therefore the legislator has enacted specific laws, regulations, and guidelines to regulate this area. As the connection charges of network operators are regulated in accordance with the Electricity Market Act and approved by the Estonian Competition Authority, there is no reason to conclude that Elektrilevi would be able to significantly influence prices independently of other market participants.
- The concentration will not eliminate competition in any of the purchasing markets, as the products and services will continue to be provided by a number of undertakings after the concentration. Elektrilevi must carry out a public procurement for the purchase of products and services; after the concentration, the obligation to purchase products and services through public procurement will also extend to the electricity distribution network operated by Imatra Elekter prior to the concentration. Thus, undertakings interested in the provision of electricity distribution network services and products have the opportunity to participate in the relevant procurement.
- The obligations of the parties to the concentration, pursuant to which Elektrilevi will not acquire control over the part of the undertaking of Imatra Elekter whose business activity is the retail sale of electricity, will have a balancing effect on the possible restriction of competition resulting from the concentration. Thanks to the obligation, the concentration will not strengthen the leader position of Eesti Energia in the electricity retail goods market, where other competitors are significantly smaller. According to the Authority, the obligations will not change the competitive situation in the retail electricity market and will not reduce the competitive opportunities of the undertakings engaged in the retail sale of electricity as a result of the concentration.

98. The Authority approved the concentration of Elektrilevi and Imatra Elekter on the condition that the parties to the concentration fulfil their obligations. In reaching its decision, the Authority relied on the information and evidence gathered during the proceedings and took into account the views of the parties to the concentration and other undertakings, including the arguments against the concentration and the replies of the parties to the concentration, as well as the position of the Ministry of Economic Affairs and Communications. The Authority concluded that the concentration, together with the obligations, will not create or strengthen a dominant position on any of the goods markets related to the concentration and that the concentration will not lead to circumstances that would necessitate a prohibition of the concentration.

99. On 17 June 2021, Elektrum Eesti OÜ submitted a notice of concentration to the Authority requesting the approval of the concentration to acquire from the company Imatra Elekter a part of the undertaking – the retail electricity business. As a result of the

transaction, Imatra Elekter fulfilled its obligation to transfer a part of the undertaking to an independent buyer of the electricity retail business meaning that Elektrilevi OÜ acquired the right to acquire control over Imatra Elekter.