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

Working Party No. 3 on Co-operation and Enforcement

Methodologies for Conducting Market Studies – Note by Latvia

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More documents related to this discussion can be found at www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm

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Latvia

1. Internal classification and priority setting for market inquiries

1. According to the currently enforced national Competition regime, the Latvian competition authority (hereafter-CC) is entitled to conduct market supervision activities that internally may be stratified as follows:

1. Standardized market inquiries that usually involve analysis of market-specific and clearly defined problems, particularly concerning market definition, competition distortions caused by practices of undertakings, regulatory barriers etc.
2. In-depth market studies which *de facto* are multifactorial research activities that involve comprehensive market analysis, covering market definition, distortions of competition arising from unilateral or joint conduct, regulatory barriers etc.
3. Ex-post market studies that involve retrospective analysis of particular previously (usually 3-5 years beforehand) adopted decisions.
4. Market inquiries that are conducted to supervise the practical execution of decision, previously adopted by the CC (which may include legal obligations, commitments and accepted remedies as well as supervision of the payment of the imposed fines), especially in cases where there is the suspicions on evasion from fulfillment of legal obligations set by decision of CC.

2. The first three market inquiry types could be seen as different kinds of market studies depending on the scope, the depth and the structure of the conducted study.

3. Market studies are conducted (information gathered and analysis executed) mostly using internal resources. In certain specific situations, with the relevant opportunity arising, the CC used to cooperate with other institutions and public bodies if the result of the study would seem to be mutually complementary for the goals of all of the involved parties.

4. Market inquiry with an aim to supervise the obligation to pay the fine are used also as the framework to establish the legal successor of the fined undertaking. In one market inquiry CC investigated transmission of assets before change of the legal name to an affiliated company thus allowing to establish economic and functional succession could and finally to require the payment of the fine from the legal successor of the fined undertaking.

5. In the same way as in infringement cases CC sets priorities also for market studies. At the end of each year authority analyses priorities for next year (progress of actual cases investigations and market studies, plans for competition advocacy and educational activities etc.). Authority elaborate a separate plan for market studies what it plans to start next year. Plan generally outlines also competition problems that indicates importance of the chosen sector (market). The sources of preliminary information differs: complaints, public information or *ex-officio* gathered and analyzed information.

6. For setting annual priorities for market studies also preliminary assessment is done in what areas impact or gains from CC activities could be most likely. Areas where likely impact is indicated: household, business or government expenditures; impact on EU structural funds, export capacity; regulatory barriers for development of new

concepts, services and markets; ex-post evolution of enforcement decisions (remedies or obligations) and etc.

2. Information gathering and analysis

2.1. Legal powers of CC.

7. Initially the CC tries to obtain all information from public domain and only then request information from undertakings.

8. Competition Law of Latvia generally doesn't distinguish between CC powers in respect of obtaining information for market study or for the case investigation.

9. The CC, when carrying out market study may visit any market participant or an association of market participants (including without prior notice) as well:

- request documents (including documents prepared electronically and containing commercial secret), become acquainted on site therewith and receive such documents or the derivative documents thereof certified in accordance with the procedures laid down in laws and regulations;
- request and receive written or oral explanations from the employees of a market participant;
- withdraw property and documents of a market participant or an association of market participants which may be of importance in the case;

10. Types of information requested during market study varies, depending on the defined goals. The most common type of requested information is the retrospective net turnovers of the relevant supply-side market actors, later used for individual market share analysis and conduction of the HHI and CR screening tests..

11. If the requested information is not provided, fine till may be imposed in an amount up to one per cent of the annual net turnover of a market participant or an association of market participants in the last financial year for each, but not less than EUR 50 (Euros) for each. Persons other than market participants or associations of market participants shall be imposed a fine from EUR 50 to 1400 . Until 15 June 2016. the amount of fine was set in |Latvian Administrative Infringements Code (maximum EUR 14 000). There were situations when a fine for not providing requested information for market study was imposed as well as was also justified by court. From 15 June 2016 fine in an amount up to 1% of the annual net turnover of a market participant of the last financial year, but not less than EUR 50 may be imposed. Persons other than market participants or associations of market participants shall be imposed a fine from EUR 50-1400 .

3. Importance of cooperation and methodological consistency regarding data analysis for CC as a small competition authority

12. The CC continuously employs a standardized approach to conduction of market studies and sectoral inquiries, implementing such commonly utilized economic analysis methods as HHI, CR, markets trend retrospective and dynamic evaluations, supply chain structural assessments as well as data timeline quantitative interpretations. [Inquiry into the Latvian Road and Street Construction, Reconstruction and Periodic Maintenance Public Procurement Markets](#), conducted over the period of 2010-2014 with the goal of

disclosing the internal business process development specifics in a cartel-vulnerable for-the-market-competition sector would constitute a signature case of economic tool implementation, typically used by the CC in its standard-issue market studies.

13. Without prejudice to the relevant statement, the CC occasionally and in-line with the principle of resource-aware proportionality takes a more complex approach of employing econometrical methods of higher sophistication, including value chain descriptive system drafting and market conjuncture robustness examination via simulation modelling, including external shock scenario analysis and stress testing. CC don't have enough resources to conduct stand-alone analysis in such cases. In such situations for CC important is cooperation with other institutions and experts to support data analysis and interpretation. An example of cooperation would be the [Milk and Dairy Product Industrial Production, Processing and Distribution Market Structure Sensitivity Evaluation in 2012-2013](#), conducted in collaboration with the Central Bank of Latvia. The goal of market study was evaluation of the sustainability of the relevant market's structure in different levels of supply chain (farmers, dairies, retail) and the magnitude of economic shock wave attenuation within the each level of existing supply chain. The econometric methods used in the relevant sectoral studies were vector auto-regression modelling, panel data regression, generalized method of moments, ordinary least squares method and trend line graphical analysis.

14. In 2015, the CC launched the [sectorial inquiry into the waste-management sector](#) to assess competition situation, to provide proposals for its improvement and to clarify prospects of the sector development. The scope, objective and methodology of the study was elaborated in cooperation and on the basis of study "Competition in the Waste Management Sector" realised by Nordic Competition authorities. Thus it was possible to obtain comparable results with Nordic countries as well as to save resources initial planning of market research.

15. During the conduction of the mentioned sectorial inquiry, the CC identified a number of challenges in the analysed relevant market, not least due to a high level of municipality involvement into entrepreneurial activities on the corresponding regional level, while simultaneously revealing evident problems in separate waste collection operations as well as issues concerning the "quality" of agreements and provided waste-management services, contextualized within the disclosed presence of barriers, created by the currently existing regulation, which, from the CC's point of view, significantly undermined competition efficiency in the evaluated relevant market.