

ANNUAL REPORT OF THE ANTIMONOPOLY OFFICE OF THE SLOVAK REPUBLIC

2002

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Executive Summary

1. Activity of the Antimonopoly Office of the Slovak Republic in 2002 has been focused in comparison with the previous period mainly to the area of concentrations control. This fact came out mainly from the dynamic process of the privatisation in energy and finance sectors, but also from the natural effort of entrepreneurs to merge and to improve their positions in the relevant markets through the mergers.

2. Regarding the increasing number of complaints dealing with the abuse of a dominant position in the telecommunication sector the Office paid its attention to improve and to intensify the cooperation with the independent regulator for telecommunication sector and also to intensify activities in the area of competition advocacy, where we have achieved the significant progress in the course of the past year.

3. In its activities the Office came out from the principle that the competition policy plays the essential task in creating both national and the global policies, while its successful implementation requires wide support of public, it means not only of the entrepreneurs, professional associations, academic community, but also from the side of wide consumers' group.

1. Changes to Competition Law and Policies

1.1 Summary of new legal provisions of competition law

4. Act No. 465/2002 Coll. on Block Exemptions from the Ban of Agreements Restricting Competition and on Amendments and Supplements to Certain Laws came into force on 1 October 2002. This law has introduced two new important elements in the Slovak competition legislation - block exemptions and simplified proceedings regarding the assessment of concentrations that have a negligible impact on the market.

1.2 Block exemptions from the ban of agreements restricting competition

5. Any agreement restricting competition is automatically prohibited by law and invalid. Based on an application from an entrepreneur, the Office may grant an individual exemption to a certain agreement, that is, to decide that the prohibition will not apply to a certain agreement for the time period set in the decision, provided that the agreement meets the four conditions prescribed by the law.

6. The law on block exemptions has introduced into the Slovak competition legislation a new regulation based on which agreements restricting competition, which meet precisely defined conditions, will be automatically excluded from the legislative prohibition without having to be notified to the Office. Block exemptions give entrepreneurs legal certainty comparable to that provided by individual exemptions.

7. Block exemptions apply to the following categories of agreements restricting competition:

- block exemption relating to vertical agreements restricting competition;
- block exemption relating to agreements restricting competition in the area of distribution and maintenance of motor vehicles;
- block exemption relating to agreements restricting competition in the area of provision of technologies;
- block exemption relating to agreements restricting competition in the area of specialization;

- block exemption relating to agreements restricting competition in the area of research and development;
- block exemption relating to agreements restricting competition in the insurance sector;
- block exemption relating to agreements restricting competition in the area of sea transport.

1.3 Simplified proceedings in assessing concentrations

8. Another new institution introduced by the law is the regulation of simplified proceedings in assessing concentrations with a negligible impact on the market. This regulation will contribute to the acceleration of the proceedings at the Office by making it possible to issue a simplified decision within a shorter period if it is clear that they will not restrict competition.

1.4 Legislative Changes under Preparation

9. As the European competition law is being modernized and its application is being decentralized at present, the Office's legislative efforts in 2003 will be aimed at making the Slovak competition law compatible with the amended European legislation, so that it reflects the trends of these changes.

2. Enforcement of the Act on Protection of Competition

2.1 Agreements restricting competition

2.1.1 Statistics

10. Agreements restricting competition form one of the basic components of the competition legislation, because they are aimed at or may result in restricting competition. While the modern-day competition law generally prohibits agreements restricting competition, it also allows exemptions from a concrete ban if the specific conditions are fulfilled, i.e. the law directly allows an exemption based on the "de minimis" rule or grants a block exemption to certain categories of agreements, which may also be done on the basis of an individual decision of the Office.

11. However, the aforementioned regime of exemptions relating to agreements restricting competition definitely does not apply to the so-called "cartel agreements," which eliminate intensive competition between participants in such agreements, thus increasing their profits and providing other advantages in a much simpler manner than in the absence of such agreements. These cartel agreements are always harmful to competition, and the participants in the agreements are the only ones to profit from them at the expense of consumers. Cartel agreements may take various forms, depending on the objectives and structure of the sectors in which they are applied.

12. The Office dealt with these and similar types of arrangements in 2002. During the reported period, the Office issued 52 decisions regarding agreements restricting competition, 36% of which banned an agreement restricting competition or part thereof, while 25% of the decisions represented negative clearance, 10% granted individual exemptions, and the remainder was formed by other decisions, such as suspension of proceedings, imposition of a fine, and so forth. Approximately 67% of the proceedings were initiated at the request of entrepreneurs and 33% by the Office itself. Regarding agreements restricting competition, the Office issued 11 opinions on draft agreements.

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13. The largest number of agreements subject to assessment concerned the food-processing industry and distribution of cars. The Office imposed fines totalling SKK 2,455,000 (58 732 EUR) with respect to agreements restricting competition.

2.1.2 *Description of significant cases*

2.1.2.1 Decision of the Association of Entrepreneurs – Slovak Chamber of Pharmacists

14. The Office started proceedings at its own initiative regarding an agreement restricting competition in the form a decision of an association entrepreneurs against the Slovak Chamber of Pharmacists (hereafter referred to as "SLeK") due to the suspicion of a procedure showing signs of restriction of competition committed by SLeK when it approved an amendment to the Code of Ethics for Pharmacists.

15. According to Act No. 13/1992 Coll. on the Slovak Chamber of Physicians, the Slovak Chamber of Dentists, and the Slovak Chamber of Pharmacists, which was effective at the time when the decision was made, one of the main tasks of SLeK was to comment on pharmacists' ethical and professional qualifications for the performance of their activities. According to Article 7 of the Code of Ethics approved by the Chamber congress, it was contrary to pharmacists' ethics to establish a new pharmacy within the distance of less than 500 meters from an existing pharmacy. It was also contrary to pharmacists' ethics to establish a pharmacy if the number of municipality citizens per pharmacy would drop under 5,000 after the establishment of that pharmacy. This meant in practice that SLeK refused to issue a positive opinion on ethical and professional qualifications to new applicants interested in providing pharmaceutical services, without which they were not allowed to carry out activities as pharmacists.

16. This measure created an administrative barrier to entry into the market and prevented new business entities - pharmacies from entering the market with respect to supplying the population with pharmaceuticals and medical aids, which led to the elimination of competition in the market. Based on an analysis of the case, the Office arrived at the conclusion that Article 7 of the Code of Ethics constituted an agreement restricting competition, which is prohibited, and imposed a fine on SLeK for the violation of the law.

2.1.2.2 Distribution of motor vehicles – PEUGEOT SLOVAKIA

17. Following an application from the PEUGEOT SLOVAKIA company for an individual exemption, the Office assessed franchise agreements concluded between the PEUGEOT SLOVAKIA company and 20 franchisees selling PEUGEOT cars. The purpose of the franchise agreements was to regulate relations between the PEUGEOT SLOVAKIA company and the individual franchisees with respect to the sale of new PEUGEOT motor vehicles and spare parts, as well as services needed for their use, in order to ensure a unified high standard of services within the entire PEUGEOT distribution system.

18. When assessing this case, the Office defined the relevant markets as a passenger car distribution market and a small truck distribution market.

19. Following an analysis of the agreements in question, the Office arrived at the conclusion that they contain several provisions restricting competition. However, the Office stated that most of them satisfy the conditions for granting an individual exemption.

20. At the same time, the Office decided that the provisions prohibiting the franchisees from selling other makes of motor vehicles and from using and selling spare parts, accessories, and equipment other than those produced by PEUGEOT SLOVAKIA within the assigned territorial area without the prior

consent of the PEUGEOT SLOVAKIA company do not satisfy the conditions for granting an individual exemption, which is why these provisions of the franchise agreements are prohibited by the law.

2.1.2.3 Agreement on exclusive supplies – TASR, Zoznam, s.r.o.

21. The Office started proceedings at its own initiative regarding an agreement restricting competition, concluded between the business entities Tlacova agentura Slovenskej republiky – Slovakia [News Agency of the Slovak Republic] (hereafter referred to as "TASR") and Zoznam, s.r.o. (hereafter referred to as "Zoznam") in the form of an agreement on delivery, taking delivery, and use of TASR news services.

22. TASR's activities include primarily the provision of written news reports and videos. The Zoznam company operates a news website on the Internet, where it also publishes news reports.

23. The Office defined the relevant markets as a relevant market for the sale of news services for Internet websites and a relevant market of Internet websites providing advertising space and selling advertisements.

24. Following the investigation of the case, the Office arrived at the conclusion that the agreement in question contains arrangements restricting competition. This includes an arrangement according to which the Zoznam company is required to use TASR as a single exclusive provider of agency news services, which restricts the company's freedom of making decisions on the selection of news service providers. Furthermore, the arrangement where the TASR company undertakes not to provide news services to third parties for other Internet search engines and related services under the same or better conditions than those offered to the Zoznam company also restricts competition with respect to the TASR agency, because it sets the conditions under which the agency is allowed to provide news services to other entities operating Internet websites. At the same time, it puts the Zoznam company at an advantage, because it guarantees a more advantageous position to Zoznam with regard to competing Internet websites receiving services from the TASR agency.

25. Based on the aforementioned information, the Office arrived at the conclusion that the respective provisions of the agreement constitute an agreement restricting competition prohibited by the law and imposed a fine on the contracting parties.

2.2 *Abuse of a Dominant Position*

2.2.1 *Statistics*

26. Abuse of a dominant position is one of restrictive practices characteristic of those business entities whose accumulated market power is not subject to pressure from competitors and third parties. The plain fact that an entrepreneur has a dominant position in the market does not constitute a violation of the Act on Protection of Competition. However, the use of the market power in combination with a dominant position and negative impacts on the competitive environment is regarded as abuse of a dominant position.

27. In the reported period, the telecommunications were probably the most investigated sector. In connection with the liberalization process, this sector has recently undergone a radical change from a monopoly network to a modern and dynamic industry with a growing number of various operators. In spite of this, operators or business entities that may have a dominant position in the relevant markets in the sector feel the temptation to abuse their position.

28. The most frequent restrictive practices in the sector seem to include the enforcement of inappropriate business conditions and application of different conditions to the same or comparable

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performance, which results or may result in some entrepreneurs being put at a disadvantage compared with their competitors or denied access to essential facilities. Telecommunication operators often take advantage of their monopoly or dominant position, especially to achieve or expand their market power, for example, to the neighbouring or related markets that have not yet been "captured," which is to the detriment of competitors and customers.

29. The Office dealt with these and similar practices within the powers entrusted to it in the reported period, given the need to respect the immutable principle that fair competition creates prerequisites and possibilities to fully utilize and accelerate technological progress and, at the same time, supports restructuring and achieving the economies of scope and scale in order to increase competitiveness.

30. During 2002, the Office issued a total of 37 decisions regarding abuse of a dominant position and imposed fines totalling SKK 101,400,000 (2 425 837 EUR).

2.2.2 *Description of significant cases*

2.2.2.1 Slovak Telecommunications – ADSL Project

31. In June 2002, Slovak Telecommunications (hereafter referred to as "ST") launched the so-called "ADSL commercial pilot," a project focused on test operation of services based on ADSL technology, which allows high-speed transmission of data via local lines of the permanent public telecommunication network.

32. After the project was launched, ST started to provide Internet services with high-speed data transmission based on ADSL technologies to end users, and offered to Internet providers a service called ST Broadband ISP Direct, which enables these providers to access the ST network through a leased line. Theoretically, it was possible for other Internet providers to use the ST Broadband ISP Direct service in order to provide Internet services based on ADSL technology to end users and thus compete with ST.

33. However, according to available information that the Office has managed to obtain, ST set such inappropriate business conditions for the ST Broadband ISP Direct service that it practically prevented other Internet providers from entering the market, because if they accepted the ST Broadband ISP Direct conditions, they would never be able to compete with ST in providing ADSL-based Internet services to end users.

34. In order to ensure comparable competitive conditions for all entities interested in operating in the new relevant market of providing Internet services on the basis of ADSL technology to end users and to prevent the ST company from deforming the competitive environment by possible restriction or exclusion of other providers of telecommunication services from the relevant market, the Office imposed a preliminary ruling requiring ST to refrain from providing services on the basis of ADSL technology according to the conditions set by the ST company particularly for its first commercial project.

35. The Office was aware that, by imposing the preliminary ruling, it preliminarily suspended the possibility of providing services on the basis of ADSL technology, by which it prevented consumers from using the offered service in the short term, but, on the other hand, if the preliminary rulings had not been imposed, consumers would have suffered a much larger damage resulting from the elimination of competition on that market and of the possibility to make a choice on the basis of the extent, quality, and price of the offered services, because the conditions set by ST for offering these services were far too unbalanced. If the preliminary ruling had not been immediately imposed, by the time the Office decided on the matter, ST might have considerably strengthened its position, thus preventing potential competitors from entering the relevant market or making this more difficult for them. This could have eventually led to an irreversible change in the structure of the relevant market.

36. When the reasons due to which the preliminary ruling had been imposed ceased to exist, the Office abolished the preliminary ruling.

37. Regarding the telecommunications sphere, apart from the case concerning the ADSL service described above, the Office also assessed the ST practices in providing the ISDN service and access to local lines.

2.2.2.2 Individual application of the law - General Health Insurance Company

38. In 2002, the Office also dealt with cases where the scope of application of the law was questioned. This problem was investigated with respect to the assessment of the conduct of Vseobecna zdravotna poisťovna [General Health Insurance Company] (hereafter referred to as VsZP"), which constituted a possible abuse of a dominant position in the market. It was the Office's task to assess the scope of application of the law with respect to VsZP, which is not a classical business entity, but rather a public institution established on the basis of the law, whose task is to perform mandatory health insurance.

39. The Act on Protection of Competition applies to entrepreneurs, as well as to state administration bodies and territorial self-government bodies. The term "entrepreneur" does not only include an entrepreneur as defined in the Commercial Code, but also any individual and legal entity and their associations if they carry out activities and acts that are or may be related to competition, regardless of whether these activities and acts are intended to make profit.

40. When assessing the individual application of the law, it is necessary to determine whether the assessed entity is an entrepreneur within the meaning of the Commercial Code. However, if this is not the case, this entrepreneur cannot be directly excluded from the scope of the law, but it is rather necessary to assess activities and acts performed by that entrepreneur in order to ascertain whether these activities and acts are or may be related to competition. When assessing the individual application of the law, emphasis is placed on the entity's individual activities and acts, taking no account of other matters such as the legal form of the entity, who owns the entity, how the entity has been established, its structure, the method of financing, whether or not the entity carries out certain activities to make profit, whether the entity provides its products or services with or without payment, and so forth.

41. VŠZP is not an entrepreneur within the meaning of the Commercial Code. However, one of the main activities of this institution - arranging the provision of health care to the insured in medical facilities and payment for this health care can be regarded as activities and acts that are or may be related to competition, which is why VŠZP is subject to the individual application of the law.

2.3 *Mergers and acquisitions*

2.3.1 *Statistics*

42. Control of concentrations is one of the components of the competition law. It is the control of transactions involving economic links between previously independent undertakings resulting from a merger, amalgamation, or acquisition of control, for example, through the purchase of shares. These transactions lead to a change in the market structure, as they reduce the number of independent entrepreneurs operating in the relevant market.

43. Concentration may easily and quickly lead to a situation where an entity acquires a dominant position in the market, which means that it is not subject to any substantial competition and may act independently in the market, for example, it may raise the prices of its product above the market price and profit from this situation in the long run. However, this situation would put consumers at a disadvantage, because the existence of a company having a dominant position in the market would most probably lead to

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an increase in the prices of goods, lower quality of services provided, reduced selection of goods, and insufficient innovation and modernization.

44. In order to prevent companies from acquiring a dominant position, where they would not be subject to substantial competition and could act independently, the competition law also includes the institution of control of concentrations to monitor changes in the structure of the individual relevant markets. Therefore, all concentrations that exceed the notification limits prescribed by the law must be notified to the Office. These concentrations may not be carried out before the Office issues a decision approving the concentration. The Office assesses all the notified concentrations from the viewpoint of their impact on competition. The Office has the power to prohibit a concentration that would lead to establishing or strengthening a dominant position in a certain relevant market, which would create important obstacles to competition due to the concentration.

45. In 2002, the Office issued 151 decisions regarding concentrations and 20 opinions on concentration plans. Of the total number of the decisions, concentration was approved in 62 cases and conditionally approved in three cases. Concentration was prohibited in two cases and the Office terminated proceedings in 32 cases. The remaining decisions are of a different nature, for example, they involve granting or a refusal to grant an exemption, return of an administration fee, and so forth. Chemical industry, food-processing industry, the energy sector, and services were among the sectors seeing the largest number of concentrations. The Office imposed fines totalling SKK 250,000 (5980 EUR) regarding concentrations. These were mainly fines for delays in notification of concentrations.

2.3.2 *Description of significant cases*

2.3.2.1 Conditionally approved concentration – Bayer, Aventis

46. The Antimonopoly Office also assesses concentrations carried out abroad, because these concentrations may also have a considerable negative impact on the market in the Slovak Republic. This was the case of the concentration where the German company Bayer acquired control over the French company Aventis. Both companies operate in the Slovak market only through imports.

47. The Bayer company is an European leader in the research of active substances used in the manufacture of insecticides for oil and protein plants and the largest seller of these insecticides in Europe. The Aventis company is also active in the research of active substances used in the manufacture of insecticides for oil and protein plants. The Office identified a foreign company as the only potential supplier of this type of insecticides to the territory of the Slovak Republic. Within the European dimensions, this company would represent, together with the companies Bayer and Aventis, a substantial part of the market of insecticides for oil and protein plants.

48. After acquiring control over the Aventis company in the Slovak Republic, the Bayer company would gain an extremely large share of the relevant market of production and sale of insecticides for oil and protein plants, and insecticides produced on the basis of the Fipronil active substance would form a major part of this share. Given the large barriers to entry into the market, resulting primarily from the high cost of research and development of new active substances and the non-existence of potential competitors, the concentration would establish a dominant position for the Bayer company in the relevant market of production and sale of insecticides for oil and protein plants, which would create significant obstacles to effective competition in that market.

49. The Office agreed with the aforementioned concentration, tying its approval to the fulfilment of three conditions, the most important of which was the Bayer company's obligation to transfer all business activities of the Aventis company regarding Fipronil to a third party, that is, an entrepreneur who is not

associated with the business entities Bayer and Aventis through capital holdings or personnel, which would remove important obstacles and ensure the conditions for effective competition in the relevant market of production and sale of insecticides for oil and protein plants.

2.3.2.2 Vertical concentrations in the sphere of beer production and distribution

50. In 2002, the Office dealt with two vertical concentrations between a leading company in the market of beer production and sale in the Slovak Republic and regional wholesale distributors of beer to hotels, restaurants, and cafes.

51. Regarding one of the aforementioned concentrations, since the distributor over whom the beer producer was going to acquire control is operating in a region where there is a strong competitive environment in the area of beer sales between producers and wholesale distributors, the concentration did not cause any problems and was approved by the Office.

52. Regarding the other concentration, however, the beer producer would acquire control over the company operating in the sphere of distribution of beer to hotels, restaurants, and cafes in the region where this producer largely dominates the beer sales market, supplying beer to more than two-thirds of hotels, restaurants, and cafes. The Office prohibited this concentration, because it could have caused several problems to competition. All beer supplies from that producer could have been rerouted through its own distributor, who would have tried to distribute primarily beer produced by his parent company to the detriment of other brands of beer produced by competing producers. This producer would be the only vertically integrated company with a significant market power in the region, which would enable it to support the sale of its products and thus strengthen its position in the beer market. Other breweries supplying the market would not be able to build their own distribution networks due their small size and strength and would depend on the existing distributors in the region. However, they would gradually cease to exist, because it would be much more difficult for them to carry out their activities without the possibility of selling beer of the company dominating the region. Consequently, the competing breweries would lose the only distribution channel for the region or this channel would be very limited. Since the concentration would enable the company operating in the sphere of beer production on the regional market to establish a dominant position and, at the same time, the company would strengthen its position in this region regarding the sale of beer to hotels, restaurants, and cafes, the Office prohibited this concentration. The case is now subject to an appeal and no legally valid decision has yet been issued.

2.3.2.3 Concentrations in the energy sector

53. In 2002, the Office assessed three concentrations in the sphere of electrical energy distribution and supplies. All the three concentrations were based on the same principle, where the National Property Fund of the Slovak Republic, holding 100% of shares in the three distribution companies, was going to sell 49%-stakes in these distribution companies to the winners of the tenders for the sale of the aforementioned stakes. The distribution companies concerned, Zapadoslovenska energetika [West Slovak Power Distribution Works], Stredoslovenska energetika [Central Slovak Power Distribution Works], and Vychodoslovenska energetika [East Slovak Power Distribution Works] operate on a regional principle, which means that they are in the position of a dominant distributor and supplier of electrical energy. The tenders were won and the stakes subject to sale in the individual distribution companies were acquired by E. ON, Electricite de France, and RWE, respectively, which acquired joint control over the distribution companies together with the Economy Ministry of the Slovak Republic.

54. Based on a thorough analysis of all the aforementioned information, the Office ascertained that each distribution company will maintain a dominant position in the defined relevant markets of electrical energy distribution and sale after the assessed concentration is carried out, the assessed concentration will

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not change the structure of the relevant markets, the existing barriers to entry into the defined relevant markets will not be strengthened, nor will new ones be created after the assessed concentration is carried out, and, given the existence of the regulation system in the energy sphere, the Office arrived at the conclusion that none of the assessed concentrations would strengthen a dominant position in the relevant markets of distribution and sale of electrical energy in such a way that significant obstacles to effective competition would be created, which is why the Office approved the aforementioned concentrations without any conditions.

2.3.3 Examination of Legality of the Office's Decisions by the Supreme Court of the Slovak Republic

55. If a participant to the administrative proceedings does not agree with a final decision issued by the Office, the participant may file a complaint with a court, requesting that the legality of the decision be examined. According to Article 246 (2) (a) of the Code of Civil Procedure, it is within the jurisdiction of the Supreme Court of the Slovak Republic to examine decisions of central state administration bodies, including the Office.

56. In 2002, the Supreme Court dealt with 11 complaints requesting an examination of the legality of decisions issued by the Office. This included five complaints filed by the same complainant, with which the Supreme Court of the Slovak Republic dealt with within combined joint proceedings, which means that the Supreme Court of the Slovak Republic issued seven decisions.

57. Regarding the aforementioned decisions, the Supreme Court of the Slovak Republic rejected complaints and confirmed the Office's decisions in three cases, terminated the proceedings in one case, and, in three cases, it overruled the Office's decisions and returned the matters for new proceedings.

3. Role of the Antimonopoly Office of the Slovak Republic in the Formulation and Implementation of other Policies

58. In addition to imposing sanctions on anticompetitive practices and monitoring the structure of the market by means of control of concentrations, the Antimonopoly Office of the Slovak Republic is also required to monitor and draw attention to the observance and application of the competition principles in the formulation and implementation of economic policies. The Office uses several instruments to achieve this goal.

3.1 Enforcement of Competition Principles into the Legislative Standards

59. The process of drafting laws represents one of the important opportunities for the Office to enforce the competition principles. The Office actively intervenes in this process by making comments and, if necessary, it presses for anticompetitive provisions to be removed and supports the implementation of the competition principles. In 2002, the Office made several fundamental comments within the interministry comment proceedings, including the following:

- The draft law on retail chains was intended to regulate the conduct of retail chains especially by regulating and prohibiting certain practices used by retail chains and by introducing a compulsory range of goods produced by Slovak and foreign producers to be offered by a retail chain. The Office fundamentally disagreed with the adoption of the law, because it did not represent a systemic solution to the problem of economic dependence, but only inadequately applied sanctions in the form of bans and orders. The law was in fundamental violation of the competition principles, as it regulated the range of products, requiring a retail chain to sell goods produced by at least three producers within a certain

product range and to make sure that goods produced in Slovakia are proportionally represented in the total amount of goods offered for sale.

- Regarding the draft law on private veterinarians and the Chamber of Veterinarians of the Slovak Republic, the Office fundamentally disagreed with the proposed concept of making the performance of a private veterinarian's activities conditional upon mandatory and paid membership in the Chamber. The Office negatively assesses the nature of the administrative barriers to entry into the market as such, and it does seem to be justified for the Chamber to have the power to make decisions on permission to conduct business activities in this sector.
- Regarding the draft law amending and supplementing the Act on Value Added Tax, the Office fundamentally disagreed with the proposal that universal postal services provided by postal companies in which the state capital participation exceeds 50% be exempted from tax. This provision would discriminate against those entrepreneurs in which the state capital participation is less than 50%. However, the Office's comment was not accepted.
- Regarding the draft law on medical facilities and other facilities in the health care system, the wording of the part of the draft law dealing with the issuance of licenses for the performance of activities of a medical facility was formulated in such a way that an application for a license must be accompanied by an opinion issued by the relevant professional organization on ethical and professional qualifications of the applicant or his expert representative. The Office requested that the proposed wording be amended and supplemented to the effect that the relevant professional organization's opinion should not concern pharmaceutical facilities and should not have a character restricting competition between health care providers.
- Regarding the proposed transformation of Tlacova agentura Slovenskej republiky [News Agency of the Slovak Republic] and the draft law on Tlacova agentura Slovenskej republiky (hereafter referred to as "TASR"), the Office expressed its comments on the proposed method of the TASR transformation into a public organization established on the basis of a special law, which would receive subsidies from the state budget for its activities. The Office disagreed with the proposed transformation of TASR, suggesting that TASR be transformed into a joint stock company, which would be subsequently privatised, while the state would order services from news agencies on the basis of tenders. The Office explained its opinion by saying that the transformation proposed by the Office would eliminate the distortion of competition in providing services in the areas where TASR is presently competing with other entrepreneurs. The Office also proposed that the TASR transformation into a joint stock company, where a 100-percent stake would be held by the state, be completed by selling shares to business entities, but, on principle, not to those operating in the media sphere, because these entities, as buyers of TASR services, could negatively influence TASR's conduct and create unequal conditions in the relevant market. Further, the Office proposed that TASR archives be excluded from assets subject to privatisation, in order to keep them generally accessible as property acquired from public funds.
- Regarding the draft law amending and supplementing the Act on Health Insurance, a proposal was submitted according to which all activities related to health care, including health insurance companies, were to be excluded from the scope of application of the Rules of Dstraint Procedure. The Office regarded this proposal as anticompetitive, because, for a certain branch of the Slovak economy, it created conditions that were incomparable with conditions applicable to other economic sectors, and, first of all, it would create

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disadvantageous conditions for external providers of goods and services to the Health Ministry.

4. Resources

4.1 Annual budget

	2002		Change
Total expenses	32 821 000 Sk	850 285 USD	-15 000 Sk

4.2 Number of employees

	2002	2001
Economists	32	29
Lawyers	8	10
Other experts	6	14
Other employees	15	9
Total	61	62