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Assessing the Impact of Competition Authorities' Activities – Note by Lithuania

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Federica MAIORANO
Federica.Maiorano@oecd.org

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Lithuania

1. Introduction

1. This note of the Competition Council of the Republic of Lithuania (hereinafter – the Council) provides a detailed account of the Council’s approach to assessing the impact of its activities. Over the past decade, the Council has developed and applied a consistent methodology¹ to evaluate the outcomes of its enforcement and advocacy work, drawing primarily on internationally recognised frameworks, particularly those developed by the OECD.

2. These evaluations fulfil a dual function. Externally, they serve as an essential instrument of public accountability, enabling policymakers, stakeholders, and the public to understand the measurable consumer benefits arising from the Council’s interventions. Internally, impact assessments operate as a strategic tool to guide the prioritisation of enforcement initiatives and the optimal allocation of institutional resources. This continuous feedback between evaluation and action ensures that the Council remains not only effective in achieving its statutory objectives, but also responsive to the evolving demands of Lithuania’s economic and legal environment.

3. This report outlines Lithuania’s current practices in evaluating enforcement impact, details recent case outcomes, and sets out the Council’s position on how the OECD guidance may be enhanced in light of evolving institutional roles and analytical capabilities.

2. Current practice and use of OECD guidance

4. Bringing maximum benefits to consumers is among the most important objectives of the Council’s activities. The performance indicator for this objective is the ratio between the average annual three-year expected direct benefits for consumers and the average annual three-year budget of the competition authority. Since 2011, the Council has maintained a strategic commitment that every euro allocated from the national budget should yield at least five euros of expected benefit to consumers.

5. Between 2022 and 2024, the Council’s enforcement activities yielded an average annual direct benefit of EUR 17.5 million, while the average annual budget was EUR 3.1 million, resulting in a 5.7:1 benefit-to-budget ratio, thereby exceeding the strategic benchmark.

6. The Council publicly reports these outcomes in its annual Strategic Activity Plans and Impact Assessment Reports. In doing so, it fosters a culture of transparency and performance orientation, while strengthening the legitimacy of its enforcement mandate. While public institutions generally welcome the Council’s efforts to assess the benefits delivered to consumers, certain undertakings sanctioned for competition law infringements have argued that the level of fines imposed is influenced by the Council’s commitment to achieving its consumer benefit target.

¹ [Methodology for Assessing the Impact of Activities](#), p. 5–13.

7. The Council's methodology is primarily based on the framework developed by the OECD, drawing on both case-specific data from investigations and standardised assumptions regarding the likely effects of enforcement decisions. Such assessment shows expected *ex ante* direct benefits for consumers in the future rather than an *ex post* evaluation of the efficiency of the adopted decisions in practice.

8. In cases where detailed data is available, case-specific parameters are used. However, in most cases, due to the constraints typical of administrative enforcement, the Council relies on the OECD-based assumptions, with minor modifications. The Council includes vertical agreements and information sharing under the cartel category, and practices in the form of tying, pure bundling, and other forms of coercion are assessed as abuse of dominance. In practice, all four cases assessed in 2024 were evaluated using assumptions. However, in 2023, a conditional merger case was assessed using case-specific data, which yielded an estimated consumer benefit approximately 17 times higher than the figure that would have resulted from applying general assumptions.

9. Nevertheless, if the Council's decision is subsequently annulled on appeal, the estimated benefits are retroactively deducted. Mergers withdrawn following the issuance of a statement of objections are included in the benefit calculations, as are conditional merger clearances.

10. Since 2020, the Competition Council has incorporated the assessment of advocacy-related benefits into its impact evaluation framework, relying on the assumption values set out in Volume 3 of the OECD Competition Assessment Toolkit. However, only a limited number of advocacy interventions are reflected in the quantified benefit estimations. This is because, in many instances, regulatory restrictions or market constraints are relatively complex, indirect, or not sufficiently linked to observable price effects. In such cases, the Council's recommendations or observations are typically challenging to translate into monetary terms with an acceptable degree of precision.

11. Also, since 2020, the Council has been quantifying the benefits associated with the removal of infringements by public authorities under Article 4 of the Law on Competition², also applying the OECD Toolkit methodology. In these cases, the restrictions imposed by public administrative bodies and the resulting anticompetitive effects on the market tend to be clear and significant. Where such infringements are established and eliminated, the Council systematically estimates the consumer benefit derived from the restoration of competitive conditions.

12. The Council plans to begin assessing the deterrent effects of its enforcement actions from 2025, based on survey responses from legal professionals and market participants operating in Lithuania³. The Council will assess not only the direct benefits (resulting from price reductions following the elimination of competition infringements), but also the indirect benefits stemming from deterrence — that is, the extent to which infringement decisions adopted by the Council and the imposed fines discourage undertakings from engaging in anticompetitive conduct in the future. To this end, the Council will apply multipliers indicating how many anticompetitive agreements and concentrations are

² In principle, this Article requires public administrative bodies to ensure the freedom of fair competition when carrying out the assigned tasks related to the regulation of economic activities within the Republic of Lithuania.

³ More information on the surveys carried out: [Methodology for Assessing Deterrent Effects](#), available online in Lithuanian.

deterred (i.e., do not occur) for each infringement decision adopted by the Council and for each prohibited or conditionally approved concentration.

13. In 2024, the Council commissioned a survey to evaluate the deterrent effect of its investigations and decisions adopted under the Law on Competition. The survey targeted two specific respondent groups: legal professionals specializing in competition law, and undertakings operating in Lithuania. Legal practitioners were asked to provide insights regarding concentrations and anticompetitive agreements that were deterred due to the Council's actions. A total of 14 responses were received from this group. In parallel, the second respondent group comprised business undertakings with 50 or more employees operating in Lithuania. These undertakings were asked about agreements that had been deterred. Thirteen respondents from this group indicated that their conduct had been altered due to the anticipated intervention of the Council.

14. The primary objective of the deterrence-related questions was to calculate a deterrence multiplier. The analysis, based on responses from competition law practitioners and undertakings, made it possible to estimate the ratio between anticompetitive cases deterred and those that were actually subject to infringement decisions adopted by the Council. Using the responses from legal practitioners, the survey agency *Spinter Research* calculated deterrence multipliers for both concentrations and prohibited agreements. The **deterrent effect in concentrations** was assessed by determining the number of notified transactions that were deterred between 2021 and 2024 for every single merger decision adopted by the Council — either prohibiting the transaction or approving it subject to commitments. The **deterrent effect in the field of agreements** was assessed by identifying how many anticompetitive agreements were deterred for each decision adopted by the Council establishing a prohibited agreement. According to the responses received from legal professionals, the estimated deterrence multiplier is **2.6** for concentrations⁴ and **7.6** for agreements⁵.

15. **Survey results from undertakings** were used to separately estimate the deterrent effect in the area of anticompetitive agreements⁶. Based on the responses of undertakings with more than 50 employees, collected for the period 2020–2024, *Spinter Research* calculated a deterrence multiplier of **46.4** for anticompetitive agreements⁷. The **indirect**

⁴ The deterrence multiplier for concentrations is calculated by dividing the number of transactions that clients abandoned or modified following legal advice—where no subsequent intervention by the Council occurred—by the number of transactions, also advised on by those legal professionals, that were either prohibited by the Council or approved subject to conditions or commitments.

⁵ The deterrence multiplier for anticompetitive agreements is calculated by dividing the number of agreements (including potential cartels and similar arrangements) that clients abandoned or modified due to potential competition concerns—based on advice from legal professionals—by the number of agreements in which those same professionals were involved and which ultimately resulted in a finding of an infringement of Article 5 of the Law on Competition.

⁶ The deterrence multiplier for anticompetitive agreements, based on the business survey, is calculated by dividing the total number of agreements in the country that were abandoned or modified due to the perceived risk of a Council investigation, by the number of infringement decisions adopted by the Council under Article 5 of the Law on Competition.

⁷ The deterrence multiplier for anticompetitive agreements, as calculated from the business survey responses, is significantly higher than the corresponding figure derived from the legal practitioners' survey. This discrepancy may be partly explained by the fact that undertakings often decide to abandon potentially problematic agreements independently, without seeking external legal advice. In addition, it is possible that a relatively larger share of legal practitioners are involved in cases that

benefit to consumers resulting from deterrence is calculated by multiplying the estimated direct benefit by the applicable deterrence multiplier. In line with the principle of methodological conservatism, estimates of benefits attributable to deterrence are presented as a range, using a multiplier of **7.6 or 46.4** for agreements and **2.6** for concentrations. These estimates of deterrence-related consumer benefit should be regarded as indicative. They provide a general sense of the likely magnitude of the indirect impact generated through compliance incentives, which are assumed to result from the consistent enforcement of the Law on Competition.

3. Potential for updating assumptions

16. The Council fully endorses the 2014 OECD Guidance as a sound and practical basis for evaluating enforcement impact. Nonetheless, the Council identifies several areas where updated guidance could enhance the analytical robustness and policy relevance of impact assessments.

17. While the Council recognises the importance of consistency in impact assessments, it submits that this principle should not preclude the periodic revision of assumptions where justified by new empirical evidence. Therefore, additional sub-categories of anticompetitive agreements (cartels, vertical agreements, exchange of information), abuse of dominance (exclusive, exploitative abuse), with different assumptions, should be considered.

18. The Council would also welcome the OECD's coordination on common discounting practices to facilitate cross-jurisdictional benchmarking. This would allow for a better comparison of the expected benefits and efficiency of competition authorities across different countries.

19. The same applies to the estimation of deterrent effects. Although precise quantification remains challenging, it is widely acknowledged that deterrence effects often exceed direct pricing impacts. Recommendations to that effect would be useful, even approximate estimations, based on well-founded assumptions. Although we have obtained national survey results and intend to apply deterrence multipliers in our calculations, it would nevertheless be beneficial to have access to additional data from other jurisdictions or internationally conducted studies, in order to facilitate benchmarking and comparative analysis. The Council also believes that incorporating criteria for assessing the impact of advocacy and market studies would allow for a more holistic evaluation of a competition authority's contribution to consumer welfare. Recently, the Council has conducted several market studies, including the electric vehicle charging infrastructure sector and the financing of small and medium-sized enterprises (the latter in cooperation with the Bank of Lithuania). Following these studies, the Council provided recommendations to ministries and other public institutions on how to improve the competitive environment and reduce regulatory barriers. While it is reasonable to assume that the implementation of such recommendations leads to consumer benefits through improved market conditions and reduced barriers to entry and operation, there are currently no guidelines in place that would allow for an assessment of the benefits arising from market studies.

20. Additionally, the Council suggests that more guidance on whether to retroactively adjust or recalibrate previously estimated consumer benefits in cases where the competition authority's decisions are annulled by final judgments of the

ultimately proceed to investigation by the Council, as compared to cases that are deterred early on. This may contribute to a lower multiplier observed in the legal professionals' responses.

courts. Although Council's decisions are usually upheld by the courts, sometimes due to changes in national legal regulation, Council's decisions might be annulled. For example, as a result of subsequent amendments to the legislation governing in-house contracts, certain decisions of the Council were annulled by the courts, despite having been fully consistent with the national legal framework in force at the time they were adopted.

4. Conclusion

21. The Council reiterates its commitment to effective, evidence-based enforcement and its support for continued international cooperation on developing impact assessment methodologies. The Council's use of OECD-endorsed tools and principles has enabled it to demonstrate tangible consumer benefits, maintain strategic discipline, and foster institutional credibility.

22. As the role of competition authorities evolves, particularly in the face of complex market dynamics and increasing advocacy demands, the refinement of impact assessment techniques would be useful. The Council stands ready to contribute to this endeavour and to implement future enhancements to the assessment framework as developed through OECD consensus.