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Directorate for Financial and Enterprise Affairs  
**COMPETITION COMMITTEE**

## Annual Report on Competition Policy Developments in Latvia

-- 2022 --

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

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## *Latvia*

### Foreword by the Chairman

1. In 2022, the Competition Council celebrated its 30th anniversary. Has it been long enough to instil in Latvian society an understanding of the importance of fair competition in the development of a free market economy? And how deeply ingrained is it in the minds of business that only by acting with integrity do we all, as one society, get both better-quality products and services and a country that encourages innovation, invests in quality, and provides consumers with competitive prices? And how should the Competition Council evolve in the future so that we can grow and bring even more benefits to society? These are the questions on my mind when I think about what the Competition Council has achieved in 30 years and what lies ahead.

2. During these 30 years, the Competition Council has changed and grown from a small Committee with no more than ten employees to the Competition Council we see today. It is strong, independent, development-oriented and with a clear vision, where we have identified the necessary improvements in the governance of the institution and, most importantly, embarked on this necessary growth path. A significant leap forward has taken place in the last few years since I have had the honor to lead and be part of the strong family of the Competition Council.

3. We are a small but effective competition authority. What is done in these 30 years? We have taken around 500 decisions on distortions of competition such as cartels and abuses of dominant position, and we have examined more than 400 mergers. We have organised numerous preventive measures, such as the "Consult at first" principle, warning businesses and public entities (state, municipalities and their capital companies) as well as systematic educational events and activities to promote fair competition.

4. How can we know if the work we have done has been meaningful and borne fruit? In order to objectively assess the performance of the Competition Council, the Competition Council analyses two factors – the public opinion (entrepreneurs, public administrative bodies, non-governmental organisations, law firms) towards the implementation of competition policy in Latvia, as well as the society benefits of the work of the Competition Council, calculated according to a methodology recommended by the OECD.

5. The 2022 opinion poll shows that public perceptions of competition law have improved, including a better understanding of what constitutes a competition law infringement and what activities are prohibited. Three quarters of respondents also consider that the authority's decisions have a positive impact on the market, highlighting the clarity of the legal basis for decisions and the positive impact of decisions on the market.

6. In terms of public benefit, which is calculated by measuring the financial benefits to businesses and consumers from the authority's activities in preventing distortions of competition, taking preventive action, monitoring markets and supervising large mergers, 2022 showed the highest calculated public benefit in the authority's history. On average, society has benefited financially from the work of the Competition Council, totaling of more than EUR 51 million per year in the period 2020-2022.

7. Taking into account both the positive growth in public opinion towards fight against competition infringements and the estimated substantial public benefits, which are more than double the authority's expected public benefits, I would like to thank every Competition Council employee who has contributed to achieving these results through their perseverance, commitment, diligence and love for their work.

8. But we do not intend to bask in the last year's sun or to curl up on the sofa in contentment. On the contrary, we are seeing the challenges that companies are currently facing in a changing economic environment, including the energy crisis and the shortage of raw materials caused by the Russian-led war in Ukraine, inflation and others. We also face the challenges posed by the development of digital markets and the lack of regulation to supervise them.

9. That is why the Competition Council needs to invest more than ever in the development of the authority so that, like our businesses, we can adapt to changing circumstances and effectively fulfil our mission.

10. Already in 2022, the Competition Law was amended to strengthen the authority's powers, independence and resources. The authority's decision-making body, the Council, was also strengthened by increasing the number of its members from three to five and by increasing the Council's powers, which will enable it to play a more active role in the authority's internal deliberations, with all Council members having equal status, thus ensuring continuity, transparency and the rule of law in the authority's work. In order to promote public participation and cooperation with its strategic partners (ministries, local governments and business associations) as an independent institution, as well as to develop closer and more effective mutual cooperation in the development and application of competition policy, the Consultative Council of the Competition Council was established.

11. In 2022, we have also developed our IT technical and technological capacity to ensure more effective investigations of competition infringements, such as the development of an IT lab to process the e-evidence and extensive staff training in the use of the IT lab planned for 2023. Also in 2022, a special focus was on the development of an automated cartel screening tool to enable the authority to automatically identify suspicious tenders. At the same time, work will continue on the introduction of a digital competition e-case, allowing parties to access case files remotely.

12. Also, we are developing the authority in other dimensions. Currently, when developing the Competition Council's strategy for the next planning period from 2023 to 2029, we make sure that every employee sees the importance of their daily work and their individual contribution to the achievement of the authority's strategic objectives. Staff also have individual development plans in place which are systematically updated to ensure development of competences. We believe that strong staff is a strong institution. That's why we make sure that everyone grows individually, so that we can grow together!



Sincerely,

**Juris Gaiķis**

Chairman of the Competition Council



## 1. Basic Information

The Competition Council of the Republic of Latvia (hereinafter - the CC) is a direct public administration authority operating under supervision of the Cabinet of Ministers. The tasks and rights of the CC are laid down in the Competition Law, the Advertising Law, Prohibition of Unfair Trading Practices Law, European Council Regulation No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty establishing the European Community and other laws and regulations.

**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.

**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.

13. 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.

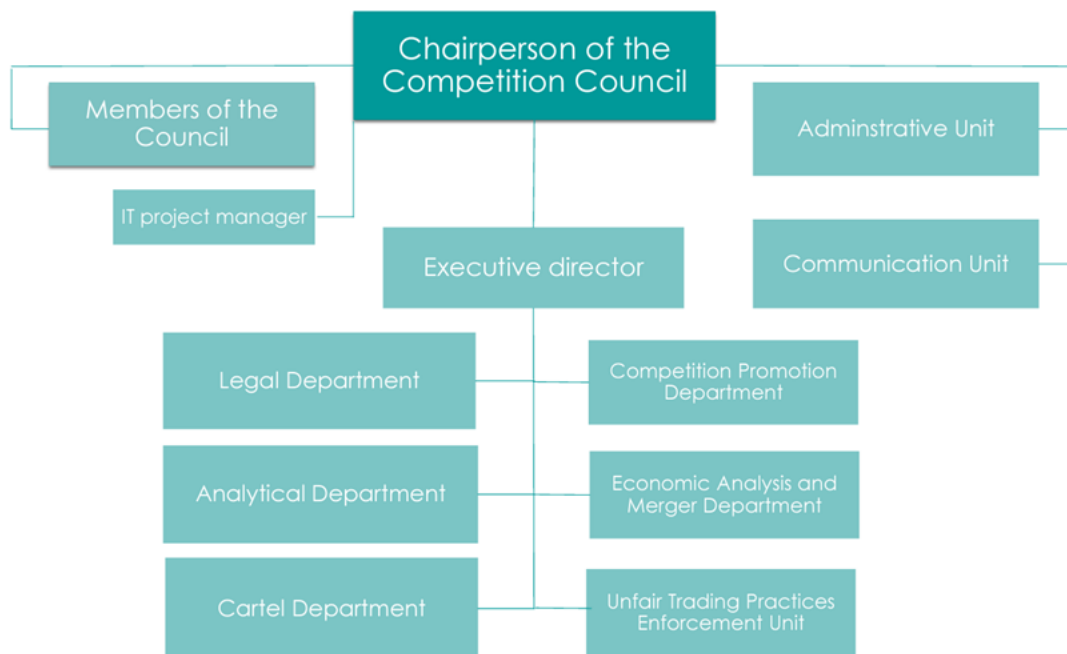
### 1.1. Structure of the Competition Council of Latvia

14. The Decision-Making Body – the Competition Council – consists of a Chairperson, who is also head of the institution, and three 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.

15. 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 Department, Economic Analysis and Mergers Department, and since 2023 Unfair Trading Practices Enforcement 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 Department provides an in-depth economic and econometric analysis during case investigations.

**Figure 1. Organizational chart of the Competition Council**



## 2. Performance Results in 2022

16. In general, the Competition Council has fulfilled the planned quantitative and qualitative performance results in 2022, 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 impact on the competitive environment of proposed mergers of market players assessed, in-depth inspections, opinions and proposals, public education and international cooperation (see Table 1).

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

Name of the indicator/Name of the measure	Planned value	Execution
Preventive measures and investigation of possible infringement cases, market research <i>Total number of measures</i>	25	33
including high priority areas for market research - construction, transport, digital financial services, pharmaceuticals, public procurement, relationship between retailers and food suppliers <i>Number of high priority actions</i>	11	11
including investigative measures (case and monitoring) to ensure competitive neutrality <i>Total number of measures</i>	8	9
including monitoring measures to ensure fair trade practices in the agricultural and food supply chain <i>Total number of measures</i>	3	3
Assessment of the impact on the competitive environment of mergers and agreements proposed by market participants <i>Number of cases/high priority cases</i>	16	17
including in-depth merger investigations <i>Total number of measures</i>	6	5
In-depth analysis of data (e-evidence) from inspections <i>Number (to be calculated annually)</i>	8	85
Restrictions removed from the activities of public administrative bodies (percentage of positive result achieved in relation to total number of measures taken) <i>Percentage (to be calculated annually)</i>	25 %	25 %
Completion of administrative court proceedings and percentage of decisions upheld <i>Percentage (to be calculated annually)</i>	82 %	100 %
Actions taken in response to notifications to protect against possible infringements of competition law <i>Assessed submissions on which a Council Decision has been adopted</i>	30	34
Public partners' support in promoting competition ideas and coverage of target audiences ensured (explanations, opinions, proposals, drafting of legislation and guidelines) <i>Number of documents</i>	220	327
Awareness-raising activities to ensure fair trade practices in the agricultural and food supply chain <i>Total number of measures</i>	4	6
Positive assessment of the functioning of the CC by entrepreneurs (% of "positive" and "rather positive" responses to the survey) <i>Percentage (to be calculated annually)</i>	60 %	74%
Strengthened role and international visibility of the CC (number of publications and speaking events) <i>Total number of measures</i>	45	58
Staff turnover (number of employees who have left the Authority to total number of employees) <i>Percentage (to be calculated annually)</i>	15 %	12 %
Staff loyalty (% of staff who responded to the survey that they will continue their legal employment with the Authority for the next two years) <i>Percentage (to be calculated annually)</i>	85 %	96 %
Public benefits from the operations of the Competition Council <i>Millions of euros (average over three years)</i>	> 23	51,6

## 2.1. Public benefit

17. The CC has summarised the 2022 performance and calculated that the average public benefit from competition policy implementation in Latvia over the period 2020-2022 exceeds EUR 51.5 million per year. Taking into account the budget of the Authority during this period, each euro allocated to the Authority generates on average a public benefit of EUR 26.73.

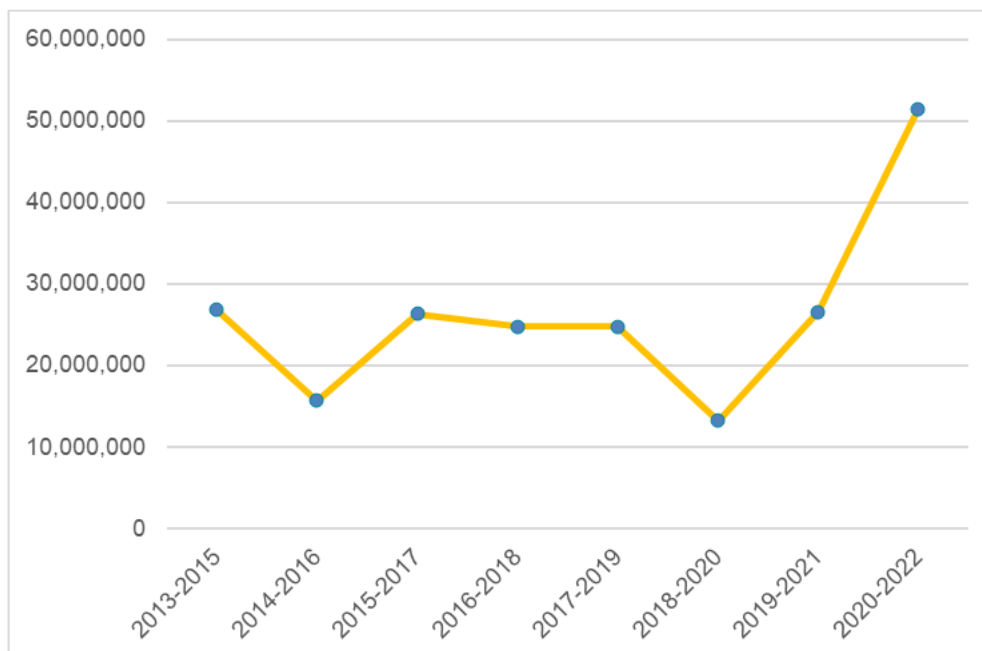
18. To calculate the public benefit, the CC relies on the methodology recommended by the Organisation for Economic Co-operation and Development (OECD), adapted to the



specific features of the Latvian economy and supplemented by the recommendations of the European Commission and the practical findings of other highly-regarded competition authorities around the world.

19. According to this methodology, the public benefit calculation took into account the decisions taken by the authority in the period 2020-2022, assessing the immediate benefits accruing to businesses and consumers from the CC's actions in the public interest in preventing collusion and abuse of dominance. At the same time, the calculation includes merger control, which prevents the concentration of market power to the detriment of undertakings, and the authority's preventive actions, or warnings and negotiation procedures with undertakings that have committed minor infringements of competition law. Fines imposed by the CC and paid by undertakings are not included in the calculation, as their primary purpose is to deter undertakings from committing similar infringements in the future.

**Figure 2. Three-year average public benefits of competition policy in Latvia**



## 2.2. Decisions of the Competition Council

20. In 2022, the Competition Council adopted a total of 22 decisions. The Authority detected 2 prohibited agreements, 1 abuse of dominant position. See Table 2 for all the decisions taken by the Competition Council of Latvia in 2022.

**Table 2. Statistical summary of decisions**

Prohibited agreements	2
Infringement detected	2
Abuse of a dominant position	1
Settlement with legal obligation and payment of a fine	1
Mergers and notified agreements	18
Merger cleared	13
Extension of merger	3
Merger cleared with binding terms	1
Cleared agreement notified by undertakings	1
Procedural infringements	1
Infringement detected	1
Total number of decisions	22

21. In total, the Authority imposed fines in the amount of 502,805.85 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.

22. In 2022, the Competition Council reviewed 14 merger cases. From all merger cases, one merger was cleared with binding terms, but the rest were cleared as no harm to the competition was detected.

### 2.3. Legal proceedings

23. In 2022, five proceedings relating to decisions taken by the CC were concluded. In five out of five cases, the CC's decisions have entered into force.

24. In 2022, companies paid more than €9 million 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.

25. In addition, the Supreme Court issued important findings in relation to the obligation of the CC to provide a settlement agreement and its offer to a market participant who is not a party to the settlement agreement. The Supreme Court concluded that, in order to ensure the willingness of undertakings to cooperate voluntarily with the competition authority within the framework of the Leniency Programme and the Settlement Agreement, statements made by market participants cannot be subject to an evidentiary inquiry, such communications must be afforded the greatest legal protection and are excluded from the scope of information that may be made available to other persons.

26. Also, in 2022, The European Court of Human Rights upheld the compliance of the CC' procedural actions with the right to respect for private life and correspondence guaranteed by the European Convention on Human Rights.

### 2.4. Investigation of Violations of the Competition Law

#### 2.4.1. Prohibited agreements

27. In 2022, the CC detected two prohibited agreements, both in procurement. In one case, 11 municipal procurements were affected, while in the other a private procurement

was affected. In total, five undertakings were fined €262,142. Three new infringement investigations were also opened during the period.

28. In 2022, based on the Authority's prioritisation strategy and the "Consult First" principle, 16 legal entities were warned and simultaneously educated on competition law issues.

#### *Prohibited agreement in private procurement*

29. The CC found three construction companies colluding on the conditions of participation in a private procurement in Latvia. The infringement was found in the activities of PK Serviss LLC, KORO BŪVE LLC and TAVS LAIKMETS LLC.

30. PK Serviss LLC and TAVS LAIKMETS LLC cooperated with the CC both within the framework of the Leniency Programme and entered into settlement agreements with the CC, so the fines of both companies were reduced. The companies were fined a total of EUR 233,791 for the competition law infringement.

31. PK Serviss LLC had agreed with the private client Lyngson LLC on a pre-negotiated victory in the procurement. In turn, the construction companies agreed among themselves on the terms of participation in the tender, which was manifested by PK Serviss LLC preparing financial bids for both KORO BŪVE LLC and TAVS LAIKMETS LLC, which were submitted as cover bids without a genuine desire to compete and win the tender.

32. The infringement not only affected the contract, which was more than €2 million, but also the co-financing of €780,733.12 from the European Union Structural Funds. The evidence obtained during the proceedings was handed over by the CC to the European Public Prosecutor's Office, which led to criminal proceedings and full reimbursement of the EU co-financing received by the contracting authority.

#### *False information in the Leniency Programme*

33. In 2022, the CC fined two companies involved in the field of festive decoration - Alpha Baltic Media LLC and Smart Solutions Europe LLC - for participating in a cartel. The infringement was committed between 2020 and 2021 when companies submitted coordinated bids in three tenders organised by local municipalities for festive decoration, including the supply, installation and dismantling of decorations.

34. The tenders submitted were comparable in terms of content and the way they were filled in. They were prepared by an employee of Smart Solutions Europe LLC.

35. Both parties in the case wished to make use of the possibilities offered by the Leniency Programme - reduction of the fine. The companies admitted the existence of an agreement in one procurement and provided additional information on another negotiated procurement episode. However, both parties did not provide complete and truthful information, as the cartel existed not for these two procurements, but for nine other similar procurements. The reduction of the fine obtained under the Leniency Programme was not applicable in the present case.

36. The companies were fined more than €28,351 for collusion.

#### *Prevention - an alternative approach to formal case investigation*

37. In 2022, the CC issued warnings to a total of 16 persons in 11 cases of alleged collusion.

38. The companies alerted in 2022 represent activities such as food sales and catering, car rental, heating, surveying and geodesy, other postal services (advertising), residential

and non-residential construction, etc. In all these cases, the CC found suspicions of collusion in public tenders.

#### ***2.4.2. Abuse of a dominant position***

39. In 2022, the CC identified abuse of dominant position in one case. Also in 2022, the CC assessed the conduct of Rezekne Bus Station LLC in complying with the legal obligation imposed on it by the CC in 2016 to stop abusing its dominant position and charging carriers excessive fees for entry to Rezekne Bus Station.

#### ***Settlement with "Rīgas siltums"***

40. In 2022, the CC concluded an abuse of dominance case and signed a settlement agreement with JSC "Rīgas siltums". The company committed to cease its exploitative practices by demanding repayment of debts deemed irrecoverable in case of death or insolvency from the building managers and successively from other apartment owners.

41. The problem of shifting the burden of irrecoverable debts to housing managers, who then collect debts from other apartment owners instead of their neighbours, has been an issue for years, which is why the regulatory framework was changed in 2014 to allow the cancellation of irrecoverable debts. Taking into account the amendments to the law, "Rīgas siltums" started clearing irrecoverable debts, but only those debts incurred after the amendments to the law were adopted, i.e. after 15 January 2014, were cleared.

42. The parties to the case - the CC and "Rīgas siltums" - agreed to end the dispute by concluding a settlement. The administrative agreement stipulated that "Rīgas siltums" would write off the uncollectible debts, while information on this practice would be published on its website and sent to housing managers, who would have the opportunity to inform "Rīgas siltums" about the uncollectible debts within one year.

43. According to the settlement agreement, "Rīgas siltums" had to pay a fine of €201,329.64 to the state budget.

### **2.5. Monitoring of Unfair Trading Practices**

44. 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.

45. In 2022, 18 submissions were assessed for possible breaches of the law. In one case the CC implemented a preventive measure and invited the market participant to cease its current practice and warned that the conduct did not comply with the principles of fair practice.

46. Also, the CC provided more than 30 consultations on the application of the Prohibition of Unfair Trading Practices Law to promote traders' and suppliers' understanding and implementation of fair trade principles in practice.

47. In 2022, the CC carried out a market inquiry assessing the sanctions stipulated in retailers' contracts and imposed on their suppliers. To address the highlighted issues, the CC plans to organize six successive prevention activities in 2023, inviting retailers to improve their internal sanctioning processes so that future cooperation with their suppliers would eliminate potential risks of non-compliance with the Law.

48. For preventative measures the CC developed guidelines on the application of the Prohibition of Unfair Trading Practices Law, which are useful for all market players in the agri-food supply chain. The CC also prepared a self-assessment tool for food and drink suppliers who produce, sell food and drink products to consumers, so that they can easily check whether traders are implementing fair trade practices.

## 2.6. Mergers

49. 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.

50. In 2022, the CC adopted 14 merger decisions and three successive decisions extending the deadline for the owner of “Apollo Kino”, which acquired OÜ “Forum Cinemas Latvia” in 2021, to comply with the legal obligation set by the CC to transfer the “Citadele” Cinema to the control of a third party.

51. During the year, the market players involved in merger reviews paid €54,000 in fees to the State budget. To make it easier for companies to submit merger reports, the CC provided 22 pre-merger counselling sessions.

52. The majority of mergers were assessed by the CC within one month, with additional focus on mergers requiring in-depth assessment. In 2022, such in-depth studies were carried out on five occasions. In one of five cases in order to prevent possible risks to competition and negative consequences of the merger in the retail market of pharmaceutical products, the merger was permitted by binding regulations providing for the disposal of shares in LLC “LATVIJAS APTIEKA” to a third party unrelated to merger participant.

## 2.7. Sector inquiries

53. In 2022, the CC concluded its monitoring of eight markets, including assessing and proposing remedies to competition constraints, such as digital markets, the fuel market, the woodchip market and others. 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. Investigating fuel price increases*

54. In market study the CC found that the increase in retail fuel prices is not based on a breach of competition law, but on objective circumstances resulting from the Russian invasion of Ukraine.

55. The CC notes that the retail fuel market is oligopolistic and easily transparent, and is therefore characterised by intelligent adaptation, i.e. competitors monitor the prices offered by other market players and react to price changes. Such adaptation, if it takes place independently, by evaluating the offer of competitors without assistance and setting their own price, does not constitute a violation of competition law.

56. The CC found that the increase in the retail price of fuel in 2022 was essentially correlated with the increase in the purchase price of fuel. In addition, there was a correlation with exchange rate movements (USD vs EUR) and oil price movements.

### ***2.7.2. Exploring the market for wood chips in Latvia***

57. In view of the significant increase in the price of wood chips in 2021 and 2022, the CC carried out an investigation into the market of wood chips in order to identify the reasons behind the significant increase in wood chips prices.

58. The CC found no evidence of the existence of a possible cartel and established prima facie that no market participant was in a dominant position on the market for wood chips in Latvia. However, the CC points out that heat producers need to carefully assess each requirement they impose on woodchip suppliers. Imposing disproportionate requirements may restrict competition in the procurement of wood chips, thus also reflecting in heat tariffs and negatively affecting heat consumers.

59. The reasons for the price increase are, first of all, the general increase in energy prices, as well as geopolitical circumstances, including restrictions on imports of wood chips and other timber from Belarus and Russia as a result of Russia's war in Ukraine. At the same time, the chip production process has also been affected by inflation and chip companies have not invested enough in chippers and other equipment needed for chip production. In the CC's view, all of the above factors have contributed to the increase in the price of wood chips.

### ***2.7.3. Neighbouring countries explore online trading platforms***

60. In 2022, the Latvian and Lithuanian competition authorities launched parallel market studies to assess the impact of online trading platforms on the development of e-commerce in the Baltic region.

61. Latvia and Lithuania analyzed online trading platforms, which provide e.g. food deliveries, various consumer goods, gift vouchers to consumers, to assess their cooperation with companies willing to offer goods or services to consumers via the platform. The authorities also surveyed businesses that use online sales platforms to reach consumers. The conclusions of the market surveillance are expected to be published in 2023.

### ***2.7.4. Additional regulation needed for online platforms***

62. In addition, the CC also carried out market surveillance in 2022, which investigated the functioning of online platforms, focusing on market definition criteria in the context of competition law, as well as assessing market power criteria for online platforms.

63. The CC's concluded that ensuring fair competition in Latvia requires a discussion on the introduction of additional regulation governing the operation of online platforms and related obligations at national level. At the same time, the competition law tools currently existing for the digital market may not be sufficient to identify the relevant market and the dominant position of online platforms.

## **2.8. Impact on competition of public administrative bodies**

### ***2.8.1. State and local government involvement in business***

64. In total, the CC received 288 applications in 2022 related to the activities of public administrative bodies - state, municipalities and capital companies owned by them, including possible distortion of competition and revaluation of shareholdings in capital companies.

65. In order to avoid the risks of a public administrative body unduly engaging in commercial activities and thereby distorting competition by making it more difficult or

even impossible for private undertakings to operate on the market, 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 in accordance with Section 88 of the State Administration Structure Law.

66. According to the Law such an assessment, including an assessment of the impact on competition, should be carried out at least every five years. Thus, in 2022, substantial resources were devoted to the preparation of opinions on the involvement of public entities in business activities through the companies they own. A total of 169 opinions were issued in 2022.

67. 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 the institution's opinions on revaluations of holdings in capital companies by state and local governments. For example, conclusions on public involvement in the health and public transport sectors have been published in 2022.

### ***2.8.2. Respect for competitive neutrality***

68. The Competition Law requires public entities to respect competitive neutrality.

69. In 2022, the CC received 85 complaints about the conduct of public administrative bodies. During the reporting period, the CC carried out in-depth competition neutrality investigations in nine cases. Including in four cases the CC implemented negotiation procedures to prevent non-compliance with competition neutrality, where a public entity has discriminated private market players or has created advantages for its own capital companies. The implementation of the negotiation procedure is set out in Article 14<sup>1</sup> of the Competition Law and is aimed at timely elimination of deficiencies in the conduct of municipal capital companies, municipal institutions and other public administrative bodies.

70. Potential non-compliance with competition neutrality was addressed in cities like Ventspils, Liepāja, Jūrmala, Riga, Jelgava, etc. The affected markets include the real estate rental market, the publishing market, residential management, as well as trade regulation in municipalities and public procurement.

## **2.9. Improvements in the Legal Framework**

### ***2.9.1. Pro-competitive laws and regulations***

71. In 2022, the CC issued 49 opinions to legislators in more than eight economic sectors to address potential restrictions to competition that could be facilitated by regulatory frameworks. In 2022, views were also expressed on the compatibility of draft laws with the principles of free competition and distortions of competition in areas such as waste management, health, passenger transport, trade, public procurement, pharmaceuticals, insurance, education, electricity and others.

72. To promote the adoption of pro-competitive regulatory framework, representatives of the CC defended the principles of fair competition at 55 events, including the Cabinet of Ministers, the Parliament, etc.

73. 25% of all measures taken to prevent restrictions on competition by public administrative bodies took account of the CC's views.

### *2.9.2. Strengthening the independence and powers of the Competition Council*

74. In order to fully transpose the requirements of Directive (EU) 2019/1 of the European Parliament and of the Council or the so-called ECN+ Directive into national legislation, amendments to the Competition Law were adopted in 2022.

75. The amendments to the Competition Law adopted in 2022 foresee that the CC will be supervised by the Cabinet of Ministers. The Law strengthens the financial as well as the operational independence of the authority, including by providing for the full independence of the CC in dealing with the Authority's internal organisational matters. At the same time, closer cooperation with business NGOs, sectoral policy makers and the legislator through the newly established Consultative Council is envisaged.

76. At the same time, the amendments increase the capacity of the Council, the decision-making body of the CC, from three to five members. On 25 October 2022, the Cabinet of Ministers approved one of the two members of the Council, thus Kārlis Piļēns joined the CC as the fourth member of the Council. Another seat on the Council remains vacant until the end of 2022.

77. The amendments also harmonise the powers of competition authorities at EU level to effectively investigate, detect and enforce competition infringements. The amendments will have a positive impact on the authority's investigative processes and decision-making, including changes to the fines applicable. For example, the liability of a competition law offender for infringements of EU competition law will now be determined by its worldwide turnover, and for infringements of restrictive agreements and abuse of dominant positions, the maximum fine threshold for market players will be set at 10% of their worldwide net turnover for the last financial year.

78. The amendments also provide for changes to the procedural steps to be taken by the authority, i.e. inspections of market operators. The changes clarify the procedures for carrying out inspections, including by increasing the time the CC has to seal a market operator's premises in order to obtain and preserve evidence. The right to receive support from other state administration and law enforcement authorities in the framework of procedural (inspection) activities has also been clarified, including the right of the CC to authorise officials of competition authorities of other Member States to actively assist in the implementation of procedural activities when the CC carries out procedural activities on behalf and on behalf of a competition authority of another Member State.

79. At the same time, the amendments extend the scope of the Leniency Programme by exempting or significantly reducing fines for competition law infringers cooperating with the CC not only in prohibited agreements, but also in the detection of prohibited vertical agreements on resale price fixing or passive restraint of sales.

80. In order to fully implement the requirements of the ECN+ Directive in 2022, the Cabinet of Ministers has also finalised the Cabinet Regulations on the procedure for calculating fines for violations of the Competition Law, the Treaty on the Functioning of the European Union and the Unfair Trading Practices Prohibition Law, setting out more detailed provisions on the methodology for calculating fines and the application of the Leniency Programme.



### 3. Management of the Competition Council

#### 3.1. State Budget Financing

**Table 3. Budget allocation of the Authority**

No.	Financial indicators	Previous year (actual implementation)	Reporting year		
			approved by law	approved by law (with changes)	actual implementation
<b>1.</b>	<b>Financial resources to cover expenditure (total)</b>	<b>1 946 106</b>	<b>2 337 931</b>	<b>2 285 015</b>	<b>2 075 051</b>
1.1.	grants	1 946 106	2 337 931	2 285 015	2 075 051
<b>2.</b>	<b>Expenditure (total)</b>	<b>1 946 106</b>	<b>2 337 931</b>	<b>2 285 015</b>	<b>2 075 051</b>
2.1.	maintenance expenditure (total)	1 862 897	2 266 131	2 237 849	2 027 885
2.1.1.	current expenditure	1 862 897	2 266 131	2 237 684	2 027 720
2.1.2.	interest expenses				
2.1.3.	subsidies, grants and social benefits	0	0	165	165
2.2.	capital expenditure	83 209	71 800	47 166	47 166

#### 3.2. Personnel

81. The CC consists of a decision-making body - the Council - and an Executive Body. At the end of 2022, the Institution had 56 staff members, 50 of whom were civil servants and six of whom were employees. Staff turnover reached 12% in 2022. 7 individuals left the civil service and employment, while 7 entered it.

82. Number of employees at each position:

- 4 Council Members;
- 1 Executive Director;
- 28 Case Handlers;
- 9 Support staff members;
- 8 Lawyers;
- 6 Economists.

83. Human resources applied to:

- Enforcement against anticompetitive practices – 36 (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 six members of Competition Promotion Department, 4 Board members, two persons from the Communication Division, and some other case handler who were also actively involved in promoting competition culture and advocacy.

84. The average age of personnel of the Competition Council is 38 years. 66 % or 37 employees are women, and 34 % or 19 employees – men.

85. In 2022, 80% 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.

86. During the year, employees of the Competition Council attended 58 training courses held by external lecturers, thus enhancing their professional competences through conferences, international forums, courses organised by the School of Public Administration and training and skills coaching by other professionals. To ensure exchange of good practice in the organization and institutional memory, three internal events took place at the Competition Council in 2022, incl. training activities that were implemented through assistance by the Authority employees.

### 3.3. Improving Performance of the Authority

87. 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 2022.

- Authority started on the development of the CC's Operational Strategy (2023-2029) and the authority's Case Prioritisation Strategy.
- In order to strengthen the technical and technological IT capacity of the authority to ensure more effective investigations of competition infringements, few activities were implemented to develop an IT laboratory for processing the e-evidence, and further training of staff on the use of the IT laboratory is planned.
- Also in 2022, particular attention was paid to the development of an automated cartel screening tool and an automated merger report submission tool.
- At the same time, work has continued on the development and implementation of a digital e-case.
- During the reporting period, the new By-Laws of the CC were drafted and entered into force on 23 December. The aim of drafting the By-Laws was to clarify the procedure for the functioning of the CC by extending the powers of its decision-making body in line with the amendments to the Competition Law.

## 4. Communication with the Public

88. In 2022, representatives of the CC participated in 36 educational events organised by the institution or other organisations. In addition to joint fair competition awareness-raising activities, the CC held 80 inter-institutional cooperation meetings on various topics.

89. The CC held 45 meetings with businesses and NGOs to discuss competition developments and challenges in different sectors and to promote fair competition principles. In addition, the authority provided seminars to these target groups on various aspects of competition law enforcement, including the prevention of collusion between competitors or within associations.

## 4.1. Educating priority target groups

Taking into account the results of the 2022 public opinion poll, the two most important competition law problems in Latvia are cartels in public procurement and distortions of competition caused by public entities - state, municipalities 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*

90. To prevent major competition law infringements, such as collusion, educational seminars and webinars for businesses were organised.

91. In 2022, the CC developed a new series of seminars on vertical agreements, explaining to businesses the boundaries of permitted and prohibited cooperation. The first two vertical agreement seminars for retailers and distributors were held in 2022 and similar events are planned for 2023.

92. At the same time, the CC carried out educational activities in large Latvian companies such as Latvijas Pasts, Rīgas siltums, Latvijas Valsts ceļi, etc.

### 4.1.2. *Procurement organizers and stakeholders*

93. In order to promote the development of the procurement environment, the CC provided seminars for public procurement organizers and European Union fund monitors, thus strengthening the competences of this target group and their ability to identify signs of cartel agreements between bidders. Among others, the CC educated procurement professionals in cooperation with the Procurement Monitoring Bureau, the Procurement Academy, the Economic Crimes Combating Directorate of the Main Criminal Police Directorate of the State Police, etc.

94. In 2022, not only procurement authorities but also cooperation authorities were trained to identify cartels and help the CC to prevent collusion. Cooperation activities took place with the Economic Crimes Combating Directorate of the Main Criminal Police Directorate of the State Police, the European Public Prosecutor's Office, the Corruption Prevention and Combating Bureau, the Financial Intelligence Service, the Central Financial Contracts Agency, etc.

### 4.1.3. *Public administrative bodies*

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

96. In 2022, the CC actively promoted public awareness of competition neutrality by joining forces with other institutions, e.g. the CC spoke at events organised by the largest business association in Latvia, on the health sector, education sector, aimed at discussing fair competition between private and public market players. The CC also participated in events organised by the Latvian Association of Local Governments, where the main target audience is local governments. The CC also actively participated in discussions on the restrictions imposed by the State on private market players, such as the Healthcare Employers' Association (HEA) event on current developments in healthcare and the conference on COVID-19 restrictions on private market players.

## 4.2. Fostering a culture of competition in young audiences

97. The institution is also involved in educating the younger generation - the pupils and students:

- In the spring, the CC organised a "Shadow Day" to introduce students to the daily work of the institution.
- On the occasion of the 30th anniversary of the authority in 2022, the CC, in cooperation with the law firm Eversheds Sutherland Bitāns, organised a video competition "Is There A Place for Competition?!" for pupils in grades 7 to 12, aimed at raising pupils' awareness of the economic processes in the country and fair competition.
- In 2022, the CC also educated future competition law professionals and students from the University of Latvia, Turība University and Riga Graduate School of Law by giving lectures.
- In May 2022, the Competition Law Contest for Research Papers of Students organized by the CC, Law Firm ZAB PricewaterhouseCoopers Legal, and Riga Graduate School of Law was concluded. A new Research Paper Contest was launched in autumn 2022, and the winners will be awarded in 2023.

## 4.3. The CC develops digital communication

98. In 2022, the CC continued to actively use different communication channels to reach new audiences.

99. A total of 103 press releases were issued. In order 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 eight podcasts and videos on competition. For example, an educational podcast explains the new guidelines for the application of the Unfair Trading Practices Prohibition Law, video materials explain in a short format the issues related to the involvement of public administrative bodies in the transport and health sectors, and the CC produced videos on both the Cartel Self-Assessment Tool for procurements organizers and the possibility to attend vertical agreement seminars, as well as news related to the decisions taken and the use of the Leniency Programme.

## 4.4. Self-assessment tools

100. In addition, to promote fair competition, a self-assessment tool for contracting authorities to identify collusion in procurement, was developed in 2022.

101. In 2022, the CC also developed recommendations for businesses on what they can and cannot do when cooperating with each other to tackle the challenges of war, including the shortage of raw materials. The CC also prepared guidelines for undertakings on how to divide fines and an additional financial self-assessment tool, as well as a self-assessment tool for traders and suppliers on unfair trading practices.

## 4.5. International activities

102. In 2022, the representatives of the CC have promoted the visibility of Latvia and strengthened the position of the institution in the international environment by attending 74 international events, which is almost twice as many as in the previous year, and by making presentations or speeches on 36 occasions, for example at events organised by the

Organisation for Economic Cooperation and Development (OECD), International Competition Network (ICN), European Competition Network (ECN) and other partners.

103. One of the most important activities in strengthening international cooperation and exchange of experience in the Baltics. The Baltic Competition Authorities held a meeting and exchange of experience in Vilnius, as well as a new practice of information exchange on merger cases in the Baltics was established at expert level and joint market studies were launched.

104. The CC has also shared its knowledge at other international events, for example, from 14 to 16 June, the CC, in cooperation with the OECD, conducted training on the application of temporary restraints in competition law for Eastern and Balkan countries in Budapest. The CC had the opportunity to educate experts from competition authorities from other non-OECD countries, such as Bulgaria, Croatia, Georgia, Romania, on Latvia's experience with interim resolution.

105. In addition to educational activities, in 2022 the CC prepared or contributed to 49 international documents sharing its experience in applying competition law.

## 4.6. Organisation of international events in Riga

### 4.6.1. *Baltic Competition Conference*

106. The 18th Baltic Competition Conference, dedicated to the 30th anniversary of the CC, took place in Riga on 14 and 15 November. The conference focused on the involvement of public administrative bodies - state and local governments - in entrepreneurship, as well as today's competition law challenges related to the development of the digital market and recent case law on competition law.

107. The event took the form of both panel discussions and separate expert working groups on mergers, collusion and abuse of dominance, digital markets and other topics.

### 4.6.2. *OECD experience exchange seminar*

108. On 11 and 12 May, the Competition Council in cooperation with the OECD organised an experience exchange seminar on cartel enforcement (Hub&Spoke) for competition law experts in Riga.

109. The seminar was attended by 33 competition authority experts from the United States, India, Turkey, Sweden, Poland, the United Kingdom, Mexico, Romania, Colombia, Austria, Hungary, Germany, Portugal, Ireland, Israel, Croatia, Lithuania, Estonia and Latvia.

## 5. Priorities for 2023

110. 2023 is the first year of operation of the Competition Council as an independent authority, strengthening existing resources and developing technological investigative tools to ensure more effective investigations of competition infringements. The Competition Council will continue to work in the three main areas defined so far:

- Detecting and preventing significant restrictions of competition and market distortions, and preventing the adverse effects of market concentration.
- Strengthening and growing the capacity of the Competition Council.

- Promoting awareness of free and fair competition among market players and public authorities, and shaping competition policy and culture at national and international level.

111. In line with these lines of action, the Competition Council has set a number of priority tasks for 2023.

### **5.1. Fair Competition in Public Procurement**

112. According to the data of the public opinion poll conducted in 2022 and the practice of the Competition Council, there are two major problems in the field of competition in Latvia: collusion or cartels in procurement and distortions of competition created by public entities or state and local governments, which create unequal conditions of competition, discriminate or exclude entrepreneurs from the market.

113. In 2023, the Competition Council will pursue the most serious infringements of competition law in public procurement in various sectors with a significant impact on the economy, including by continuing and concluding investigations launched in 2022.

114. In 2023, the Competition Council will also devote significant resources to preventing distortions of competition in public procurement. On 1 January, amendments to the Public Procurement Law entered into force, obliging the Competition Council to support public procurers in recognizing cartel elements in applications received from tenderers. If the contracting authority suspects that tenderers have colluded and at the same time the contracting authority has consulted the Competition Council and confirmed its suspicions, the tendering authority will be able to take a decision to exclude the tenderer from participation in the specific procurement, thus preventing the negative consequences of collusion at an early stage.

### **5.2. State and local government involvement in the market and respect for the principle of neutrality**

115. The Competition Council will devote significant resources to the supervision of public entities - state and local governments - which has been on the agenda of the Competition Council since 2020, when amendments to the Competition Law entered into force, giving the Competition Council broader powers to address distortions of competition caused by public entities. The Competition Council will continue to use the negotiation procedure to remedy breaches of neutrality, which ensures an immediate change of behaviour and immediate benefits for society. At the same time, the Competition Council will not shy away from imposing fines if public administrative bodies choose not to change behaviour that distorts fair competition.

116. In order to educate public entities and provide them with recommendations for market conduct, the Competition Council will produce summaries by sector or industry, highlighting the key findings and issues arising from the Authority's opinions on public entities' holdings and involvement in various markets, for example, in 2023 it is planned to produce a summary on public entities' involvement in the building management and waste management sectors.

### **5.3. Monitoring unfair trading practices, digital markets and other markets with a significant impact on the economy**

117. In 2023, the Competition Council plans to monitor markets with a significant impact on the economy and markets that are experiencing rapid development or innovation,

such as digital markets. Last year, the Digital Market Act (DMA) adopted new rules for a fair and competitive digital industry at EU level. The new rules regulate and restrict the activities of large digital platforms, ensuring a fair playing field for users and consumers. The new rules regulate and restrict the activities of large digital platforms, ensuring a level playing field for users and consumers. Already in 2022, the CC devoted significant resources to participating in the European Commission's Digital Market Act Working Group, and systematic cooperation, including exchange of information on potential infringements with the European Commission and national competition authorities, is expected in the period ahead.

118. At the same time, the Authority will intensify its focus on competition conditions in trade. In 2023, the Authority has established a separate Unfair Trading Practices Prevention Unit, one of the tasks of which will be to actively educate market players about the Prohibition of Unfair Trading Practices Law and to prevent unfair practices in the food supply chain.

#### **5.4. Developing IT capacity for more effective investigation of competition infringements**

119. One of the Authority's objectives is to ensure the application of Directive 2019/1/EU of the European Parliament and of the Council, the so-called "ECN+ Directive", in order to prevent and effectively investigate competition law infringements in the long term.

120. Strengthening the Authority's IT technical and technological capacity to ensure more effective investigations of competition infringements, the establishment of an IT laboratory for processing e-evidence will be completed in 2023 and staff will be trained to use IT technical equipment for obtaining and processing e-evidence. In 2023, particular attention will be paid to the development of an automated cartel screening tool, taking advantage of artificial intelligence to detect infringements. The Authority will also continue to move towards the introduction of a e-case for easier management of investigated cases, including facilitating the exercise of rights of participation during investigations.

#### **5.5. Creating an effective competition culture in the interests of the Latvian economy**

121. In order to ensure that businesses and public figures understand the benefits of fair and free competition, the Competition Council needs to conduct extensive communication activities both at national level and internationally to encourage fair competition.

122. The Competition Council has defined the education of market players on fair competition as one of the main priorities of the institution; therefore, in 2023 the Competition Council will continue to actively educate market players by organizing seminars, webinars and consultations.

123. At the same time, for minor infringements, market players will be warned and educated using the "Consult First" principle. Encouraging entrepreneurs and public administrative bodies to monitor their own behaviour and participate in the prevention of competition infringements, the Competition Council will continue to develop new and improve existing self-assessment tools; among other things, the authority will develop a self-assessment tool on abuse of dominance, and will continue its ongoing work on the development of a digital merger notification submission tool for undertakings that need to obtain merger clearance from the Competition Council.

124. In order to learn and exchange the best practices of competition law experts in competition monitoring and competition culture building, the Competition Council will intensify its cooperation with other competition monitoring authorities and organisations

worldwide, adopting the best practices in Latvia, as well as strengthen cooperation with national competition authorities in detecting and investigating competition restrictions.