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Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Poland

-- 2021 --

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

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Poland

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

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

1. In 2021, Office of Competition and Consumer Protection (hereinafter: “UOKiK” or “the Office”) proposed draft act transposing Directive (EU) 2019/1 of 11 December 2018 (hereinafter: the Directive or Directive ECN+) to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market. Some of the principles that are now set out by the Directive had already been introduced into Polish law in the past, but some areas require new provisions to be enacted to transpose the Directive.

2. In order to enhance independence, it is proposed that the President of UOKiK will be appointed for a 5-year term in office. According to the proposal, the dismissal of the President of the Office will only be possible in precisely defined situations. The amendment will include provisions on turnover-based fines for procedural infringements. The penalty shall be up to 3 per cent of the turnover in the year preceding the decision.

3. The Directive also introduces periodic fines which will amount to up to 5 per cent of the undertaking’s average daily turnover in the year preceding their imposition. These sanctions will be imposed, inter alia, for each day of delay in implementing the decisions of the President of UOKiK or court judgments related to them. There are detailed rules on imposing fines on associations of undertakings. The draft extends the obligation to provide UOKiK with information and documents on natural persons. The draft foresees that individuals will have the right to refuse to provide information and documents if doing so could lead to criminal liability (freedom from self-incrimination).

4. The implementation of the Directive will allow more effective international cooperation. In addition, the draft proposal includes changes to the leniency program, inspections, and searches in order to adapt them to the requirements of the Directive ECN+. It also sets forth more detailed rules concerning undertakings’ procedural rights e.g. with regard to statements of objections and legal professional privilege.

1.2. Other relevant measures, including new guidelines

1.2.1. Fine guidelines

5. UOKiK updated its guidelines on fines that may be imposed on undertakings for anti-competitive practices. According to the Act on Competition and Consumer Protection (hereafter: “the Act” or “Competition Act”), the fine for antitrust infringements is up to 10 per cent of the business entity’s revenue generated in the year preceding the issuance of the decision. The Act specifies the maximum level of fines and general rules for determining fines, but to increase transparency the Office further explains the methodology for imposing sanctions in its soft law documents.

6. According to the guidelines, in determining the amount of the fine, UOKiK will take into account the nature of the violation. The most severe sanctions will be imposed for collusion between competitors and abuse of a dominant position aimed at or leading to the elimination of competition on the market.

7. Other important premises for determining the amount of sanctions include the nature of the market and the effects of the infringement. UOKiK will check, among other things, whether a product is exceptionally important for particularly sensitive customers, as well as its importance for other sectors of the economy. Aspects such as market structure, barriers to entry, and economic potential of the undertaking, will also be taken into account. The new guidelines increase the transparency of fine-setting insofar the duration of infringements is taken into account – UOKiK decided to align the fine guidelines with those used by the European Commission, i.e. multiply the basic amount of fine by the number of years of infringement, instead of using a more discretionary system of fine increases. UOKiK will also take attenuating and aggravating circumstances into consideration, which will be evaluated together. The fine determined at an earlier stage of the analysis may be increased or decreased by up to 50 per cent.

8. Finally, UOKiK will determine whether the fine is adequate under the circumstances of the particular case under review, i.e. whether there are any extraordinary circumstances that warrant a lesser fine or whether the nature of the infringement warrants a higher one.

1.3. Government proposals for new legislation

9. The Office may act in two roles in the legislative process.
- Firstly, UOKiK prepares and submits to the Council of Ministers legislative proposals concerning the protection of competition and consumers. In 2021, we prepared draft act transposing the ECN+ Directive. Apart from that, in 2021, UOKiK participated in the legislative work on the draft regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market. UOKiK is also closely involved in negotiations of Digital Markets Act in the Council of the European Union, led by Ministry of Economic Development and Technology. UOKiK proposed several amendments to the proposal and closely monitored the developments.
 - Secondly, UOKiK participates in the governmental legislative processes at different levels and evaluates drafts of legal acts in terms of their impact on competition. In 2021, we reviewed 637 drafts of acts and 747 drafts of regulations.

2. Enforcement of competition laws and policies

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

2.1.1. Summary of activities of:

- competition authorities;
- courts;

10. Since around 2017 UOKiK has been implementing a more active policy of conducting dawn raids. Taking into account the average time required to complete an investigation, in 2021 we saw some of our major investigations reaching further stages. This concerned in the first place our two investigations into collusion among DAF dealers,

which were finalised and closed with infringement decisions. We also moved our investigation concerning Iveco trucks from a preliminary stage to a full antitrust investigation. As a follow-up to our investigations in the truck sector, we also made a move to look more closely on market conduct in other automotive markets. In that regard, we launched a new investigation concerning Kia vehicles, searching its premises and the premises of Kia dealers. In November 2021, UOKiK has initiated an investigation in Apple case, to examine whether Apple's actions may be aimed at eliminating competitors in the market for personalised advertising services, the objective being to better sell their own service. Apart from our activity in the abovementioned sectors, in 2021 we also closed a number of investigations concerning RPMs, adding further to our extensive track record in relation to this type of infringements.

11. As regards court cases, the Office obtained a favourable ruling from the court of appeals in relation to UOKiK's 2009 cement cartel decision (the case was heard once again after an earlier Supreme court ruling). Courts also confirmed UOKiK's decisions in relation to RPM investigations. This concerned UOKiK's 2013 Anyro decision (watches) and 2016 SCA/Essity decision (hygiene products). In Thales/Qumak bid-rigging case, the first instance court set aside UOKiK's decision, however the case is not over yet, as UOKiK decided to lodge an appeal and is awaiting another judgement by the court of appeals.

12. An overview of the most significant cases mentioned above, along a review of a number of other relevant cases, is provided below in section 2.1.2.

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

Truck collusion cases (DBK-ESA-TB and DBK-Wanicki)

13. In 2021, UOKiK finalised, by adopting infringement decisions, two cases concerning collusion in the market for trucks.

14. In the first decision, UOKiK found an infringement by three undertakings operating as DAF truck dealers, i.e. DBK (which operates its business through DBK sp. z o.o. and WTC sp. z o.o.), ESA, and TB Truck (parent company located in the Netherlands and its subsidiary). The agreement lasted at least 7 years and included market-sharing, price-fixing, and bid-rigging. As a result of the UOKiK's decision, five companies and eight managers were fined. The fines amounted to over PLN 122 million (with fines imposed on the companies amounting to over PLN 118 million and fines imposed on the managers amounting to approximately PLN 1.7 million). TB Truck and its managers were granted leniency reductions and TB Truck itself also obtained an additional reduction following a settlement it agreed to during the investigation.

15. The second decision concerned bid-rigging by two undertakings selling DAF trucks, i.e. DBK and Wanicki. According to UOKiK's findings, the undertakings engaged in market-sharing contacts with regard to public tenders. In consequence, UOKiK imposed fines amounting to over PLN 2.65 million on three companies (two belonging to DBK and one to Wanicki).

Bid rigging (Brimat and Janusz Kurek Firma Budowlana J&S)

16. According to UOKiK's findings, two undertakings operated an anticompetitive agreement concerning public tenders organised by the Tarnobrzeg municipality, related to the supply and installation of arrangement walls. The undertakings engaged in bid

suppression, with one of the undertakings (offering a lower price) declining to sign a contract with the municipality after winning the bid and in consequence forcing the municipality to choose the more expensive offer. Fines amounting to approximately PLN 375,000 were imposed.

Resale Price Maintenance cases (Spokey – sports equipment; Fellowes Polska – office equipment; Solgar – dietary supplements)

17. According to UOKiK's findings, Spokey was fixing minimum resale prices with its distributors, and also monitored whether they were adhering to them. A fine of PLN 500,000 was imposed on Spokey as the organiser of the agreement.

18. UOKiK also found that Fellowes, an authorised distributor of the office equipment, entered into an agreement with its distributors not to apply resale prices lower than those specified by Fellowes. Fellowes monitored whether its trading partners were complying with the arrangements and retaliated against those of them who did not want to stick to the arrangements. Distributors also observed each other's activities and informed Fellowes of deviations from the collusion. A fine of PLN 434,000 was imposed on Fellowes.

19. A similar infringement was found to have taken place in relation to Solgar. A fine of approximately PLN 1.2 million was imposed on Solgar and two fines amounting (in total) to PLN 280,000 were imposed on two company executives who were personally responsible for the collusion.

Dawn raid obstruction (Platinum Wellness and its executive)

20. During a dawn raid in 2017, an executive of Platinum Wellness (fitness clubs network) obstructed the dawn raid by initially granting access to his mailbox, but then changing his email password during the process of data collection, interfering this way in the process. The company initiated litigation, complaining over UOKiK's actions during the dawn. Having obtained favourable court judgements, UOKiK decided to initiate proceedings concerning dawn raid obstruction. In 2021, UOKiK issued two decisions imposing fines in the amount of PLN 500,000 on Platinum Wellness and in the amount of PLN 150,000 on its executive.

Litigation with regard to hygiene products RPM (SCA Hygiene)

21. In 2016, UOKiK issued an infringement decision regarding an anticompetitive agreement between a producer and distributors of cleaning cloths and hygienic materials (paper towels, liquid soap or toilet paper). SCA Hygiene and SCA Hygiene Products, together with their distributors, were fixing minimum resale prices for products sold to institutional customers such as hotels, shops and restaurants. The total amount of fines imposed upon the parties to the proceedings exceeded PLN 3.2 million. One of the distributors, having submitted a leniency application, was granted total immunity.

22. However, the court of first instance rendered a judgement unfavourable for UOKiK. Following UOKiK's appeal, the court of appeals found that the first instance court violated the principles of life experience and logical reasoning, ignoring documentary evidence, in particular contracts, as well as recordings and emails, which indicated that the refusal to use the software (which had been used to control observance of minimum resale prices and performance of the anticompetitive agreement by distributors) resulted in negative consequences. The court of appeals point out that the agreement did not have pro-competitive effects, contrary to what undertakings claimed. The judgement is final, since the plaintiffs did not exercise their right to appeal to the Supreme Court.

Litigation with regard to wrist-watches (Anyro)

23. Anyro was found to be a party to a resale price maintenance scheme. UOKiK's decision in this case was annulled by the court of first instance in 2015. After a lengthy litigation and a hearing by the Supreme Court, the decision was finally confirmed by the first instance court in 2020 and then again by the court of appeals in 2021. The most significant conclusion confirmed by the Supreme Court was that resale price maintenance agreements are restrictions by object.

24. Subsequently, during further litigation in lower instance courts, it was confirmed that changes in the economic situation of undertakings related to the COVID-19 pandemic may not have an impact on the amount of the fine, since the undertaking was aware of the fine level indicated in the decision and should have taken into account the need to secure funds for its payment.

Litigation with regard to bid-rigging

25. In 2021, the courts positively assessed UOKiK's decisions regarding bid rigging:

- Firstly, our 2013 decision regarding tender collusion between undertakings rendering waste disposal services in Białystok was upheld by the court of appeals;
- Secondly, the court upheld another decision issued in 2013 in which UOKiK found that the suppliers of car towing and parking services had engaged in tender collusion involving market-sharing. The undertakings claimed that apart from anticompetitive agreements they had competed in other fields – the claim was rejected by the court of appeals.

2.2 Mergers and acquisitions**2.2.1 Statistics on number, size and type of mergers notified and/or controlled under competition laws;**

26. There were 329 merger filings received between 1 January and 31 December 2021. There were 329 merger filings received between 1 January and 31 December 2021. 287 mergers were cleared in phase I and 13 mergers were cleared in phase II. The UOKiK distinguishes between so-called "phase I" and "phase II" proceedings. An in-depth review is defined as one that takes place when a case is transferred to the phase II.

Such transfer is initiated when the case is complex and requires market inquiry or preliminary assessment shows competition issues that need to be investigated. According to Article 96a of the Competition Act, UOKiK may initiate phase II in cases:

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

27. In 2021, the average number of days that in-depth merger reviews lasted 255 days.

2.1.3. Summary of significant cases.

Merger clearance – wind farms in the Baltic Sea

28. UOKiK cleared two mergers related to the construction of wind farms in the Polish economic zone in the Baltic Sea. The first merger concerned Polish Energy Group (PGE) and the set-up of a joint venture with Ørsted Wind Power. The second one concerned the establishment of a joint venture between PKN Orlen and NP Baltic Wind. The joint venture is supposed to be established on the basis of Baltic Power, a company that is currently wholly controlled by PKN Orlen.

Merger clearance – Netto-Tesco

29. UOKiK approved the takeover of Tesco Polska by Salling Group – the owner of Netto stores, as a result of the Tesco Group’s decision to withdraw from the Polish market. The merger notification was initially submitted to the European Commission. However, the EC decided to refer the case to UOKiK, due to the scope of the transaction and UOKiK’s experience with examining similar cases. UOKiK’s proceedings included an examination of the state of competition in several dozen local markets. The proceedings showed that in each of the cities surveyed Netto will need to compete with other stores after the acquisition of facilities. Thus after the transaction the structure of these markets will not change to the detriment of consumers, suppliers or entrepreneurs operating smaller stores.

30. On a side note, in February 2021, UOKiK had issued a decision on a temporary takeover of eight Tesco stores by Salling Group. The acquiring company undertook to operate these shops under the Tesco brand until 31 August 2021.

Merger clearance – Orlen/Polska Press

31. UOKiK cleared the takeover of Polska Press by PKN Orlen. UOKiK based its assessment of the merger’s consequences, among other things, on the information and data collected during the proceedings, including those provided by the parties to the transaction and from entities which compete with Ruch and which are Polska Press clients. The analysis also covered all materials received in connection with the proceedings in question, including those sent by Helsinki Foundation for Human Rights, Towarzystwo Dziennikarskie [Journalist Society] and Commissioner for Human Rights. Additionally, UOKiK took into account the market shares of the undertakings in question, influence on competition and other factors relevant in antitrust analysis. The results showed that the merger did not pose a threat to competition on any of the markets analysed.

Merger clearance – Polkomtel Infrastruktura by Cellnex Poland

32. UOKiK cleared a merger between two undertakings which are the owners of the infrastructure used by mobile network operators, providers of passive telecommunications infrastructure used for the provision of mobile network services.

33. UOKiK conducted a market survey in which enquiries were sent to nationwide mobile network operators and asked for an opinion of the telecommunications regulator. The conducted analysis pointed out that although Cellnex Poland, after the acquisition of Polkomtel Infrastruktura, would own more than 50 per cent of the mobile network

telecommunications masts in Poland, the concentration would not lead to any restriction of competition. A similar opinion on that issue presented the sector regulator.

34. The merger is expected to strengthen competition in the sector, because it may lead to easier access to infrastructure for other operators as Cellnex Poland, which is not an operator but an infrastructure manager and has an economic interest in making masts available to multiple parties at the same time. This may facilitate the development of smaller operators, who will be able to take advantage of infrastructure available to them in the market instead of developing their own, as has been the case to date.

Remedies – pharmaceutical market

35. UOKiK cleared a merger between DOZ, Euro-Apteka, Super Zdrowie, and MLV18. The merger may be completed if the pharmacy in Goleniów (Zachodniopomorskie Voivodship) is sold.

Remedies – acquisition of Betamed by Air Liquide.

36. UOKiK issued a conditional approval for an acquisition of Betamed by Air Liquide. Both companies operate, among others, in medical service markets financed by the National Health Fund. The remedies imposed by UOKiK will ensure that the merger does not impede competition. This means that patients who receive specialist care under existing contracts concluded by Betamed with the National Health Fund can continue to receive such help and will not be affected in any way. The number of entities applying for contracts with the National Health Fund will not decrease either.

37. Following remedies were applied:

- Air Liquide will operate under Betamed's existing contracts with the National Health Fund for long-term home care for mechanically ventilated patients in the Dolnośląskie and Małopolskie Voivodeships, with these contracts to expire by 30 June 2022.
- Betamed will participate in the National Health Fund competition proceedings for the provision of such services after 30 June 2022. Its bid will be based on its know-how and experience, with the service range offered no smaller than that offered in the previous years. Should the National Health Fund choose Betamed's bid, Betamed will enter into a contract with it.
- Air Liquide will establish a company or companies to which it will transfer part of Betamed's assets related to the provision of home mechanical ventilation services to patients in the Dolnośląskie and Małopolskie Voivodeships. Such company or companies will then be sold to an independent investor not affiliated with Air Liquide.
- The buyer will also need to be approved by UOKiK.

Remedies – Carrefour and Tesco

38. UOKiK issued a conditional approval for Carrefour Polska to purchase retail space used by the Tesco hypermarket in Bielany Wrocławskie. In this case conducting a phase II proceedings and a market study was required. The final approval states that the transaction may be concluded only if the space of another Carrefour store will be decreased. In spite of that, competition in the market will be preserved for the benefit of consumers.

Merger prohibition – Agora/Eurozet

39. UOKiK prohibited the acquisition of Eurozet by Agora. The merger would have resulted in a significant impediment to effective competition on the market for radio advertising and broadcasting of radio programmes. The merger might have led to the formation of a duopoly and marginalisation of the remaining groups and radio stations – the two leading radio groups (Eurozet and RMF FM) would have jointly held approximately 70 per cent of the market.

40. In the case of local markets, after the merger, Agora would have held more than 40 per cent of radio frequencies in Poznań, Opole, and Silesian Agglomeration. On the domestic advertising market, in turn, the merger could have led to the creation of an entity which would only have one equally strong competitor, i.e. RMF FM.

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

41. The President of UOKiK is in a constant consultation process with government, specific public sector regulators, parliament representatives and other public bodies. Depending on the case, President cooperates with other specific sector regulators and consults with them, even at the very start of the investigation. In this manner, UOKiK constantly contributes to policy-making processes.

42. In the case of merger investigations, the President of the Office commonly cooperates with sector regulators in order to better understand the given market and the possible effects of the transaction. In particular, he cooperates with energy, telecommunications and media regulators. This is because of the fact that these bodies have unique knowledge and experience due to the scope of their competences and activities. Coordination with these entities allows the Office to take into account all the facts relevant to a given investigation and to be familiar with legislative amendments, because the entities provide up-to-date information on legislation.

43. In this regard, President of the Office cooperated with the President of the Office of Electronic Communications in issuing a decision on changing the method of regulating wholesale rates for voice call termination in mobile networks (so-called MTR). Another example of such activity is the President of UOKiK expanding his cooperation with the President of the Energy Regulatory Office. The regular and continuous monitoring of the gas market conditions reflects this interaction.

4. Resources of competition authorities

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

44. As per the act of 2021 the planned budget for UOKiK was PLN 110,872,000.00 giving an increase of 8.2 per cent compared to PLN 102,511,000.00 in 2020. However, due to the reasons listed below, the planned budget of 2021 needed to be increased to PLN 123,188,070.00:

- Blockade of funds for the purpose of fighting Covid-19
- Increasing the plan through specific provisions (Decision of the Ministry of Finance)

4.1.1. Annual budget

Table 1. Annual budget (in your currency and USD)

The UOKiK's annual budget, according to the Budget Act, after changes:	PLN 123,188,070.00	USD 30,341,889.16
- budget for competition law and policy:	PLN 52,419,268.00	USD 12,911,149.75

4.1.2. Number of employees (person-years):

- economists: 26
- lawyers: 94
- other professionals: 19 (*data scientists*)
- support staff: 159
- all staff combined: 323

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

- **Enforcement against anticompetitive practices;**
There were 164 people working on competition enforcement at the Office. Of this total, 61 individuals were directly involved in dealing with cases concerning abuse of dominance and anticompetitive agreements under Articles 101 and 102 TFEU and their national counterparts.
- **Merger review and enforcement;**
There were 15 people at the Office who worked on merger review and enforcement.
- **Advocacy efforts.**
There were 15 people working on Advocacy efforts.

45. In 2021, the following advocacy initiatives were undertaken:

46. In December 2021, on the occasion of World Competition Day, UOKiK launched a campaign "Market Collusion? Give a Signal!" which aim was to raise the awareness of competition law violations and encourage people to report them to the Office. The spot, banners and graphics appeared, for example, on social media and industry-related websites. For the duration of the campaign a special hotline was set up where one could report irregularities or obtain assistance and learn more about the Whistle-blower programme. Consistently, the website konkurencja.uokik.gov.pl was updated to better fit the campaign's assumptions.

47. UOKiK organised the 12th edition of the competition for best Master's theses in the category of competition protection and awarded the authors of best 3 works. They were later published as part of the "Library of the UOKiK" series".

48. The Office provided on its website the updated "Clarifications on the determination the amount of fines for undertakings for anti-competitive practices".

49. UOKiK won a Twinning in Morocco under the title "Strengthening institutional capacity of the Competition Council" as a junior partner in a consortium comprising

administrations from Greece and Italy. This is the first time a Polish institution participated as a partner in a Twinning project in Morocco.

50. UOKiK hosted two highly specialised seminars addressing developments in antitrust legislation and aimed for entrepreneur associations. During these webinars, we covered the most important changes in competition law from the perspective of these associations.

51. The Office together with Centre for Antitrust and Regulatory Studies organized on 2 March 2021 a joint conference entitled “Implementation of ECN+ Directive in Poland - towards a more effective application of competition law?”. Almost 3100 people from Poland, the USA, Germany, UK, the Netherlands, Austria and Ecuador registered and watched the conference.

52. During the OECD Competition Week several aspects of the competition law were presented online (Twitter), including the illegal market practices, the Whistle-blower and leniency programme.

53. UOKiK published 43 press releases related to anti-competitive practices and merger control.

4.3 Period covered by the above information:

54. The above information concerns the period from 1 January 2021 – 31 December 2021

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

55. The President of UOKiK conducts market research aimed at diagnosing the general market situation, selected sectors or a specific problem affecting the situation of consumers or the conditions for conducting business activity. Such analyses are conducted in the form of separate administrative proceedings, and their results may be used to carry out intervention actions by UOKiK. Market research is conducted, among others, by asking questions to entrepreneurs operating in a given industry. The analyses concern in particular those markets where, due to the existing structure or ongoing changes, there is a higher risk of actions that threaten the development of competition. In addition, UOKiK commissions social studies that serve, inter alia, to find out the opinions of consumers and entrepreneurs on selected topics.

Table 2. Market research 2021

Market research ¹ in 2021	Nationwide surveys	Local surveys
Completed proceedings	9	23

¹ Research aimed at gathering information about individual markets, conducted in the form of separate investigations (independent of merger or antitrust proceedings). Some of the proceedings relating to local markets are connected to nationwide research projects, coordinated by UOKiK headquarters.

5.1. Examples of market research completed in 2021

5.1.1. Investigation of the lead-acid battery processing market

56. The President of UOKiK conducted an investigation in connection with information concerning possible threats to the state of competition on the lead-acid battery processing market. During the examination, the structure of the market, prices of sourced raw material, behaviour of market participants on the supply and demand side, as well as an assessment of direct cooperation of the largest entities were analysed. Based on the analyses performed, possible theories on the interaction of market participants were verified. The investigation did not reveal any circumstances indicating possible coordination between the leading processors.

5.1.2. Mineral Wool Market Inquiry

57. The reason for launching the inquiry was the dominance of the mineral wool market by 5 large entities belonging to one association. The proceedings of the President of the UOKiK were aimed at determining the structure of the market and its degree of concentration. In addition, an analysis of the product offer of individual entrepreneurs was carried out, as well as an assessment of the price policy applied in terms of a possible anti-competitive agreement between the entities. The investigation has shown that although the market structure is stable and highly concentrated, the market is not hermetic and effective entry of new entities is possible. The investigation also did not reveal any possible functioning of prohibited agreements.

5.1.3. Market survey for containerboard and containerboard paper

58. The investigation has covered products that were subsequent links in the production chain such as: containerboard, containerboard in the form of sheets and packaging manufactured from it. The proceedings of the President of UOKiK has covered manufacturers of corrugated board and sellers. The analysis of average prices of both containerboard and paper used to produce it did not give reasons to conclude that decisions in this regard were made by sellers in an agreement. The temporary price increase on the relevant markets was due to changes in the cost of materials. The initial premise of the investigation was the alleged existence of a practice whereby corrugated paper was sold at inflated prices while the leading players kept corrugated board prices relatively stable. The analysis of prices and other market conditions did not reveal any of those practices to be restrictive of competition.