

Unclassified

English - Or. English

30 April 2025

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

**Corporate Influence in Competition Policymaking – Note by Lithuania**

20 June 2025

This document reproduces a written contribution from Lithuania submitted for Item 13 of the 146<sup>th</sup> OECD Competition Committee meeting on 18-20 June 2025.

Antonio CAPOBIANCO  
Antonio.Capobianco@oecd.org, +(33-1) 45 24 98 08

**JT03565358**

## Lithuania

### 1. Introduction

1. Business associations play an important role in the legislative process. Their practical knowledge of various economic sectors shared with the decision-makers can result in better, more rational and more pro-competitive regulation. Nevertheless, business associations represent the private interests of their members. For this reason, the decision-makers should act with caution when evaluating the business associations and their members' initiatives, as well as balance them against the public interest and other policy goals.

2. This Note overviews the Lithuanian experience related to corporate influence in the competition policy making. In the Lithuanian Competition Council's view, corporate influence (usually exerted by the business associations) can be beneficial, but also can harm the society's interests. This influence may be reinforced by various tools and strategies available to the associations, such as media publications endorsing the corporate position.

3. In this Note, we share both types of examples: business associations siding with the Competition Council in seeking regulation more favourable to freedom of economic activities, and, *vice versa*, business associations attempting to protect their interest detriment to the consumer interests. The most recent example concerns business associations targeting the rules for imposition of fines for anti-competitive agreements.

### 2. Examples of corporate influence to the competition policy

4. As already mentioned, associations' insights bring value to the legislative process. For this reason, the Competition Council seeks to maintain professional and constructive relationship with business associations. This effort includes meetings with business associations, discussions on various policy matters and their possible effects on economic activities, evaluating business positions on specific draft laws. Such approach enables the Competition Council to obtain timely information from the business community, which is very useful in seeking to conduct a deeper and more qualitative analysis of draft legislation, evaluate its possible impact on economic activity and competition.

5. One recent example of the Competition Council and the business community expressing the same concerns regarding legislative initiative concerned the regulation of pharmacies' mobile services ("pharmacies on wheels"). In 2024, the Ministry of Health suggested establishing territorial restriction for the provision of mentioned services, i. e. mobile services could only be provided in areas, where no stationary pharmacies are present. The Competition Council and the Lithuanian Pharmacies Association (the LPA) provided separate opinions stating that such restriction might discourage pharmacies to invest into provision of mobile services<sup>1</sup>. After evaluating the stakeholders' positions, the Ministry of Health revoked its suggestion. In this case, the Competition Council issued an opinion, without relying on either data or views from business associations. However, in other cases the information provided by the associations can be evaluated and taken into account by the Competition Council to prepare its position.

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<sup>1</sup> The Ministry of Justice raised similar concerns.

6. Another example, in which the information provided by business association incentivised the Competition Council to use its market monitoring tool, concerned the electric vehicle (EV) charging sector.

7. In 2025, the Competition Council completed the EV charging market study, which revealed that the development of the market is significantly influenced by the actions of municipalities, and provided recommendations to municipalities, the Ministry of Transport and Communications and the Ministry of Energy on how to promote effective competition and avoid possible negative consequences for consumers in the future<sup>2</sup>. The Competition Council's attention to these issues was primarily drawn by the business association representing undertakings operating in the sector.

8. On the other hand, the Competition Council also encountered associations lobbying for decisions that were incompatible with the principle of free competition and negatively impacted consumers. When the Competition Council discovers that such lobbying efforts were successful, it challenges the flawed regulation. The example described below, regarding the withdrawn regulation related to the setting of notaries' fees, illustrates such practice of the Competition Council.

9. During the investigation concerning the Lithuanian Chamber of Notaries' anticompetitive decisions<sup>3</sup>, the Competition Council analysed the legal framework for setting of notaries' fees. The Competition Council uncovered that the Chamber of Notaries, a self-government institution which unites all notaries, drafted the legislation that established the obligation for the Ministry of Justice to obtain the Chamber of Notaries' approval before setting notaries' fees, which was subsequently adopted by the Parliament. The Competition Council evaluated the mentioned provision, as well as its practical application, and recommended that the Government initiate amendments to the Law on Notaries eliminating the Chamber of Notaries as a compulsory body in the setting of fees, as it represents private commercial interests. Following the Competition Council's recommendation, the regulation was changed.

10. The above-described examples demonstrate that business associations are important and influential participants in the legislative process. Associations' initiatives might result in more pro-competitive regulations incentivising undertakings to enter the market. However, in some cases business associations trying to preserve the narrow private interests of their members may harm the broader public interests.

### 3. The business associations' initiative to change the competition law enforcement rules

11. The most recent example of corporate influence targeting competition policy concerns the initiative by several Lithuanian business associations to amend the rules for calculation of fines for anti-competitive agreements. Paradoxically, the mentioned

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<sup>2</sup> The press release (in English) describing the market study is available online: <https://kt.gov.lt/en/news/competition-council-recommends-ways-to-promote-competition-in-the-electric-vehicle-charging-sector>.

<sup>3</sup> The Chamber of Notaries' decisions concerned the notaries' fees and their calculation procedure. In 2024, after receiving the opinion of the Court of Justice of the European Union, the Lithuanian Supreme Administrative Court confirmed that the Competition Council reasonably declared that decisions taken by the Chamber of Notaries infringed the competition rules.

initiative was sparked by the Competition Council's recent decisions, one of which<sup>4</sup> concerned cartel in the legislative process. In this case, higher fees of reimbursable medicines were achieved by undertakings and their association, who misused corporate influence and manipulated the decision-making process, resulting in fines of 72 million euros being imposed on the infringers<sup>5</sup>. The decision was appealed, and the case is still pending before the courts.

12. Following the above-described, along with some other decisions taken and fines imposed by the Competition Council, four national business associations initiated an amendment to the Law on Competition seeking to change the rules for the calculation of fines for anti-competitive agreements. Despite the declared goal of the amendment – providing greater clarity for the fines' calculation process – the Competition Council evaluated that the proposed provisions would significantly lower the fines for the participants of anti-competitive agreements. For example, the draft amendment suggests that: (i) current maximum fine (10 % from the undertaking's annual worldwide turnover) should be lowered by half (a fine exceeding 5 % of the infringer's turnover could only be imposed in case aggravating circumstances are established); (ii) only the infringers' sales factually affected by the collusion could be taken into account when calculating the fine.

13. The Competition Council provided its opinion to the decision-makers, stating that the proposed amendment would not only decrease the deterrent effect of fines, but also contradict the requirements of the European Union law and the Recommendation of the Organisation for Economic Co-operation and Development Council concerning Effective Action against Hard Core Cartels. The draft amendment is pending in Parliament and is expected to be voted on in 2025 after the Government provides its evaluation.

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<sup>4</sup> The Competition Council resolution of 9 December 2022, No. 1S-132 (2022). Available (in Lithuanian) [https://kt.gov.lt/uploads/docs/docs/5491\\_5e8421360b4f3b61c6678178fecf3a46.pdf](https://kt.gov.lt/uploads/docs/docs/5491_5e8421360b4f3b61c6678178fecf3a46.pdf) online:

<sup>5</sup> In 2022, the Competition Council adopted a decision<sup>5</sup> establishing that the LPA and 8 pharmaceutical companies entered into anti-competitive agreement and infringed national and European Union competition law, when they agreed on the wholesale and retail mark-ups of reimbursable medicines subsequently approved by the Lithuanian Ministry of Health. The mentioned mark-ups became mandatory to every undertaking selling reimbursable medicines in Lithuania on wholesale and (or) retail level.

In 2017, the Ministry decided to assess retail and wholesale mark-ups for reimbursable medicines. The Ministry informed the LPA that a working group would be shortly formed to evaluate the existing mark-ups and requested the LPA to submit economically based proposals for their adjustment. Later the Ministry requested for calculations supporting the necessity of a change in the mark-ups and data on the mark-ups required for the undertakings to operate in an economically rational manner. The LPA, with the consent of its members (the pharmacies) and member-affiliated companies (the wholesalers), submitted to the Ministry jointly set wholesale and retail mark-ups for reimbursable medicines and presented them to the Ministry as allegedly necessary to cover their operating costs. However, the Competition Council found that the proposed mark-ups were not only intended to cover the operating costs of the undertakings concerned, but were designed to ensure additional profits for all competing groups of companies.

In December 2017, the Ministry, the LPA and the wholesalers' association entered into a Cooperation Agreement. Under the agreement, wholesalers and pharmacies committed to recalculating, in a fair manner, the prices of non-reimbursable medicines following a value added tax reduction and to provide the Ministry with price information for non-reimbursable medicines for a six-month period. In return, the Ministry agreed to review and adjust the mark-ups for reimbursable medicines. The Minister of Health subsequently issued order approving the new mark-ups for reimbursable medicines, which had been negotiated with the LPA.

14. Meanwhile, another legislative proposal – endorsed again by business associations – is moving forward successfully<sup>6</sup>. Under the proposed changes, companies would be required to pay only 50 percent of the fines imposed by the Competition Council immediately after the Council’s decision, while the remaining half would be paid only after the final court ruling. Currently, companies must pay the full amount of the fine without waiting for the outcome of judicial review, with certain exceptions. The companies also have available alternatives, such as providing the guarantees.

15. One of the factors which makes it more difficult for the Competition Council to communicate the consequences of initiatives similar to the ones described above, is the active promotion by business associations and greater resources available to them to support their efforts. For example, business associations invoke their resources to actively engage with the media and shape public opinion, including the opinion of the decision-makers, regarding the Competition Council’s practice. The publicity often features general statements without providing specific factual data. This, in turn, poses a challenge for the Competition Council and requires additional resources to address it by providing detailed data and explanations about its activities and competition policy.

16. In the Competition Council’s view, the right way to tackle the described challenges is through professionalism, high-quality communication of expert knowledge and transparency. The Competition Council seeks to maintain regular contact with various stakeholders, including the members of the Parliament<sup>7</sup>, providing detailed information related to the Competition Council’s activities, such as advocacy activities, conducted investigations, and the impact of its work on consumer welfare.

17. To illustrate the broader impact of its activities, in 2024, the Competition Council commissioned a survey of businesses and legal professionals to evaluate the deterrent effect of its investigations and decisions adopted under the Law on Competition<sup>8</sup>. The survey showed that one anti-competitive agreement uncovered by the Competition Council deters 46.4 anti-competitive agreements. The Competition Council published the findings of the survey seeking to inform the stakeholders about the importance of effective competition law enforcement.

18. To sum up, addressing various legislative initiatives concerning the competition law enforcement is a challenge and requires a proper communication strategy and resources.

#### 4. Conclusions

19. As demonstrated in this Note, the competition policy making is enriched by information and positions provided by various stakeholders, including business associations. However, the decision-makers should carefully examine all the legislative

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<sup>6</sup> As of 29 April 2025, the legislative proposal has passed the first stage of consideration in the Parliament, with the final vote remaining.

<sup>7</sup> For example, the Competition Council initiated a meeting with the members of the Economic Committee of the Parliament seeking to share the information about the Competition Council’s activities. The press release (in Lithuanian) describing the meeting is available online: <https://kt.gov.lt/lt/naujienos/seimo-ekonomikos-komiteto-nariai-is-arciau-susipazino-su-konkurencijos-tarybos-veikla-bei-rezultatais>.

<sup>8</sup> More information on the survey carried out is available online (in Lithuanian): [Methodology for Assessing Deterrent Effects](#).

initiatives, as well as their driving private interests, and balance them against the public interest.

20. Concerning the legislative initiatives regarding the competition law enforcement, with limited resources, the Competition Council faces increasing challenges in responding to actively promoted business initiatives that may conflict with broader competition policy goals and the interests of consumers. The right way to tackle these challenges is through professionalism, high-quality communication of expert knowledge and transparency.