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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN SLOVAK REPUBLIC

-- 2009 --

This report is submitted by the Slovak Republic Delegation to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 16-17 June 2010.

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Executive Summary

1. Competition is a set of rules of conduct of undertakings on the market, the observance of which is the condition of further economic development. Competition is effectively functioning when undertakings fairly compete and are under the pressure of the real and potential competitors.

2. The primary objective of the Office is therefore to protect and support competition, to intervene in case of its restriction and to create conditions for its further development.

3. In 2009, the Office issued 66 decisions and carried out 169 general investigations in cases regarding potential violation of the Act on Protection of Competition. The first-instance decision-making bodies (Division of Agreements Restricting Competition, Division of Abuse of a Dominant Position, Division of Concentrations) issued 54 decisions and the second-instance decision-making body (The Council of the Antimonopoly Office of Slovak Republic) issued 12 decisions. The influence of the financial and economic crisis manifested itself by the number of notified concentrations, where the number of cases notified by the undertakings was 38% lower in comparison with the year 2008. The Office imposed fines totalling EUR 10 392 064.

4. Beside of the decision-making activity, an important activity of the Office is competition advocacy. The Office regularly monitors and comments governmental legislative proposals – draft bills, strategies and conceptions within so-called interministry comment procedures and refers to possible competition restraints. This year the Office sent in comments to 67 documents in the process of the interministry comment procedures. In 17 of them the Office adopted principal comments to the prepared legislation.

5. This year the Office implemented an amendment to the Act on Competition that reflected the need of introduction of the new institutes as the reaction on application practice. A new decree of the Office laying down details of particulars of a notification of concentration was adopted together with the amendment.

6. The Office dealt with sectoral studies and it will continue in this activity also in the following year.

7. Also this year, in the framework of its activities toward the external environment the Office organised a series of specialised workshops with the stakeholders aimed at promotion of competition culture in Slovakia. Among others the Office initiatively started to issue the periodical Súťažný spravodajca [Competition Bulletin] with the aim to provide the public with information about the Office's activities or to inform the public about the development of competition at national and European level.

8. In this period a number of meetings between the Office and its partners at international level also took place. At these meetings the Office presented a large number of contributions to the subject of competition in Slovakia.

9. In the effort to ensure the Office's quality outputs in line with the new „effect-based approach" that is currently introduced in the framework of the application of competition rules abroad, the Office introduced the system of multi-stage assessment of cases.

10. The Office continuously increased the competition education of its employees that it regards as the key factor of achievement of good results.

11. Within the framework of the programme „Competition", funds totalling EUR 2 493 726 were allocated to the Office for the year 2009.

1. Changes to competition laws and policies, proposed or adopted

1.1 Summary of new legal provision of competition law and related legislation

12. Since 1 June 2009, an amendment to the Act No 136/2001 Coll. on Protection of Competition (hereinafter referred to as „Act") is in force. The amendment to the Act focused on the incorporation of the application knowledge and practical experiences, especially in the area of assessment of concentrations and in the area of sanction policy.

13. One of the changes in the area of concentrations of undertakings is the omission of the legal time period for obligatory notification of concentration. Before the amendment an undertaking was obliged to notify the concentration within the prescribed period of 30 days from the circumstance identified by the Act, on the basis of which concentration occurred. According to the actual legislation the undertakings are not limited any more by a prescribed period for notification of concentration. An undertaking is now obliged to notify a concentration to the Office before it starts the exercise of rights and obligations resulting from the rise of concentration. The second change, which reflects the requirements of a business public and the practice, is the introduction of the possibility to notify an intention of concentration. Another change reflecting the requirements of a business public and the practice is the obligation to notify concentration following the notification of the public bid and an exception from the prohibition to exercise the rights and obligations resulting from concentration, which reacts to the introduction of the obligation to notify a concentration on the basis of a public bid.

14. The amendment brings also the changes in the sanction policy, particularly the cancellation of the fixed amount of fine for undertakings for the refusal of co-operation, obstruction of investigation, or failure to provide information and submission of false or incomplete documents. In these cases, it was hitherto possible to impose on the undertakings the fine up to EUR 165 970 (SKK 5 mil.). For undertakings it was sometimes more advantageous to be imposed the fine up to SKK 5 mil. than to submit to inspection or to co-operate with the Office during the investigation which can lead to much higher sanctions. The amendment to the Act changes the conception of imposition of fines, up to 1% of total turnover of the respective undertaking. It clearly led to the tightening of sanctions with the aim to ensure that the fine in these cases will also fulfil the function of individual and general prevention.

15. A major change was also the introduction of so-called targeted inspections within the framework of the Leniency Program and related possibility for full immunity from sanctions. The introduction of this institute means more convergence towards ECN model Leniency Programme and with standards of the European Commission.

16. New amendment of the Act elicited also changes in Leniency Program. In this regard there are some new features, for example the option of submission of so-called „summary application". An application submitted to one competition authority is namely not automatically regarded as an application submitted to another competition authority. Therefore, in the interest of decrease of the administrative burden by submission of complete applications to several competition authorities, the applicant may secure for itself the first rank in the order by submitting a brief summary application to several competition authorities.

17. Further details on the Leniency Program are available on the Office website - http://www.antimon.gov.sk/files/30/2009/leniency5(k).rtf.

New Decree No 204/2009 Coll. laying down details of particulars of a notification of concentration

18. In connection with adoption of the amendment to the Act, the new Decree No 204/2009 Coll., laying down details of particulars of a notification of concentration entered into force on 15 June 2009. The need of change of the decree resulted from the amendment to the Act as well as from the Office's long-year experiences with application of the initial decree.

19. The new decree reacts to the changes in the Act relating to the obligation of undertakings to notify a concentration following the notification of the public bid as well as to the possibility to notify an intention of concentration. The general principles of notification of concentrations are stipulated anew, the institute of statutory declaration has been introduced, etc.

2. Enforcement of competition laws and policies

2.1 Summary of activities – action against anticompetitive practices

Agreements restricting competition

20. In a market economy competition is a rivalry among undertakings, where winners are those undertakings that offer the best relation between quality and price of products or services, to the benefit of the consumers. Competition is restricted if undertakings in the position of competitors agree or co-ordinate their conduct. In general such agreements are prohibited and the undertakings are sanctioned. An anticompetitive restriction is not only in agreements between direct competitors (horizontal agreements), but it can be in agreements e.g. between a manufacturer and distributor (vertical agreements). In some cases vertical agreements restrict competition, but at the same time bring positive effects for the consumer, e.g. agreements on specialisation, science and research, etc. In these cases the task of the Office is to analyse the balance of harm caused to competition and the positive effects.

21. Certain types of agreements restricting competition, particularly those concluded between competitors and relating to the prices fixing, markets allocations, limitation of production or co-ordination of conduct in public procurement, belong to the most serious violations of the Act on Protection of Competition with a significant negative impact on the consumer and the whole sector. They are aimed to increase prices of goods and services provided by the parties to the agreement and hence their profits, but they bring no objective benefits to the consumers. These are so-called „hard core“ cartel agreements.

22. The Leniency Program is an efficient tool of the competition institutions in the fight against cartels. It allows immunity or reduction of the fines on undertakings that co-operate with the Office in uncovering and proving the cartel agreements. Before the undertakings could apply for leniency only if they provided the Office with evidence allowing to prove the existence of a cartel agreement. By the amendment to the Act on Protection of Competition and the introduction of targeted inspections also undertakings that will provide decisive evidence for carrying out an inspection may also gain immunity from sanctions. Information of the undertaking where the Office can find a proof of the cartel is sufficient as evidence.

23. This year the Division of Agreements Restricting Competition carried out 87 investigations, initiated 9 administrative proceedings and issued 7 decisions. The fines imposed by the Division of Agreements Restricting Competition in the year under review amounted to EUR 10 334 610.

Abuse of a dominant position

24. The concept of dominance means an economically strong market position of an undertaking which enables it to prevent effective competition on the relevant market by allowing it to behave to a large extent independently from its competitors, customers and consumers. This notion of independence is related to the degree of competitive constraint exerted on the undertaking in question. Dominance entails that these competitive constraints are not sufficiently effective and hence that the undertaking in question permanently enjoys substantial market power.

25. A problem occurs when a dominant undertaking abuses its power and hence restricts the competitive pressure and makes the entry into the market for new competitors more difficult. The abuse of

a dominant position causes losses for the competitors and customers who have to adapt to its conduct. Therefore such conduct is penalised by sanctions and, of course, prohibited. There are several forms of abuse of a dominant position such as refusal of access to an essential facility, predatory conduct, tying, and refusal of supply and margin squeeze or determination of unfair conditions for business partners.

26. This year the Division of Abuse of a Dominant Position carried out 69 investigations into the market, initiated 3 administrative proceedings and issued 3 decisions. The fines imposed by the Division in the year under review amounted to EUR 20 794.

Courts

27. A party to the proceedings has a right to lodge an appeal if it disagrees with a decision of the Office in the first-instance proceedings. The Council of the Office decides on the appeal lodged by the party to the proceedings. Decision of the Council of the Office is the final decision. As the undertaking has the right to appeal the decision of the Council of the Office, it may file an action to the Regional Court Bratislava and subsequently to the Supreme Court of the Slovak Republic.

28. In the period under review the courts reviewed 10 decisions of the Office, of which 6 cases were decided by the Regional Court in Bratislava and 4 cases by the Supreme Court of SR.

2.1.1 Description of significant cases, including those with international implications

Cartel agreement of GIS producers – change of decision

29. The Council of the Antimonopoly Office of the Slovak Republic (hereinafter only "the Office" confirmed the first instance decision of the Division of Agreements Restricting Competition by which it decided that the Biggest European producers of gas insulated switchgears (hereinafter only "GIS") had concluded the agreement restricting competition. The Council of the Office imposed the fine in total amount of 8 628 390 EUR for this breach.

30. The agreement consisted in co-ordinated conduct of these companies in the relevant market of GIS production and sale in Slovakia namely by price fixing, market allocation, keeping the stable level of market shares on a basis of pre-agreed quotas, by mutual restriction within license contracts with the third parties and by bid rigging. Japanese and European companies participated in cartel activities on worldwide level; moreover the European GIS producers concluded agreements between each other which were applied in Europe, including Slovakia.

31. The Office initiated the proceedings on a basis of application for not imposing the fine by using the Leniency Program submitted by one of the agreements participants. Leniency applicant provided the Office with all relevant documents and information which led to proving the illegal conduct of agreement participants, therefore in the meaning of legal conditions the fine was not imposed to it.

32. The Division of Agreements Restricting Competition as well as the Council of the Office considered the agreement to be very serious breach of competition rules which restricted the competition in Slovakia during a long time period. Determining the fine the Council based the fine on seriousness and duration of the Act breach stating that seriousness of conduct of all cartel participants was the same. Duration of conduct of all proceedings participants was not the same what was reflected in the amount of fine. Determining the sanction the mitigating and aggravating facts were considered.

Slovak Chamber of Psychologists – fixing the minimum prices of psychological examinations

33. The Office imposed a fine on Slovak Chamber of Psychologists (hereinafter "the Chamber") for breaching the Act on Protection of Competition.

34. The Chamber breached the Act by the fact that at the Congress on February 14, 2009 it approved the price list of minimal prices of psychological examinations and published it at its website.

35. Moreover, not fulfilling the price list of minimal prices could have been sanctioned according to its Disciplinary Order. Hence, the given services providers were not motivated to compete for customer through decreasing their costs or to compete for customer through prices lower than the minimal prices set by the Chamber.

36. The decision entered into force on 30 December 2009, while the Chamber accepted the Office's conclusions and waived the possibility to appeal.

Cartel agreement of the companies Všeobecná úverová banka, a.s. (VÚB), Československá obchodná banka, a.s. (ČSOB) and Slovenská sporiteľňa, a.s. (SLSP)

37. In December 2009, a decision Council of the Office came into force, by which the Council of the Office confirmed the first instance decision of the Division of Agreements Restricting Competition.

38. In its decision, the Office found that the three biggest banks in Slovakia: VÚB, SLSP and ČSOB had concluded a prohibited agreement restricting competition and imposed a total fine of 10 191 800 EUR. According to the Office, the prohibited conduct consisted in the agreement by the abovementioned companies to terminate the contracts on current accounts that the Czech company AKCENTA CZ, a.s. had in these banks, with the aim of excluding it as a competitor in the Slovak market for cashless foreign-exchange operations and at the same time to take over the clients of AKCENTA CZ, a.s. They also agreed not to renew the contracts with AKCENTA CZ, a.s. in future.

39. AKCENTA CZ, a.s., realises its business by purchasing and selling foreign currency in exchange for other currencies through cashless money transfers. It also provides foreign-exchange transfers from/to abroad ("payment to abroad", "receiving payments from abroad") to its clients, including consumers in the Slovak Republic. The precondition of the activities of AKCENTA CZ, a.s., non-bank entity is to open the current account in bank of the potential/existing client.

40. The Office proved the prohibited agreement on the basis of the banks´ statements and documents proving that the parties to the proceedings had communicated about an agreed common procedure against AKCENTA CZ, a.s. The Office found documents proving the agreement's aim and incentive during the unannounced dawn raids which took place at the premises of the participants to the proceedings.

41. The practices were assessed as very serious violations of the Act on Protection of Competition and Article 81 EC (now, Article 101 TFEU) as they consist of agreements on market (customers) allocation which are hard-core cartel prohibited by object, with the most harmful impact on competition.

42. The fines imposed on the particular undertakings are as follows:

- VUB - 3 810 461 EUR
- SLSP - 3 197 912 EUR
- CSOB - 3 183 427 EUR

43. The decision entered into force on 17 December 2009. At present the case is subject to the review by a court.

Agreement restricting competition among the manufacturer of electronic cash registers ELCOM, s. r. o. and distributors closed in the form of settlement for the first time

44. Division of Agreements Restricting Competition of the Antimonopoly Office of the SR imposed the total fine in amount of 76 313 EUR on the producer of electronic registration cash desks ELCOM, spol. s.r.o. and its distributors GIMEX Slovakia, s.r.o., BEFFARE 777, spol. s.r.o., Peter Kolesar-KOPS and COMPUTER CLUB, s.r.o. for a conclusion of agreement restricting competition during the period from November 24, 2004 to December 31, 2008.

45. The undertakings breached the Act on Protection of Competition by concluding Contracts on Co-operation in Sale of Electronic Registration Cash Desks (hereinafter only "Contract") determining minimal prices of resale and setting the maximal amount of rebate which the distributor could offer to its most important dealers. Thereby the competition was restricted in the relevant market of distribution and sale of electronic registration cash desks and their supplements in Slovakia since distributors could not set a price lower than the price set by the producer ELCOM, spol. s.r.o. either decide independently on their own rebates price policy. Distributors were obliged to reflect obligations arising from the Contract into their own contracts with dealers.

46. This decision came into force on August 21, 2009 while undertakings accepted the Office's conclusions and waived the possibility to appeal.

Abuse of a dominant position of the company ENVI-PAK, a.s. in the matter of granting sublicenses for the trademark „Green Dot"

47. The Office found in its decision that ENVI-PAK had abused its dominant position and, therefore, infringed both the Slovak Act on Protection of Competition as well as Article 82 of the EC Treaty (now Article 102 of the Treaty on the Functioning of the European Union).

48. ENVI-PAK is an undertaking active on the market for the provision of packaging waste collection, recovery and waste recycling through authorised organisation and the sole undertaking entitled to provide "Green Dot" trade mark sub-licences in Slovakia. The abuse of its dominant position consisted in setting the sub-licence fee for the use of the "Greene Dot" trade mark in such manner, that on the one hand companies using the packaging waste collection, recovery and recycling services of ENVI-PAK do not have to pay such a licence fee, while on the other hand companies that use the services of its competitors have to pay a separate licence fee even for packages without the "Green Dot" if other of their packages were marked with the "Green Dot" sign.

49. ENVI-PAK set its strategy through charging a fee for "Green Dot" with the aim to exclude rivals in the market of collection, recovery and recycling services. Fee for "Green Dot" licence for those who were not ENVI-PAK customers was set in such a manner that its rival was always less advantageous than ENVI-PAK (though the collection, recovery and recycling services of its closest rival were cheaper). Therefore, it was unattractive for undertakings interested in the "Green Dot" to become a client of ENVI-PAK´s competitors and they were forced to accept the conditions set by ENVI-PAK.

50. During the administrative proceedings ENVI-PAK proposed commitments pursuant to the Article 8A of the Act to try to address the competition concerns identified by the Office. However, the Office refused the proposed commitments because ENVI-PAK´s commitment concerning the amount of the sub-licence fee for the "Green Dot" trade mark did not sufficiently resolve the identified competition problem.

51. The decision has not entered into force because the undertakings lodged an appeal against the decision. The Council of the Office is acting in the matter.

2.2 Mergers and acquisitions

2.2.1 Statistics on number, size and type of mergers notified and/or controlled under competition laws

52. Concentration as a process of establishment of connections between undertakings may be an instrument of growth of the effectiveness through the external growth, it may increase the effectiveness e.g. through economies of scale and scope, win the new know-how, enable the penetration into new markets, etc. Concentrations usually bring positive effects, but in some cases they may cause a change in structure of the markets that will significantly reduce the competitive pressures. Large operations of merger and amalgamation of undertakings are therefore subject to control. Finally the purpose of the assessment of concentrations is competition protection in favour of the consumers and their protection against negative effects of excessive market power generated by such transactions.

53. The Office may approve a concentration if it concludes that transaction in question neither creates nor strengthens a dominant position resulting in significant barriers to effective competition on the market. If the Office during assessment of a concentration finds that its implementation would create or strengthen the dominant position and create significant barriers to effective competition on the market, it will invite the party to the proceedings to submit a proposal for conditions and obligations to eliminate the identified competition problem resulting from the concentration. The Office will approve the concentration if the condition imposed in the decision will solve the identified competition problem. Otherwise the Office will prohibit the concentration after its thorough assessment.

54. This year the Division of Concentrations issued 44 decisions, whereby concentration was approved in 30 cases. No concentration was prohibited by the Office. In some cases the Office e.g. imposed sanctions on undertakings for the exercise of rights and obligations before approval of the concentration. The total amount of fines imposed represented the sum of EUR 36 660.

2.2.2 Summary of significant cases

Marti Tunnelbau AG and Danubia Invest

55. On 7 May 2009 the Office issued a decision by which it imposed the fine for the violation of the prohibition to exercise the rights and obligations resulting from a concentration pursuant to Art. 10 (14) of the Act by the undertakings Marti Tunnelbau AG and Danubia Invest in case of a concentration consisting in acquisition of the joint control by the undertakings Marti Tunnelbau AG and Danubia Invest over the enterprise of the undertaking Tubau pending the final decision of the Office on this concentration.

56. Pursuant to the provision of the Act an undertaking must not exercise the rights and obligations resulting from a concentration until the entry into force of the decision on the concentration. The purpose of the control of concentrations is to maintain and develop effective competition while ensuring the legal certainty for the undertakings and the protection of consumers against potential negative impacts of a concentration. A concentration that fulfils the conditions for its prohibition is able to certain extent to damage the competitive environment, also by its temporary implementation.

57. For the achievement of the aims referred to above also serves the suspension of concentration stipulated by the Act, i.e. postponement of its implementation pending the final decision on the concentration, which will avoid the risk of potential distortions of the competitive environment.

58. As in the time of concentration it is not known whether it will be approved, approved with conditions or prohibited by a final decision of the Office, pursuant to the said provision of the Act are also prohibited any acts resulting from a concentration that is later approved or approved with conditions by the Office, as well as any acts resulting from a concentration that is later prohibited by the Office.

59. The Office in the administrative proceedings in question found that the undertakings Marti Tunnelbau AG and Danubia Invest had performed not only certain acts, but they properly and continuously performed the control over the undertaking Tubau. These undertakings violated the prohibition of the exercise of any rights and obligations resulting from the concentration.

60. The decision entered into force on 4 June 2009.

p.k. Solvent s.r.o., Czech Republic, and PEMAS plus spol. s.r.o.

61. The concentration consisted in acquisition of the direct exclusive control by the Czech undertaking p.k. Solvent s.r.o. over the enterprise of the Slovak undertaking PEMAS plus spol. s.r.o. on the basis of the Contract on Transfer of Business Interest. The company p.k. Solvent s.r.o., including companies controlled by it, which carries out business predominantly consisting in retail trade of dry, cosmetic and related goods, purportedly acquired by the said transaction 51% of business interest in the enterprise of the undertaking PEMAS plus spol. s.r.o., and hence could exert a decisive influence on the structure, voting or decision-making process of the bodies of the undertaking PEMAS plus spol. s.r.o., which is engaged in retail trade, wholesale trade, advertising and promotion, storage, packing of goods and other business.

62. In this case the Office assessed for the first time a notification of concentration pursuant to the provision of Art. 10 (10) of the Act (intention of concentration), according to which a notification of concentration may be submitted to the Office before conclusion of a contract or before occurrence of other legal circumstance giving rise to a merger, amalgamation, acquisition of control or foundation of a joint venture, provided that its result will be a concentration which is subject to the control by the Office pursuant to Art. 10 (1) of the Act.

63. Together with notification of the concentration the Office received a declaration where both signatories expressed their interest in conclusion of the Contract on Transfer of Business Interest, i.e. transfer of 51% of business interest in the enterprise of the undertaking PEMAS plus spol. s.r.o.. The declaration was accompanied by the initialised draft Contract on Transfer of Business Interest.

64. Having analysed all submitted documents, the Office came to the conclusion that the submitted intention meets the requirements to be assessed as a concentration that is subject to control by the Office. It found that activities of both undertakings in the territory of the Slovak Republic are overlapping, i.e. it was a horizontal concentration. In spite of the fact of overlapping no competition concerns aroused so the Office approved the concentration.

65. The decision entered into force on 26 August 2009.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

66. In addition to decision-making activities in the administrative proceedings the Office endeavours to carry out other activities to support and develop the competitive environment. Competition advocacy is one of the Office's activities by which the Office tries to influence the expert public, undertakings and politicians as well as the general public, enforce the principles of competition and contribute to the creation of competition culture.

67. Competition is not a static value, but it is the subject of continual changes induced not only by the development of market itself, but also by different legislative changes at national and European level. The purpose of competition advocacy is to preventively influence other policies affecting competition.

68. In this period the Office actively entered in the process of interministry comment procedures. Within the framework of 67 documents of the interministry comment procedures it sent its fundamental comments on 17 cases, recommendatory comments to 51 documents and fundamental and recommendatory comments to 6 cases.

Draft Act on Funeral Services

69. The Ministry of Health of the Slovak Republic prepared a draft bill which contains legal regulation of funeral and cemetery services in the Slovak Republic. New legislation was initiated by the Office. The draft reflects requirements raised by the Office.

70. The Office dealt with anticompetitive behaviour in area of funeral and cemetery services several times and issued several decisions in this respect. Main problems are caused by anticompetitive behaviour of providers of cemeteries. Most of them provide also funeral services and they often come to the conflict with providers of other funeral services. In majority of cases they try to gain competitive advantage over other competitors (providers of other funeral services). Graveyards operators permitted the entry to providers of funeral services under discriminatory conditions.

71. These problems require efficient legislation of funeral and cemetery services. This is why the Office pointed out the need of this regulation many times. The adoption of the draft represents a significant progress in competition in this area. The Office expects that the new legislation will also eliminate a number of administrative proceedings that the Office should initiate otherwise.

Draft Act on Tourism

72. This draft Act introduced the right of the regional organisations to co-ordinate their members in the formulation and implementation of the program of the development of tourism within their territorial scope. The Office pointed out that it could lead to a risk of anticompetitive co-ordination of behaviour of the individual members of the organisation as well as the obligatory exchange of information, including business sensitive information.

73. The Office's comments were partially accepted.

Draft Act amending and supplementing the Act of the National Council of the Slovak Republic No 233/1995 Coll. on Executors and Executions (Execution Order) and on amendments and supplements to certain Acts, as amended

74. Ministry of Justice of the Slovak Republic (hereinafter only „Ministry") prepared a draft of the Act concerning Executor and Executory Operations. The proposed draft introduced numerus clausus into Slovak legal order e.g. entitled the Ministry to define the number of executors authorised to perform executory activities. The draft also introduced the modification of current status by establishing a system of random assignment of cases to executors by electronic means and also the proportional distribution of cases.

75. The Office objected that establishing numerus clausus as barrier to entry will lead into restriction of competition. Introducing numerus clausus into legal order could also affect the quality of the services provided by executors as it would eliminate the pressure on the executors to provide executory operations efficiently. According to Office's opinion introducing a system of random assignment of cases by electronic means could result in higher operational costs of executory proceedings for authorised persons, who would have to co-operate with the executor from a different region without the possibility to choose a specific executor according to his/her quality and effectiveness of provided services.

Draft Act on Protection of Consumer Rights on the Financial Market and on Amendments and Supplements to Certain Acts

76. This draft Act has among others established the National Academy of Financial Education and in connection with its establishment the Office recommended to reconsider not only its establishment but in view of the scope and content of tasks and competences entrusted to this institution to consider the use of already existing system of educational institutions (e.g. in the framework of the National Bank of Slovakia, the Ministry of Finance of SR, educational establishments of the Ministry of Education of SR) or to entrust these tasks to one of the sections of the Office for Protection of Financial Consumer. The draft provided that the National Academy of Financial Education was the supervisory body of educational establishments. In this context the Office noted that the National Academy of Financial Education, that will provide education like other educational institutions, will also supervise the activity of these institutions and their entry to the market. These conditions give rise to a high risk of the conflict of interest, make the access to market more difficult and allow the discrimination on the part of the National Academy of Financial Education.

77. The Office also noted that the draft Act had not ensured that draft text of the contract and other legal documents related thereto would be made available to the consumer in proper time before signature of the contract with a financial institution. The Office required that the wording of the draft should be modified in such a manner that, in addition to general, insurance and other commercial conditions, the draft contract and related legal documents would be made available to the consumer in adequate time, with the aim to provide the conditions for consideration and conclude the contract on provision of financial services. It is very important, in particular with regard to consumer knowledge and experiences in relation to the offered financial service.

78. The Office's comments to the draft Act on Protection of Consumer on Financial Market were partially accepted.

Draft conception of price policy for the year 2010

79. The Ministry of Finance of the Slovak Republic (hereinafter only "the Ministry") proposed a draft concerning the changes in pricing regulation and introduced the possibility of permanent price regulation, which also covers products out of any regulation. In 2008, some regulatory instruments came into force in the context of introducing the Euro currency in Slovakia. These regulatory instruments should have been valid until the end of the year 2009. The new pricing policy conception suggested a permanent pricing regulation, i.e. to keep the regulatory instruments, introduced in 2008, in force also for the future.

80. The Office objected that regulation is a very oppressive intervention into entrepreneurial environment. Especially today, when the economies are competing among each other to attract the investors to overcome the financial crisis it is necessary to consider the implementation of all regulatory instruments, which could make the business environment in the Slovak Republic less attractive and less foreseeable and which are introduced without a reasonable justification.

81. The draft also introduced the key role of the Office in cases when the pricing discipline is violated. The Office objected that this statement is not in line with the goal given to the Office by the Act on Protection of Competition. The Office stated that it is willing to co-operate with the Ministry when adapting new 'pro-market' measurements, which from the point of view of the Office means 'pro-competitive' measurements.

82. For the above mentioned reasons the Office could not support the proposed conception of pricing policy and it disagreed with those regulatory instruments proposed in the Pricing Conception for the Year 2010, which extend the space for pricing regulation.

83. The objections of the Office were partly accepted.

Draft Act amending and supplementing the Act No 507/2001 Coll. on Postal Services, as amended

84. On 27 November 2009, the Ministry of Transport, Posts and Telecommunications of the Slovak Republic (hereinafter "the Ministry") submitted a draft Act on Postal Services (hereinafter "the Draft") to the legislative process. In order to ensure the conformity of new legislation with the Slovak competition law, the Office has the right to comment on draft legislations. After its assessment, the Office adopted the following opinion on 6 December 2009.

85. The Office objects to the Draft providing for an extension of the postal regulation to shipments up to 50 kg, which is unacceptable from the Office's point of view. The current regulation includes packages only up to 20 kg and other postal shipments only up to 50 grams. The Office also finds that the hybrid mail, which is currently liberalised, should not be regulated as proposed in the Draft.

86. The Draft provides that postal operators are obliged to submit each proposal for changes to their postal terms and conditions to the Postal Regulatory Office at the latest 60 days before the change comes into force. The Office finds this period inappropriately long and this requirement discriminatory for postal operators which are thus prevented to flexibly adapt to possible changes in the market. The Office also objects to the provision of the Draft which stipulates that the provider of universal postal services should be entitled to refuse to deliver postal items originating and destined within the territory of the Slovak Republic (i.e. sender and recipient both resident in the Slovak Republic) but which are sent from abroad at a lower postal rate. The Office finds that such a refusal eliminates the possibility for Slovak residents to take advantage of the services provided by foreign postal companies.

87. The Draft excludes the possibility to lodge an appeal against decisions of the Postal Regulatory Office concerning the amount of the compensation for net costs for providing universal service as well as the possibility to examine these decisions by courts. The Office believes that such calculations are complex and that the postal operators should have the right to appeal against such decisions.

88. The Draft foresees a new type of fee of 10 000 EUR for obtaining an individual permission to perform postal services. Currently, companies providing postal services are only paying a registration charge of 165 EUR. The Ministry justifies the new amount by the expected higher administrative burden associated with the new law. However, the Office observes that the Ministry did not base its assertion on an analysis of the costs linked to the registration. The Office is of the opinion that such an administrative charge is unjustified and very high. The proposed provision would create a new administrative barrier for the postal operators competing with the Slovak Post which would make it more difficult or impossible for them to compete with the dominant undertaking in the market. Such a situation would restrict or eliminate competition. The Office finds that this provision would be contrary to the intention to liberalise the sector of postal services.

89. The Draft is currently still under discussion between the Ministry and the Office.

4. Resources of Competition Authorities

4.1 Resources overall

4.1.1 Annual budget

	2009		Change
Total expenses	2 493 726 EUR	3 371 268 USD	+ 74 789 EUR (+ 131 828 USD)

4.1.2. Number of employees

	2008	2009
Economists	27	25
Lawyers	19	19
Other professionals	05	05
Support staff	22	24
Total	**73**	**73**

4.2 Human resources

	2009
Enforcement against anticompetitive practices	24
Merger review and enforcement	11
Advocacy efforts	10

Period covered by the above information: year 2009