

Unclassified

CCNM/GF/COMP/WD(2002)17



Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

05-Feb-2002

English text only

**CENTRE FOR CO-OPERATION WITH NON-MEMBERS
DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS**

CCNM/GF/COMP/WD(2002)17
Unclassified

OECD Global Forum on Competition

CONTRIBUTION FROM LATVIA

This note is submitted by Latvia as a background material for the second meeting of the Global Forum on Competition, to be held on 14-15 February 2002.

JT00120345

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format

English text only

NOTE BY LATVIA

1. Introduction

The realisation of competition policy in Latvia is based on direct prohibitions applied to enterprises and regulations of actions included these prohibitions and regulations in competition protection legislation and international agreements. Latvian competition policy is based also on state policy in competition protection development and promotion spheres. This competition policy includes opening traditional monopoly sectors for free competition, reduction of restrictions for providing commercial and entrepreneurial activities and abolishing administrative barriers. These two directions of competition policy provided by state ensure increasing of competitiveness of national economy and efficiency growth in certain sectors of economy. However provision of active policy marks also a number of by-effects. The negative expression of these by-effects in short term period moves forward several substantial problems. These problems in long term period discussing theoretically different economic models are solved by provision the effectiveness increase of relevant sector of economics and the most effective resources' exploitation.

2. Concerns regarding competition policy and economic development

Looking closely one of competition surveillance instruments - merger control, it is possible to identify several problems, characteristic to rapid growing economies. The capacity of Latvian internal market is relatively small - the joint capacity of market is 2.4 million inhabitants. Market structure established after privatisation do not correspond to these economic processes taking place in developed markets. Privatisation of state property is resulted into property transformation but is in minimal extent connected with market re-division. Analysing in medium term period financial and competitiveness showings of enterprises and evaluating long term period development perspectives conclusion can be drawn that competitiveness of enterprises will be more dependent on ability of enterprises to comply with globalisation processes by means of resources' concentration to production of goods of definite specialisation. One of most important qualification criteria of competitiveness - effect of amount - is a key factor for reaching a definite level of competitiveness. However from the point of view of competition surveillance expressions of consolidation and specialisation linked with consolidation must be evaluated in much smaller scale and in fact in case of definition many relevant markets these expressions can be reduced to domestic market of Latvia. In the result of merger in Latvian market where relatively high market concentration is characteristic because of relatively small market capacity growing of market concentration in short term period can considerably diminish the pressure of competition on prices and on amount of goods and services thereby reaching critical level for customers. Depending on branch specifics in medium term period the negative character of this high market concentration compensates by liberal regimes of trade and entrepreneurial activities what limits opportunities of enterprises of gaining monopoly profit in long term period.

Realisation of competition policy in sphere of merger of enterprises is not directly linked with tasks of employment policy. Treatment of particular issues of employment policy was been part of privatisation processes providing in short term period employment obligations' realisation in privatisation transactions with administrative methods. Rules of Latvian competition legislation do not allow to set up conditions regarding employment or to take into account other aspects of social policy in case of merger of enterprises.

The task of institutions of competition surveillance in this process realising control of merger surveillance is to balance together needs of enterprises achieving in long term period growing of competitiveness with interests of consumers to get in short term period goods and services in effective structure of market, where possibilities of gaining monopoly profit are diminished.

Compensating internal contradictions of merger surveillance process Latvian competition surveillance authority moves forward an aim to follow expressions of merger market excluding possible abuse of dominant position in activities of market participants. We have to acknowledge it is an activity connected with market effects. However previous experience of activities testifies that level of market's availability is a determinant factor what in medium term period limits activities of dominant enterprise in the market and provides effective and consumer-friendly market structure.

3. Competition policy in monopoly sectors

There we are coming to the question - what is the most important for a period of market economy development in competition policy realisation and can not only substantially affect level of competition in certain relevant markets but is also linked with creation of more effective market structures and more effective exploitation of resources in monopoly sectors. The amount, quality and price of services provided by these sectors is an essential precondition for state competitiveness.

In Latvia we have reached an essential progress in sphere of liberalisation of monopoly sectors. A goal-directed creation of sectoral policy in such sectors as telecommunications, energy supply, transportation, has marked first results for opening these sectors for free competition and has given a clear signal about full availability of these sectors to competition under certain periods of time. Technological solutions even on the current legislative basis that in big scale determine the exclusive character of provided services with larger interpretation of competition legalisation provide access for customers to substitutable additional services what in direct and indirect way creates quite effective competition pressure both on prices determined by provider of public services and on amount of these services.

4. Role of international co-operation

Market capacity and liberal trade regimes are preconditions for definition relevant markets in much wider scale as only the inside territory of state. Thus in certain sectors a relevant geographical market is defined as Baltic states' market where existing and potential competition situation is similar enough for all market participants. Consequence of application such cross-border laws is necessity to strengthen by legal means instruments for obtaining evidences and influence in wider territory as state administrative territory. Latvia has concluded free trade agreements with its main trade partners with provisions included prohibiting anti-competitive actions in international trade. However the judicial weight is not sufficient for provision effective investigation procedures and subsequent preclusion of possible violations. For reaching maximum effect of application cross-border competition surveillance rules it is necessary to widen or delegate powers of institutions and to implement mechanisms for effective application of sanctions for non-residents. However in Latvian case analysing application of bilateral agreements in sphere of competition surveillance in long term period their effect is minimal. Therefore Latvian competition surveillance authority in future see prospects for multilateral competition surveillance instruments what reacting to consolidation processes and their effects in markets would create corresponding legal and institutional environment for restriction anti-competitive actions.

5. The role of technical assistance for competition policy strengthening

International co-operation in sphere of technical assistance is a determinant impulse for creation and strengthening competition surveillance institutions in period of implementation market economy. Successful realisation of competition policy in large scale depends on ability to apply laws successfully on ability to promote understanding in society about aims and instruments for reaching these aims. Technical support provided in Latvia by different OECD member-states, international organisations as well as support provided in frameworks of very precisely positioned Baltic regional co-operation project has furnished knowledge on competition legislation application practice and in its connection with other policies of economical development for very wide audience. The range of assistance is very large but the most important input during last years is made exactly in surveillance institution employees' knowledge improvement. Support in staff's training is gradually removing from separate examples' and practice analysing to acquisition knowledge and experience for creation long-term competition policy. The dissemination of knowledge on competition legislation in different state institutions has stimulated reaching of economic reform' aims in more rapid terms. In this aspect it would be useful to involve other state institutions in technical assistance projects to competition surveillance sphere especially these institutions responsible for economical policy realisation. Thus possibly attraction of additional resources would be promoted for competition surveillance sector from national budgets what is very critical especially in markets of rapidly growing states.