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Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Latvia

-- 2021 --

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

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Latvia

Foreword by the Chairman

1. My first full year at the Competition Council has come to an end. How has this year been for the team of the Competition Council and, at the same time, for the competition environment and the Latvian economy as a whole?
2. In 2021, as in the previous year, we were still obliged to live under COVID-19. While the pandemic upset the balance of life as we had known it, and sometimes even seemed to put life on pause, it also taught us to become more innovative, more digitally advanced, and more efficient in our work. The year has thus passed quickly, dynamically and with ambition. Last year, we not only increased our focus on the national measures to limit the spread of COVID-19 and the support mechanisms developed for businesses to ensure that they are equitable for all market participants, but also analysed ourselves and our internal processes to ensure that, despite remote working, digital meetings and restrictions on gatherings, we are able to communicate effectively with businesses, conduct quality investigations and conclude open infringement cases within the set deadlines. For example, preventive procedures, i.e., educational activities and warnings for undertakings were organised remotely, audio recording of conversations with members of undertakings was introduced to reduce the time spent by the Authority at inspections, cases under investigation were digitised and undertakings were invited to express an opinion on gathered evidence remotely using cryptic hyperlinks.
3. But these are not the only improvements in the management of the Authority that has borne fruit today and will continue to do so in the future: in 2021, the Authority developed a new human resources management policy, organized team-building and professional development activities, improved the remuneration and incentive system, launched activities to strengthen the Authority's IT capacity, and prepared amendments to the regulatory framework to provide the Authority with the necessary independence guarantees, resources and enforcement powers for effective investigation and prevention of competition law infringements in the future because only a strong, independent Authority and professional staff can create the added value for Latvia's economic growth that undertakings, our business partners, policy makers and consumers expect from the Competition Council.
4. This added value for Latvia's economic growth, or the public benefit from the work of the Competition Council, is one of the most important results of the Authority's work, which shows whether we are making a difference, whether we are working in the interest of society as a whole. In 2021, we achieved significantly more overall public benefit than we had planned, stemming from avoided distortions of competition, educational activities, warnings, and merger control of large companies. We had set ourselves the bar - to achieve an average of at least €24 million in public benefit every year. Analysing the results of last year's work alone, the benefit to society is estimated at over €52 million. Taking into account the Authority's budget for 2021, each euro allocated to the Authority last year generated a public benefit of around €24.28. We can thus objectively assess that last year saw great achievements and significant successes.
5. In 2021, the fight against cartels contributed the most to society - 60% of the estimated public benefit, or more than €30 million. In 2021, the Authority discovered a cartel in the construction and land amelioration sectors. But our aim is not primarily to penalize companies but to raise their awareness of fair competition and prevent possible

infringements. Therefore, in addition to infringement decisions, preventive procedures were actively applied in 2021, with a total of 24 legal entities being warned and educated about prohibited agreements hoping to prevent similar infringements in the future.

6. The Authority's detection of distortions of competition linked to the abuse of dominant positions by market players also brought significant benefits to society. In 2021, the Competition Council reached a settlement with Riga City Municipality and LLC "Getliņi EKO" in the so-called "Tīrīga case", where Riga had planned to close the waste management market to competition for 20 years. As a result, Riga committed to organising waste management in a way that respects the principle of fair competition. The second infringement of abuse of dominant position was found in the actions of Jelgava City Municipality, when it unjustifiably and inconsistently with the regulatory framework granted its capital company LLC "Jelgavas komunālie pakalpojumi" the right to operate in the municipal waste collection and transportation market, thereby closing the market to competition for more than seven years.

7. It is noteworthy that both infringements of abuse of dominant position were found directly in the activities of public bodies - municipalities and their capital companies. But these are not the only distortions of competition created by public administrative bodies. Since 2020, the Competition Council also assesses breaches of competition neutrality by public administrative bodies when they have discriminated against private market players, for example by creating advantages for their capital companies or by excluding private market players from the market. In 2021, the Competition Council received more than 110 different complaints about the conduct of public administrative bodies, in particular about the imposition of restrictive competition rules in procurement. And in several cases, the negotiation procedure has led to a quick and effective solution to the problem.

8. In terms of the 2021 competition monitoring trends, the increased willingness of large companies to merge is also a definite highlight, which may be explained by companies' intentions to change their business strategies and their willingness to implement business plans that were put on hold during the initial phase of the COVID-19 crisis. In total, the Competition Council received three times more merger notifications for assessment in 2021 than in 2020. In addition, the Authority has found room to improve its efficiency in 2021 by significantly speeding up the pace of merger clearance, with an average of 22 days per non-problematic merger, which is one week faster than in 2020.

9. Last year, the effectiveness of the Authority was also assessed by external international experts. In 2021, the Competition Council has maintained its high three-star rating in the international Global Competition Review (GCR) rating for the seventh consecutive year.

10. We expect that all these efforts and measures in 2021 will serve as a successful breeding ground for the Authority's further development and ability to fulfil its mission to protect and promote free and fair competition between market participants in all sectors of the economy, to the benefit of every member of society.



Sincerely,
Juris Gaiķis
Chairman of the Competition Council

1. Basic information

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

12. **The aim** of the Competition Council is to provide possibility to each market participant to conduct business activities under free and fair competition conditions, promoting development of competition in all areas of the national economy for the public benefit.

13. **Tasks of the Competition Council** are:

- Detection of prohibited agreements: undertakings do not engage in cartels or implement any other prohibited agreements.
- Prevention of abuse of dominant position: large and dominating companies do not abuse their market power.
- Merger control: remedy mergers that create concentration on the market and may negatively impact the interests of consumers and businesses.
- Surveillance of public administrative bodies: the conduct of the state and local governments, and their capital companies do not discriminate the private market players.
- Monitoring unfair trading practices: market players along the agricultural and food supply chain do not engage in unfair trading practices, and non-food retailers do not abuse their buying power against suppliers.
- Assessment of legislation: legislation, regulations and any other state or local government decisions or actions do not restrict the development of free and fair competition.
- Promotion of competition: competition is promoted on markets, including the regulated ones, where it is limited or non-existent.
- Raising public awareness: society receives comprehensive information about the positive effects of fair competition on the market functionality and social welfare.

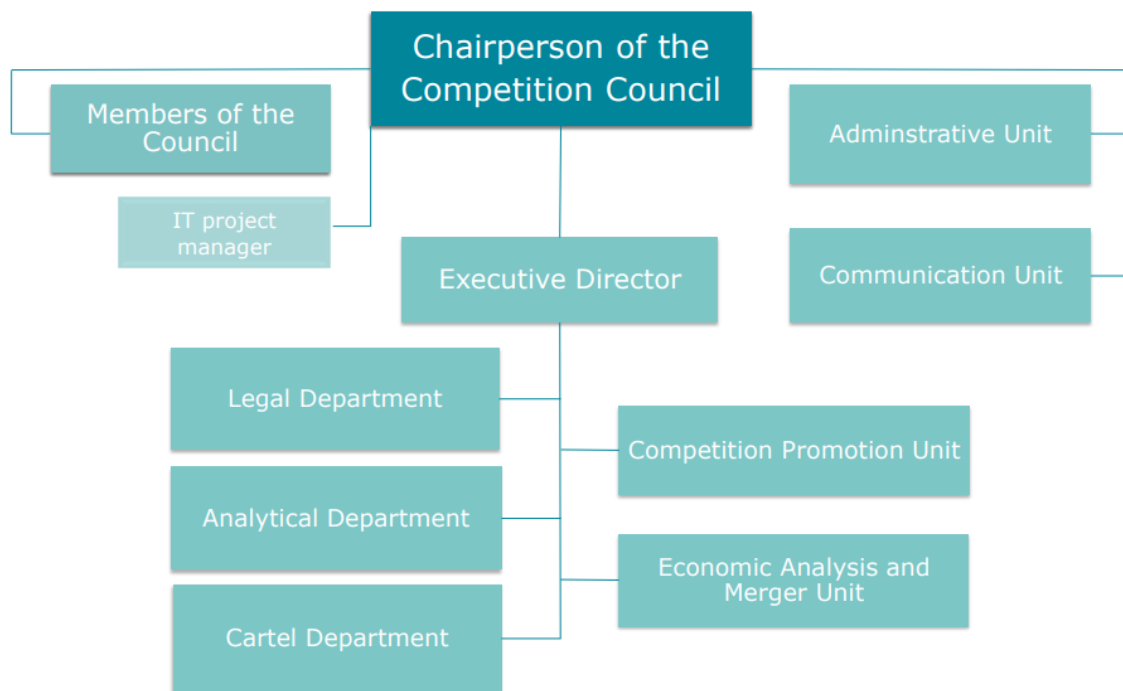
14. Implementation of the competition policy as a key objective of the Competition Council is divided into two categories. The first concerns the protection of market participants and the society against negative effects of market concentration and violations of the Competition law in actions of both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

1.1. Structure of the Competition Council of Latvia

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

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

Figure 1. Organizational chart of the Competition Council



2. Performance results in 2020

17. In general, the Competition Council has fulfilled the planned quantitative and qualitative performance results in 2021, which were defined for the Authority in the budget sub-program “Implementation of Competition Policy” based on prior results. The target was exceeded for a number of performance indicators, including infringement investigations, investigative measures to ensure competitive neutrality, the assessed merger

notifications, in-depth data analyses gathered in the inspections, provided opinions and proposals, organized public educational and international cooperation events (see Table 1).

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

Indicator name/ /Measure name	Planned value	Implementation
Preventive measures and investigation of alleged infringements, as well as market inquiry have been carried out Total number of measures	25	30
including high priority areas for market research - construction, transport, digital financial services, pharmaceuticals, public procurement, the relationship between retailers and food suppliers Number of high priority actions	10	10
including investigative measures (case and monitoring) to ensure competitive neutrality Total number of measures	4	6
including monitoring measures to ensure fair trade practices in the agricultural and food supply chain Total number of measures	2	2
Assessment of the impact on the competitive environment of mergers and agreements proposed by market participants Number of cases/high priority cases	16	22
including in-depth merger investigations Total number of measures	6	2
In-depth analyses of data (e-evidence) obtained during inspections were carried out Number (calculated once per year)	8	16
Restrictions removed from the activities of public administrative bodies (percentage of positive result achieved in relation to total number of measures taken) Percentage (to be calculated annually)	22 %	24 %
Completion of administrative court proceedings and percentage of decisions upheld Percentage (to be calculated annually)	82 %	83 %
Public partners' support in promoting competition ideas and coverage of target audiences ensured (explanations, opinions, proposals, drafting of legislation and guidelines) Number of documents	200	283
Raising of public awareness of free and fair competition in the agricultural and food supply chain Total number of measures	6	7
Positive evaluation of activities by the Competition Council from entrepreneurs (% proportion of survey answers to the respective question were "positive" and "rather positive") Percentage (calculated once in two years)	85 %	Not calculated in 2021
The role and recognition of the Competition Council in the international environment has been strengthened (number of publications and events with taking the floor) Total number of measures	45	52
Personnel turnover (number of employees who have left the Authority against the total number of employees) Percentage (calculated once per year)	20 %	10 %
Loyalty of employees (% proportion of employees who have answered in the survey that they will continue legal employment relations with the Authority for the next two years) Percentage (calculated once per year)	85 %	84 %
Public benefit from the operation of the Competition Council	> 23 million	26 million

2.1. The Authority during COVID-19

18. In 2021, due to the high spread of COVID-19, the Competition Council (the CC) mostly conducted its work remotely in all its activities. Most of the educational events and international activities, also the investigative activities - gathering information and explanations from undertakings, meetings, and other procedural activities, as well as presentations of case files and evidence and verbal hearings - were organised remotely and online, including fully remote meetings of the Council.

2.1.1. A step towards digitisation

19. The COVID-19 restrictions created challenges to ensure investigative activities and case investigations within the timeframes set by the Competition Law, so it was essential for the CC to find more efficient solutions to modify and adapt certain activities and processes that were only implemented on-site before the pandemic. For example, inspections or unannounced visits to undertakings, presentations of statement of objections to market players, preventive procedures or warnings and education on various competition law issues. This led to the introduction of audio-recording, which allowed explanations to be digitally recorded and retrieved during procedural steps, significantly reducing the time normally spent on these procedural steps in face-to-face inspections. Similarly, remote access to the file was provided to market participants at the end of the case, after all evidence had been collected, by providing each participant with a cryptic hyperlink to access the file.

20. In 2021, work also started on the development and implementation of a fully digital e-case, identifying technical solutions and lessons learned from other institutions that have already started this process. It is planned that such a tool will allow to move away from the “paper file” and provide for a fully electronic management of the entire case, including the possibility for the parties to access the case file remotely and to submit the case to the court digitally.

2.1.2. Effects of national measures on competition

21. The crisis caused by the spread of COVID-19 both globally and in Latvia continued to affect the business environment in Latvia. In order to achieve the overall objectives of the country, the CC supported the need for strict measures to limit the spread of the COVID-19 virus, but at the same time actively encouraged the Cabinet of Ministers, when deciding on restrictions, to introduce rules that would be proportionate and equitable for all market players and would not contribute to the economic downturn with negative effects on competition in the long term.

2.2. Decisions of the Competition Council

22. In 2021, the Competition Council adopted a total of 28 decisions. The Authority detected 2 prohibited agreements, 2 abuse of dominant position. See Table 2 for all the decisions taken by the Competition Council of Latvia in 2021.

Table 2. Statistical summary of decisions

Prohibited agreements	2
Infringement detected	2
Abuse of dominant position	4
Infringement detected	1
Amendments to appropriate commitments	1
Settlement with legal obligation and payment of a fine	1
Case closed	1
Mergers	22
Merger cleared	21
Merger cleared with remedies	1
Total number of decisions	28

23. In total, the Authority imposed fines in the amount of 17,810,120 euros. The amount of fines was based on turnover of the previous financial year for the market participant involved, as well as other factors, such as the severity, length and consequences of the violation.

24. In 2021, the Competition Council reviewed 22 merger cases. From all merger cases, one merger was cleared with remedies, but the rest were cleared as no harm to the competition was detected.

2.3. Legal proceedings

25. In 2021, six proceedings relating to decisions taken by the CC were concluded. In five out of six cases, the CC's decisions have entered into force.

26. In 2021, companies paid €4,238,894.28 to the state budget after the legal proceedings were concluded and the CC's decision entered into force or after the companies reached settlements with the Authority, as was the case in the so-called "Tīrīga Case" with Riga City Municipality and municipality owned company LLC "Getliņi EKO". The same happened in the so-called "Construction Cartel Case" with LLC "Velve".

27. In addition, in 2021 the Authority devoted resources to litigating cases before the Court of Justice of the European Union, providing independent submissions in a preliminary ruling on a vertical collusion interpreting the provisions of Article 101 of the Treaty on the Functioning of the European Union (TFEU), and supporting the Ministry of Justice in preparing answers to questions raised by the Court on the interaction between the regulatory and competition monitoring functions in a case involving Article 102 of the TFEU.

2.4. Investigation of Violations of the Competition Law

2.4.1. Prohibited agreements

28. A number of major infringement investigations have been completed in 2021, including the detection of repeated collusion between companies in the land amelioration sector and the fining of the largest Latvian construction companies in the so-called "Construction Cartel", marked by the largest fine ever imposed in the history of the Authority.

29. Also, during this period, based on the Authority's Prioritization Strategy and the "Consult First" principle implemented in the public administration, the preventative

measures were actively applied, during which 24 legal entities were warned and simultaneously educated on competition law issues, as well as 7 procedural actions or unannounced inspections were carried out in 20 undertakings to obtain evidence of possible infringements of the Competition Law.

Construction Cartel

30. The CC found a long-standing collusion between ten construction companies on the conditions of participation in public and private tenders in Latvia.

31. Representatives of 10 construction companies have been distorting competition in procurements throughout Latvia for several years. The CC identified at least 70 of the nearly 90 procurements negotiated with a total contract value of €686,989,991. More than half of the procurements were made with EU co-funding.

32. In general, the competition was distorted in the procurements of the construction, reconstruction and supervision of educational establishments, shopping centres, medical facilities, sports grounds and centres, stadiums, law enforcement facilities, radioactive waste containers and storage facilities, various infrastructure facilities, etc.

Cartel member regains lost credibility

33. Companies fined by the CC for participating in a cartel are banned from public procurement for one year. During the investigation of the case, a settlement agreement was reached with one of the participants in the “Constructors Case” - LLC “VELVE”. The company accepted the findings of the case and agreed not to appeal against the final decision of the CC.

34. Later, when assessing the technical, organizational and personnel management measures taken by LLC “VELVE”, the CC issued a positive opinion for “regaining the lost credibility”. Thus, procurement organizers may decide on the participation of the company in public procurement, despite the one-year ban.

Cartel in the land amelioration sector

35. In 2021, the CC carried out an audit of the land amelioration sector procurement and found suspicious bid-matches in the tenders in the period from 2016 to 2019.

36. By assessing the procurement procedures and inspecting six companies, the CC obtained evidence that the two providers of land amelioration services had colluded on the terms of participation in three procurement procedures. Suppliers exchanged documents, including financial estimates, to be submitted for the procurement, thus, simulating competition. For the infringements found, the CC imposed a fine of more than €221,000.

Prevention - educate, not punish

37. In 2021, the CC issued warnings to a total of 24 persons in nine cases of alleged collusion, three times more than in 2020. In all these cases, the CC suspected that the tenderers had coordinated their bids in public procurement.

38. The companies warned in 2021 are active in the construction of residential and non-residential buildings, building and repair works, rental of construction machinery and equipment, food sales, catering services, bus rental, installation of electrical wiring, real estate activities, including the rental and management of own or leased property.

2.4.2. Abuse of a dominant position

39. In 2021, the CC adopted four decisions on abuses of dominant positions by market players. In two cases, municipalities were directly active on the market and were found to have abused their dominant position. In one of these cases, a settlement agreement was reached to end the legal dispute.

40. Also, in 2021, the CC decided because of market developments to update the legal obligations imposed on a state-owned electric utility company in Latvia “Latvenergo” in 2009 that addressed the competitive constraints created by the company on the wholesale heat market in Riga. In another case, a decision was taken to close the case.

Riga Municipality settles

41. In 2021, the Riga City Municipality and its owned company “Getliņi EKO” concluded a settlement agreement with the CC in a dispute over distortion of competition – the planned 20-year monopolization of the Riga waste management market.

42. Riga generates a significant amount of waste - almost 50% of the total waste generated in Latvia. Until 2019, when Riga City Municipality, LLC “Getliņi EKO” and private partner JSC “Tīrīga” signed a concession agreement for the implementation of a new waste management system in Riga, the collection and transportation of municipal waste was provided by four competing companies. The new waste management system foresaw that only one company, JSC “Tīrīga”, would operate in the municipal waste collection and transportation market, thus completely eliminating competition in the market for 20 years. In addition, the concession agreement could significantly affect competition in the related waste recycling market, as the concession agreement will result in only one municipal waste manager receiving all municipal waste collected in the administrative territory of the City of Riga, which after sorting can be sold as secondary raw materials to recyclers.

43. In 2019, the CC initiated an infringement case against the Riga City Municipality and LLC “Getliņi EKO” for alleged abuse of a dominant position under Article 102 of the Treaty on the Functioning of the European Union. Furthermore, in order to prevent the negative effects of the distortion of competition on citizens - the waste generators - the CC already in 2019 adopted a decision on interim measures, which imposed an obligation to immediately suspend the performance of the concession agreement and preserve competition on the market.

44. The parties agreed to terminate the dispute, by concluding a settlement agreement, which includes an obligation to ensure the provision of waste management services under conditions of fair competition without creating a monopoly on the market, as well as to carry out an in-depth assessment to ensure the implementation of a pro-competitive service delivery model in Riga and the payment of a fine totalling €885,000.

Jelgava municipality fined

45. In 2021, the CC adopted another decision on abuse of dominant position in the waste management sector - the Jelgava City Municipality was fined for unjustified and incompatible with the regulatory framework provision to its municipal company LLC “Jelgavas komunālie pakalpojumi” of long-standing rights to operate in the municipal waste collection and transportation market in the administrative territory of Jelgava City.

46. Jelgava City Municipality has been providing waste management *in-house* since 2004. However, when a municipality entrusts the provision of a service to an in-house company, it must exercise full control over the company without the involvement of private

capital. Meanwhile, the municipal company LLC “Jelgavas komunālie pakalpojumi” is partly owned by the private market player LLC “KULK”. Thus, not all the criteria set out in the regulatory framework for the *in-house* exception were present.

47. In 2006, the Waste Management Law was amended to stipulate that a municipality can only enter into a contract with a waste management company for a fixed period - not less than three years and not more than five years. Old contracts that did not comply with the new requirements had to be terminated by 1 July 2013. However, Jelgava City Municipality did not take this into account and continued to use the *in-house* exception unjustifiably. As a result, the municipality has taken advantage of its dominant position and, more than seven years after the expiry of the contracts under the amendments, has transferred rights in the relevant market to one market player, thereby preventing other market players from offering their services.

48. For the competition infringement, the CC imposed a fine of €51,123 on Jelgava City Municipality.

2.5. Monitoring of Unfair Trading Practices

49. On 1 November 2021, the Prohibition of Unfair Trading Practices Law entered into force, implementing the Unfair Commercial Trading Practices Directive 2019/633, which aims to prohibit unfair commercial practices throughout the supply chain of agricultural and food products, as well as the use of purchasing power by non-food retailers against suppliers. Enforcement of the Prohibition of Unfair Trading Practices Law is monitored and controlled by the CC, whereas the former The Unfair Retail Practices Prohibition Law supervised by the CC will become void.

50. The CC also participated in four educational events, educating a total of 481 people. This included informing retailers, manufacturers, wholesalers, suppliers, and other interested market players about the new Prohibition of Unfair Trading Practices Law.

51. In 2021, the CC implemented one preventive measure - a warning - to remedy an alleged infringement.

2.6. Mergers

52. One of the tasks of the CC is to assess mergers and notified agreements between major undertakings in order to prevent possible negative effects on competition and consumers. In 2021, the CC adopted 22 merger decisions, double the number in 2020.

53. In 2021, there has been a significant increase in the willingness of companies to merge and strengthen their market position. In 2021, the CC received three times as many reports of companies wishing to merge (25) as in 2020, when only eight notifications were received.

54. During the year, the market players involved in merger reviews paid € 86 000 in fees to the State budget. In addition, to make it easier for companies to submit merger reports, the CC provided 88 pre-merger counselling sessions, seven times more than in 2020.

55. The majority of mergers were assessed by the CC within one month, with additional focus on mergers requiring in-depth assessment. In 2021, such in-depth studies were carried out on two occasions.

2.6.1. Owner of Apollo Kino acquires Forum Cinemas Latvia

56. The CC decided to authorise OÜ “MM Grupp”, an Estonian company representing several companies in Latvia, including cinema LLC “Apollo Kino”, to acquire OÜ “Forum Cinemas Latvia”, another Estonian company. Both companies are active in the film distribution and exhibition markets in Latvia.

57. In order to address potential competition risks, the CC cleared the merger with remedies. The remedies provide that, first, as a result of the merger, OÜ “MM Grupp” may acquire all the shares in the share capital held by OÜ “Forum Cinemas Latvia” that are not directly related to cinema business. Second, OÜ “MM Grupp” undertakes to transfer the remaining part of the business of OÜ Forum Cinemas Latvia - the cinema “Citadele” with its assets, employees, and property, as well as the right to use the premises - within one calendar year to the control of a third party which is not itself or its owners related to OÜ “MM Grupp”.

58. This will ensure that the market for the screening of movies does not lead to increased concentration and that the merger does not lead to negative effects in this market.

2.6.2. “Akropolis Group” acquires shopping centre “Alfa”

59. The CC has decided to authorise UAB “AKROPOLIS GROUP”, a company incorporated in Lithuania, which is an operator of multifunctional shopping centres and owns four centres and two office buildings in Lithuania and Latvia, including the shopping centre “Akropole” in Riga, to acquire a decisive influence over LLC “DELTA PROPERTY”, the owner, operator, and developer of the shopping centre “Alfa”.

60. The market affected by the merger is therefore the market for the leasing of retail space in mixed-use shopping centres in Riga and its immediate surroundings. The CC’s investigation concluded that the merger would not result in a significant change in the market structure, lessen competition or create or strengthen a dominant position in the affected market in Latvia in which the merging parties are active.

2.7. Sector inquiries

61. In 2021, the CC concluded its monitoring of ten markets, including assessing and proposing remedies to remove competitive constraints. For example, the CC carried out the monitoring of bank customer mobility, the monitoring of Motor Third Party Liability Insurance policies, the monitoring of the market for waste glass packaging management services, the cooperation of catering and food delivery platforms with catering and retail companies, as well as several in-depth competition law compliance assessments of market players, including “Bite” and “Tele2” cooperation agreements in the joint use of radio frequency bands and active infrastructure, etc.

62. Market surveillance aims to provide in-depth insights into different sectors of the economy, as well as to identify the competitive situation and find ways to improve it.

2.7.1. Highly concentrated market for waste glass management

63. The CC's monitoring of the market for the management of packaging waste glass services found that the market is oligopolistic and highly concentrated. These and other conditions, such as market transparency, product homogeneity, barriers to entry and operation in market, contribute to the collective dominant position in the relevant market enjoyed by the two strongest market leaders - JSC “Latvijas zaļais punkts” and LLC “Zaļā josta”. Also, in the view of the CC, the requirements laid down in the regulatory

enactments, the published management rates applied by operators to natural resource taxpayers, as well as the homogeneity of the product can be considered as factors that allow market leaders to coordinate their activities in the packaging waste management market, thus possibly anticipating each other's behaviour when the market situation changes, including at the same time increasing average management rates. The increase in management rates in 2018-2020 triggered the market monitoring, but the CC finds that they increased in line with the increase in management costs and are therefore considered reasonable.

2.7.2. “Wolt” and “Bolt Food” cooperation with companies

64. In 2021, the CC assessed the cooperation of online food and non-food ordering and delivery platforms “Wolt” and “Bolt Food” with restaurants, retailers, and other partners.

65. The CC's market monitoring found that half, or 50%, of the companies surveyed had experienced unequal treatment from “Wolt” and “Bolt Food”. In the CC's view, certain conditions on the part of the platforms, such as permanent and long-term promotions, unilateral actions by the platform to reduce the caterer's opening hours or to increase the commission, as well as excessive charges, may lead to unequal treatment between undertakings using the platforms' services.

66. According to the results of the CC's survey, the platforms “Wolt” and “Bolt Food” tend to require operators to cooperate exclusively with one of the platforms, which may be an indication of exclusivity conditions for the cooperation partners. Market participants have a duty to assess such cooperation arrangements to ensure that they are compatible with fair competition.

2.7.3. Brokers promote competition between insurance companies

67. In its market inquiry of insurance companies' cooperation with insurance intermediaries in the distribution of Motor Third Party Liability Insurance policies, the CC found that the existence of insurance brokers on the market facilitates competition between insurance companies, ensuring not only price but also quality competition. At the same time, insurance brokers also make a significant contribution to informing their clients so that they can obtain the most appropriate and advantageous Motor Third Party Liability Insurance policy offer for their interests.

2.7.4. COVID-19 has no impact on bank customer mobility

68. The CC conducted a survey on the mobility of bank customers (consumers) during the COVID-19 pandemic, assessing whether this situation has affected individuals' ability or need to switch banks. Summarising the results of the survey, the CC concluded that the COVID-19 pandemic has not increased barriers to the mobility of bank customers. At the same time, the CC found that consumers have successfully used remote banking services during the pandemic and switching to another bank has been less of an issue, not least because more than half of individuals are already customers of several banks at the same time.

2.8. Improvements in the Legal Framework

2.8.1. Strengthening the independence of the CC

69. In 2018, the European Parliament and the Council adopted the so-called ECN+ Directive, based on a proposal from the European Commission, which requires national

competition authorities to be provided with the necessary powers, independence guarantees and resources to ensure effective enforcement of competition law infringements.

70. To ensure the transposition of the ECN+ Directive into national laws and regulations, amendments to the Competition Law have been prepared and agreed at an inter-institutional meeting in 2021. On 14 December 2021, the amendments were approved by the Cabinet of Ministers and submitted to the Parliament at the end of the reporting period.

71. The draft law harmonises the powers of competition authorities at EU level to effectively investigate, detect and enforce competition infringements. This includes a change in the status of the Authority to an independent body under the supervision of the Cabinet of Ministers, as well as a positive impact on the Authority's investigative processes and decision-making; among other things, the draft law revises the fines applicable to a market participant by introducing changes to the thresholds for the maximum fine applicable and the procedure for calculating them.

72. The deterrent effect of fines varies considerably across the EU, which significantly undermines disincentives to commit competition law infringements. It is therefore particularly important to unify the minimum level of fines within the EU for infringements laid down in Article 101(1) and Article 102 of the Treaty on the Functioning of the European Union. The amendments provide that the maximum fine applicable to market players will be set at 10% of their worldwide net turnover for the last financial year.

73. In addition to implementing the requirements of the ECN+ Directive, the CC has drafted amendments to the Cabinet of Ministers' Regulations on the procedure for setting fines for infringements of competition law.

2.8.2. Unfair Trading Practices Prohibition law enters into force

74. In 2018, the European Parliament, the Council and the Commission reached agreement on a new set of rules that will ensure protection against unfair practices and trade for EU farmers and businesses working in the food supply chain.

75. Unlike the Unfair Retail Practices Prohibition Law, which has been in force since 2016 and protects the interests of suppliers directly against the market power of retailers, the Directive applies unfair trading practices to the entire food supply chain - from the producer to the retail outlet.

76. The new Prohibition of Unfair Trading Practices Law entered into force on 1 November 2021. Thus, in 2021, the CC devoted significant resources to educating food supply chain operators on the monitoring of the new law.

2.9. Impact on competition of public administrative bodies

2.9.1. Involvement of the state and local governments in entrepreneurship

77. In 2021, the CC received 194 applications related to the activities of public administrative bodies - state, municipalities and capital companies owned by them, including possible distortion of competition.

78. Public administrative bodies are required to carry out an assessment of their planned activities when establishing new or reassessing their holdings in existing capital companies. Such an assessment, including an assessment of the impact on competition, should be carried out at least every five years. In 2021, as in 2020, substantial resources were devoted to the preparation of opinions on the involvement of public administrative

bodies in business activities through the companies they own. A total of 95 opinions were issued in 2021.

79. For advisory purposes, the CC has started and will continue to produce summaries by sector or industry, highlighting the key findings and issues arising from its opinions on reassessments of state and local government holdings in capital companies, on the involvement of public administrative bodies in various markets such as health, public transport, housing management, etc.

2.9.2. Respect for competitive neutrality

80. On January 1, 2020, amendments to the Competition Law entered into force in Latvia, requiring public administrative bodies to comply with the obligation to respect competitive neutrality.

81. In 2021, the CC used the negotiated procedure in four cases to remedy a breach of competitive neutrality - in the organisation of sanitation services in Jēkabpils and organisation of cemetery excavation services in Ventspils and Daugavpils, as well as in a public procurement organised by a public limited liability company.

2.9.3. Pro-competitive laws and regulations

82. In 2021, the CC issued 42 opinions to legislators in more than 20 economic sectors to address potential restrictions to competition that could be facilitated by regulatory frameworks. In 2021, opinions were also provided on the compatibility of draft laws with the principles of free competition and distortions of competition in areas such as trade, public procurement, waste management, postal services, investment, rail services, public limited companies, water management, flag production regulation, security services, construction, public administration, pharmacies, and others.

83. In 24% of cases, the CC achieved pro-competitive regulation.

84. To promote the adoption of pro-competitive regulatory framework, representatives of the CC defended the principles of fair competition at 65 events, including the Cabinet of Ministers, the Parliament, etc.

3. MANAGEMENT OF THE COMPETITION COUNCIL

3.1. State Budget Financing

85. At the end of the 2021, the planned financial resources (total) amount comprises to €2,007,401, their execution - €1,946,106. In 2021, the CC absorbed 96.95% of the funding foreseen for the institution. Please, see Table 3.

Table 3. Budget allocation of the Authority

No.	Financial indicators	In the previous year (actual execution)	In the reporting year	
			plan	actual execution
1.	Financial resources for covering costs (total)	1 289 490	2 007 401	1 946 106
1.1.	grants	1 289 490	2 007 401	1 946 106
1.2.	paid services and other own revenue			
1.3.	foreign financial assistance			
1.4.	donations and gifts			
2.	Expenditure (total)	1 289 490	2 007 401	1 946 106
2.1	maintenance expenditure (total)	1 276 842	1 911 976	1 862 897
2.1.1	current expenditure	1 276 842	1 911 976	1 862 897
2.1.2.	interest expenditure			
2.1.3.	subsidies, grants and social benefits			
2.1.4	current payments into the budget of the European Community and international cooperation			
2.1.5.	transfers of maintenance expenditure			
2.2.	expenditure for capital investments	12 648	95 425	83 209

3.2. Personnel

86. The Authority had 54 positions filled at the end of 2021, out of whom 47 had the status of public service officials, and seven – the status of employees.

87. In 2021, the personnel turnover of the Competition Council reached 10 %. Five persons terminated the state civil service relations and employment legal relations, while 11 persons – commenced such relations.

88. **Number of employees at each position:**

- 3 Council Members;
- 1 Executive Director;
- 28 Case Handlers;
- 10 Support staff members;
- 6 Lawyers;
- 6 Economists.

89. **Human resources applied to:**

- Enforcement against anticompetitive practices – 34 (all employees in Legal department, Analytical department and Cartel department). Investigation typically is conducted by a team of one case handler and one lawyer from the Legal Department. In complex cases a project team of several employees is formed.
- Merger review and enforcement – the average number of employees that work with mergers is six (6 economists).

- Advocacy efforts – the Authority does not have exact calculation. At least eight members of Competition Promotion Unit, 3 Board members, two persons from the Communication Division, and some other case handler who were also actively involved in promoting competition culture and advocacy.
90. The average age of personnel of the Competition Council is 37 years. 65 % or 35 employees are women, and 35 % or 19 employees – men.
91. In 2021, 79% of employees had a Master's degree. Considering the specific nature of the institution, the majority of employees have acquired higher education in either Legal or Economic fields. The rest have acquired education in Business Management, Communication Science and other fields.
92. During the year, employees of the Competition Council attended 63 training courses held by external lecturers, thus raising their professional competence on fraud prevention, data visualization, anti-corruption measures, processing of personal data, entrepreneurship and economics, as well as other topics. To ensure exchange of good practice in the organization and institutional memory, two internal events took place at the Competition Council in 2021, incl. training activities that were implemented through assistance by the Authority employees.

3.3. Improving Performance of the Authority

93. To ensure the success and consistency of the Authority's operations, the CC improved several internal processes and developed relevant internal laws and regulations in 2021.
- The CC Human Resources Management Policy was developed in 2020-2021 to ensure effective human resources management practices in the CC.
 - In 2021, the remuneration and staff incentive system of the CC was improved, and the additional funds made it possible to increase the salaries of CC staff from 8% to 27%.
 - In 2021, it was again possible to provide an effective mentoring programme for new recruits, providing mentors and a quality induction process for new staff.
 - During the pandemic, the CC was able to effectively move to a remote or semi-remote working model, which contributed to staff satisfaction. According to the results of the staff satisfaction survey carried out in December 2021, the average staff satisfaction score increased by 23% and the CC's as employer image score improved by 12%.
 - With a view to the sustainable development and effective management of the CC, measures were taken in 2021 to strengthen the management team and develop their professional development: a competency assessment of managers was carried out and, based on the results, a long-term programme for the development of managers' competencies was designed and implemented by attracting the best specialists and focusing on the application of practical knowledge.
 - In order to ensure compliance of the Authority's activities with the regulation on the protection of personal data and to implement the audit recommendations, a new privacy policy was implemented, defining procedure for the processing of personal data and data of CC staff.
 - In 2021, the CC strengthened its investigative capacity by purchasing new software and equipment for collecting, processing, and analysing electronic evidence, thus

starting the process of upgrading the Authority's technical capacity to investigate competition law infringements more effectively.

- In the reporting year, in order to improve the application of the Competition Law, the cooperation with other institutions, which have at their disposal the data necessary for the implementation of the CC investigation process in various sectors, was promoted. Cooperation agreements were concluded with several institutions for operational data retrieval.

4. COMMUNICATION WITH THE PUBLIC

94. In 2021, representatives of the CC participated in 29 educational events organised by the Authority or other organisations. In addition to joint fair competition awareness-raising activities, the CC held 92 inter-institutional cooperation meetings on various topics.

95. The CC held 56 meetings with businesses and NGOs - twice as many as in 2020 - to discuss competition developments and concerns in different sectors and to promote fair competition principles.

4.1. Educating priority target groups

96. Considering the results of the public opinion poll, the two most important competition law problems in Latvia are cartels in public procurement and distortions of competition caused by public administrative bodies - the state, local governments, and their capital companies, thus these two groups are the priority target groups of the CC where it is necessary to raise awareness about free and fair competition.

4.1.1. Entrepreneurs

97. Educational seminars and webinars for entrepreneurs were organised to prevent major competition law infringements, such as collusion by undertakings.

98. In 2021, an educational seminar "Start-up Package for Entrepreneurs or the ABC of Competition" was prepared, with an opportunity to test the newly acquired knowledge by completing a test at the end of the seminar. Both businesses and business associations in the regions took the opportunity to listen to training sessions led by representatives of the CC.

99. To educate young entrepreneurs about collusion in public procurement, the CC in cooperation with representatives of the Corruption Prevention and Combating Bureau and the Procurement Monitoring Bureau organised a seminar on fair participation in public procurement for young entrepreneurs of the Investment and Development Agency of Latvia.

100. Entrepreneurs were also educated about collusion through business associations. In 2021, the CC, in cooperation with the Procurement Monitoring Bureau, educated members of the Security Guards Association.

4.1.2. Stakeholders

101. To promote the development of the procurement environment, the CC provided seminars for public procurement organizers and managers of European Union funds, thus strengthening the competences of these target groups and their ability to identify signs of cartel agreements between bidders. Among others, the CC educated procurement organizers in cooperation with the Procurement Monitoring Bureau, the State Chancellery,

the magazine “Iepirkumi”, the Central Financial Contracts Agency, Anti-Fraud Coordination Service (AFCOS) in Latvia.

102. The training covered not only procurement organizers, but also stakeholders that can help the CC prevent collusion. Cooperation activities took place with the State Revenue Service, the Economic Crimes Combating Directorate of the Main Criminal Police Directorate of the State Police and the Corruption Prevention and Combating Bureau.

4.1.3. Traders and suppliers

103. On 1 November 2021, the new Prohibition of Unfair Trading Practices Law came into, which aims to prohibit unfair trading practices throughout the agricultural and food supply chain and the use of buying power by non-food retailers against suppliers. To inform market participants about the new provisions of the Law and the prohibited practices, the CC participated in four educational events, reaching a total audience of 481 persons. This included informing retailers, manufacturers, wholesalers, suppliers, and other interested market participants about the new Law in cooperation with the Ministry of Agriculture and the law firm “Cobalt”.

4.1.4. Public administrative bodies

104. Since 2020, when the amendments to the Competition Law entered into force, the CC pays special attention to increase education of public administrative bodies - state, municipalities, and their capital companies.

105. In 2021, the CC organised a webinar on “Fair Competition in Local Government” for new local municipal councils and executives. The aim of the webinar was to educate the representatives of municipalities both about the conditions under which it is acceptable to involve municipalities in business and about distortions of competitive neutrality caused by municipalities.

106. In 2021, the CC has also promoted public awareness of competition neutrality at events organised by other institutions, such as the Latvian Association of Local Governments, the Healthcare Employers Association (HEA) and others.

4.1.5. Central theme: public administrative bodies in competition

107. In addition to the seminar-type events, the CC organised two activities focusing on decisions and actions of the state, municipalities, and capital companies in relation to entrepreneurship.

108. For the third year in a row the CC invited businesses and other members of the public to take part in the Authority’s campaign “Most Useless Obstacle to the Competition”. Participants were invited to report unjustified restrictions on competition, which could include, for example, public administrative bodies favouring their own companies, rules or laws that give a competitive advantage to one particular company and thus prevent entry or drive existing companies out of the market, or other actions by public administrative bodies that make it more difficult for companies to operate in the market.

109. The CC received information on 29 barriers to competition in sectors such as manufacturing, energy, tourism, security, events, finance and insurance, IT, etc.

110. On the occasion of the World Competition Day, on 15 December, the CC organised a roundtable discussion with stakeholders about state and local government involvement in business and competition neutrality in the activities of public administrative bodies.

4.1.6. Fostering a culture of competition in young audiences

111. The Authority is also involved in educating the younger generation - the pupils and students. The CC took part in a competition for schoolchildren organised by Junior Achievement Latvia “Business Fairy-tales” by evaluating fairy-tales written by children about competition. Also, the CC organised a drawing competition “Competition - the cornerstone of development” for schoolchildren. Children’s drawings were used as visual messages to promote fair competition.

112. In 2021, the CC also educated future competition law professionals and other students from both the University of Latvia and Turība University, as well as CC experts spoke at the Prof. K. Dišlers Public Law Summer School.

113. In 2021, a new initiative was launched to encourage creative thinking among lawyers and support the most diligent students of competition law. Law firm “PricewaterhouseCoopers Legal” in cooperation with the Competition Council and Riga Graduate School of Law announced a competition for research papers in competition law. The winner will receive a cash prize of €1,000 from “PricewaterhouseCoopers Legal”, an internship at the Competition Council and other incentive prizes.

114. All entries will be evaluated by a jury and five finalists with the highest scores will be selected by 25 May 2022. Finalists will be invited to present their work to the jury before 10 June 2022.

4.1.7. The CC develops digital communication

115. In 2021, the CC continued to actively use different communication channels to reach new audiences.

116. A total of 114 press releases were issued, almost double the number in 2020. In total, the CC has been mentioned in the media 2,352 times. Social networks such as Facebook, Twitter, and LinkedIn, where new audiences are reached, produced a total of up to 200 publications in 2021, an increase of 20% on the previous year.

117. To reach new target groups and strengthen its image, the Competition Council also developed its communication in the digital environment during the reporting period by producing 12 podcasts and videos on competition. For example, an educational video which explains competition neutrality, as well as the first identified non-compliance with competition neutrality by public administrative bodies. The videos also contain messages on collusion, abuse of dominant position, mergers, and unfair trading. In 2021, the CC recorded and published podcasts on the involvement of public administrative bodies in business, the new Prohibition of Unfair Trading Practices Law, retailers’ cooperation with suppliers and the responsibility of contracting authorities in public procurement.

118. Also, to modernise the CC’s information systems, the CC’s website platform has been improved, including the integration of a virtual assistant (a bot) to help clients get answers to key competition law questions.

4.1.8. Self-assessment tools

119. The CC prepared guidelines and a self-assessment tool for businesses to assess vertical agreements, as well as a cartel alert list for State Revenue Service experts to use in their daily work with businesses. This complements the easy-to-use self-assessment tools available to businesses and procurement organizers, which provide a preventive way of assessing whether businesses are engaging in prohibited agreements.

4.1.9. International activities

120. In 2021, the representatives of the CC have promoted the recognition of Latvia and strengthened the position of the Authority on the international level by attending 43 international events and making presentations or speeches on 24 occasions, including at the Baltic Competition Conference, the Organisation for Economic Cooperation and Development, the International Competition Network, the European Competition Network and United Nations Conference on Trade and Development.

121. In 2021, the CC also organised two international events in Riga - a meeting of the management of the Baltic Competition Authorities and the hosting of a Ukrainian delegation and an experience exchange event at the Competition Council.

5. PRIORITIES FOR 2022

122. 2022 is the last year of the Competition Council's three-year (2020-2022) operational strategy. One of the priority tasks for this year will be to develop a new operational strategy as an independent body. This year, the CC will continue to work in the three main areas defined so far:

123. detecting and preventing significant competition infringements and market distortions, and avoiding the adverse effects of market concentration;

5.1. Strengthening and growing the capacity of the CC;

124. Promoting awareness of free and fair competition among market players and public administrative bodies and shaping competition policy and culture at national and international level.

125. In accordance with the directions set out in the Strategy, the CC has set several key tasks for 2022.

5.2. Detection and prevention of significant competition infringements

126. The CC will ruthlessly address the most serious infringements of competition law in public procurement in various sectors with a high impact on the economy, including the continuation of case investigations already launched in 2021.

127. The Authority will also devote significant resources to the supervision of public administrative bodies, which has been particularly relevant on the CC's agenda since 2020. In order to prevent violations of competition neutrality, it is essential to ensure an immediate change in the behaviour of a public administrative body, which also brings immediate benefits to society, therefore that is why the CC intends to use negotiation procedures as the most effective tool to address potential violations.

128. To identify barriers to free and fair competition early, the CC plans to focus on sectors with a significant impact on the economy, as well as markets undergoing rapid development or innovation.

5.3. Strengthening the CC as an independent Authority

129. In 2022, by implementing so-called "ECN+ Directive", which provides the necessary independence guarantees, resources and enforcement powers for effective investigation and prevention of competition law infringements, it is planned to strengthen

the Authority's capacity to fight the most significant distortions of competition. One of the Authority's key priorities for 2022 is to implement the legislative changes in a qualitative manner in the Authority's internal processes and to explain them to market participants in order to benefit the business environment as a whole.

130. In 2022, it is also planned to strengthen the information technology capacity of the Authority by setting up an IT laboratory and training staff to use the most modern IT technical equipment for more efficient acquisition and processing of electronic evidence, with particular focus on the development of an automated cartel screening tool. In addition, the Authority's capacity for economic analysis will be strengthened, which will provide more in-depth and economically accurate investigations in merger cases, market surveillance and abuse of a dominant position cases, etc.

5.4. Creating an effective competition culture in the interests of the Latvian economy

131. The CC has defined the education of market participants on fair competition as one of the Authority's main priorities; therefore, in 2022, the Competition Council will continue the active education of market participants by organizing seminars, webinars, and providing consultations.

132. At the same time, for minor infringements, market participants will be warned and educated using the "Consult First" principle, rather than being fined with severe fines. The Authority will continue to develop tools that encourage businesses and public administrative bodies to monitor their own behaviour and participate in the prevention of competition infringements, for example by developing easy-to-use self-assessment tools, including the launch of a digital merger notification tool for businesses.

133. In order to learn and exchange the best practices of competition law experts in competition supervision and competition culture, as well as to adopt them into Latvian practice, the CC plans to organise with Organisation for Economic Co-operation and Development (OECD) the workshop for competition experts on Hub and Spoke theme, and as well plan to organise a Baltic Competition Authorities Conference in 2022.