

Unclassified

English - Or. English

9 November 2020

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Global Forum on Competition

ECONOMIC ANALYSIS IN MERGER INVESTIGATIONS – Contribution from Lithuania

- Session III -

9 December 2020

This contribution is submitted by Lithuania under Session III of the Global Forum on Competition to be held on 7-10 December 2020.

More documentation related to this discussion can be found at: oe.cd/mergerinv.

Please contact Mr James Mancini if you have questions about this document [James.Mancini@oecd.org].

JT03468206

Economic Analysis in Merger Investigations

- Contribution from Lithuania –

1. In the Competition Council of the Republic of Lithuania (the CC) there is an Economic Analysis Group (EAG) which comprises 4 economists who are dealing full-time exclusively with economic issues. This separate unit within the CC was established in 2018¹. The aim of such administrative change was to better organise work of all economists, allocate economic capacities of the authority more rationally according to the needs of different units where economic analysis is required. Furthermore, being in one team allows the economists to share useful information and skills more effectively within the unit and thus expand capacities of all team members. In addition to conducting economic analysis themselves, the economic analysis team also ensures the quality of the economic analysis of other administrative units within the CC.

2. Economists do not participate in every merger investigation of the CC from the start. In complex merger investigations (e.g. where a remedy or in-depth review is required) economists are always involved at the early stages of the analysis. In other procedures case handlers can request advice of economists at any stage if needed. In addition, when EAG does not actively participate in the review process, economists generally review the economic assessment conducted by the merger unit and provides its opinion on the economic issues before the CC's decision is taken.

3. The general trend which is seen in the merger investigations in Lithuania is the increasing use of economic consultancy services by merging parties. Involvement of economic consultants is not only more frequent but they are also more often involved at an earlier stage of procedure (including at the pre-notification stage).

4. Economic tools used in recent in-depth merger analysis include the following methods:

1. assessment of catchment areas (prohibited merger of supermarkets²);
2. SSNIP analysis (prohibited merger of beer malt producers³);
3. in order to define geographic markets, the detailed consumer data analysis was conducted aiming at assessing differences in pricing in different geographic locations with different competitive situation (withdrawn notification of merger of internet access and paid TV services⁴)
5. Competition Council increasingly relies on quantitative data to support the decisions and check qualitative evidence against quantitative data. Economists are involved both in analysis of quantitative and qualitative evidence.
6. The CC often asks opinions of competitors, buyers and suppliers of merging parties and takes them into account in merger reviews. However, these surveys are not of statistical

¹ Prior to that, there was a chief economist and other economists were working in different divisions.

² Press release available at: <http://kt.gov.lt/en/news/competition-council-rimi-failed-to-implement-merger-remedies>

³ Press release available at: <http://kt.gov.lt/en/news/competition-council-prohibits-merger-between-malt-producers-2>

⁴ Press release available at: <http://kt.gov.lt/en/news/cgates-withdraws-merger-notification-after-preliminary-conclusions-of-konkurencijos-taryba>

nature in a strict sense. The CC also sometimes uses data of the surveys submitted by the undertakings, however, as a rule these private surveys are not impartial and are carefully checked.

7. When case handlers and economists of EAG have difficulties in economic assessment of a merger, they may approach external economic experts of the CC's Advisory Committee. This committee includes 3 external economists which advise the CC on a pro bono basis⁵. However, these economists as a rule do not provide a detailed economic assessment of facts but rather give more broader advice, e. g. regarding the theory of harm or the direction of research. Advice and insights by these advisers are valuable in analysing complex cases.

8. As a general tendency, economics plays increasingly important role in the decision making of the CC regarding mergers.

⁵ Press release available at: <https://kt.gov.lt/en/news/konkurencijos-taryba-updates-list-of-pro-bono-advisers>