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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN LATVIA

-- 2011 --

This report is submitted by Latvia to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 13-14 June 2012.

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Executive summary

At the end of 2011 the Competition Council can list 13 violations of competition rights involving total 44 enterprises established last year. 11 of these were the most severe violations of the Competition Law – prohibited agreements or abuse of dominant position.

What conclusions such numbers allow to draw?

The fact that these violations have occurred and each of them have distorted the market, allowing enterprises to grow on the account of consumers or fair-working enterprises, is a damage difficult to indemnify. According to the theory of competition rights no fine can compensate the changes in the market caused by prohibited activities.

And yet – every detected and prevented violation is a great victory in the fight against human intention to succeed in business in an unfair manner. Each decision not only seeks for the solution of a particular case, but also builds public awareness that such violations have no place in Latvia and never will have.

That is why the fine imposed on 22 Latvian commercial banks for prohibited agreement on the interchange fees for more than 8 years is important. Important is the fine imposed on retail supermarket for preventing competing specialized food shops from developing by prohibiting them to rent space at shopping malls where the particular supermarket operates. And therefore important is also the fine imposed on two small-size construction companies for prohibited agreement within rather small procurement. And that is why these 13 detected infringements are considered a good result.

I hereby sign this report on performance of the institution knowing that other chairperson will do the same next year.

I am delighted for being able to hand over to the new chairperson a strong and united team of professionals that is capable of achieving such a good results. I am grateful to the personnel of the Competition Council, for their enthusiasm and competence which made it possible to ensure protection of the competition rights in Latvia as it is today – with strong regulatory framework, economically and legally sound decisions of the supervising authority, as well as with solid knowledge background that helps notice and prevent competition distortion in markets.

New challenges lie ahead of the institution in the coming year. The Competition Council will start the year 2012 with 29 cases to be investigated.

Detection and prevention of the most severe violations of the Competition Law being a priority, the Competition Council will particularly focus on the markets affecting daily expenses of consumers – basic food products, fuel, medicine, etc. Particular attention will be paid also to activities of public procurement applicants as cartel agreements may significantly raise the price of any procurement, thus forcing the state or local municipalities and subsequently society to overpay.

The Competition Council plans also to continue work on development of amendments to the Competition Law to ensure maximum efficient protection of fair competition in Latvia.

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1. Basic information

1. The Competition Council is a direct administrative institution subject to the supervision of the Ministry of Economics and implements State policy in the matters of development and protection of competition. Independence of the Competition Council in investigations and decision-making is specified by the Competition Law.

2. The main aim of the Competition Council is to give every market participant a possibility to perform his economic activities in free and fair competition environment, as well as to ensure favourable environment for maintenance, protection and development of competition for the benefit of entire society.

3. Tasks and rights of the Competition Council are defined in the Competition Law, the Advertising Law, the Council Regulation No. 1/2003 “On the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty”, the Cabinet Regulation No 795 of September 29, 2008 “By-law of the Competition Council” and other regulatory enactments.

4. Within its activities the authority implements the sub-programme “Implementation of Competition Policy” (26.02.00) of the budget programme “Ensuring Fair Competition, Protection of Internal Market and Consumer Rights” (26.00.00).

5. Tasks of the Competition Council:

- To ensure a coherent application of the competition legislation so as:
 - The market participants do not conclude prohibited agreements;
 - There are no changes in the relevant market that could have a negative impact on consumers and other market participants in case of a merger of market participants;
 - The market participants do not abuse their dominant position, thus negatively influencing other market participants and consumers;
 - The market participants do not disseminate misleading advertising that essentially affects overall competition;
- Within the competence of the Competition Council, to promote competition in markets with no or limited competition;
- To ensure that legislation developed by other state institutions ensures protection, maintenance and development of competition;
- To ensure that society is broadly informed about the effects of competition on functioning of market and social welfare;
- To ensure that Latvia’s interests are fully represented in the relevant institutions of the European Union and international organisations

6. Directions of action of the Competition Council are protection of competition, promotion of competition, as well as strengthening the institution’s role in developing and enforcing the EU legislation and in international organisations and cooperation networks.

7. Within these directions of action, the Competition Council had set certain priorities for 2011 – to detect and prevent the most severe violations of the Competition Law (cartel agreements and abuse of dominant position), to carry out wide sector inquiry activities to prevent competition distortion in particularly important consumer markets and to continue public information activities. It was also planned to improve the system for obtaining information, as well as to make the investigation process more efficient to ensure that the decision making process is as short as possible.

1.1 *Structure of the Competition Council*

8. According to the Regulation of the Competition Council defining the structure, division of competencies, management and work organization, the Competition Council consists of decision-making authority, subordinated structural units and Executive directorate (see Figure 1):

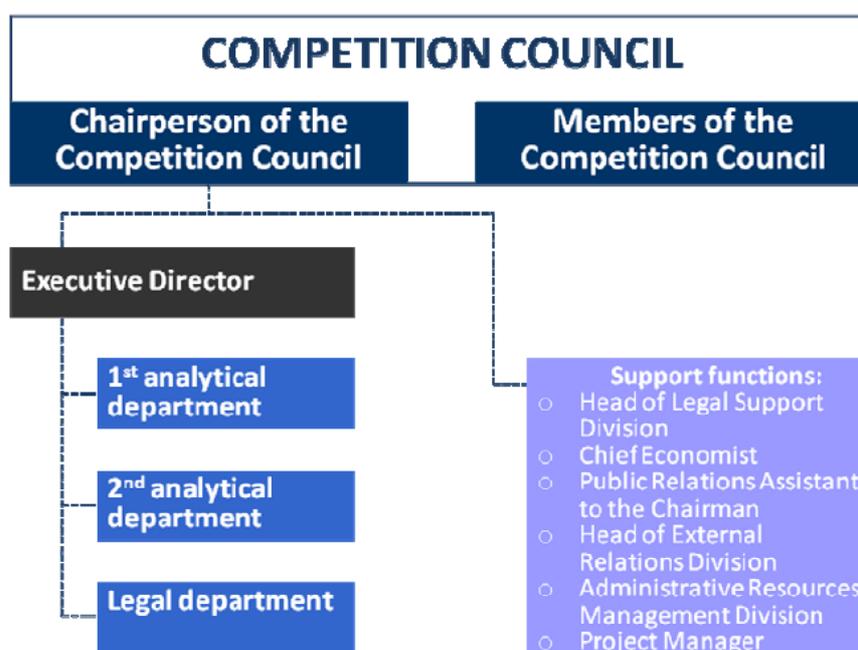
1.1.1 *The Decision-Making Body – the Competition Council*

9. Competition Council consists of its Chairperson and two Council Members. The Competition Council is chaired by the Chairperson. The Chairperson and Council Members are confirmed in their office by the Cabinet of Ministers upon the recommendation of the Minister for Economics. The term of office of the Chairperson and Council Members is five years. The Chairperson and Council Members may be re-appointed to office. The Chairperson of the Competition Council manages activities of subordinated structural units of the council (Administrative Resources Management Division and External Relations Division), as well as the head of the Legal Support Division of the Council, senior economist, public relations assistant to the Chairperson and project manager.

1.1.2 *The Executive Body – the Executive Directorate:*

10. The Executive Directorate ensures the work of the Competition Council. It performs tasks of experts, prepares issues, documents and draft decisions for reviewing in meetings of the Competition Council and implements execution of decisions adopted by the Competition Council. The work of the Executive Directorate is managed by Executive Director, which is directly subordinated to the Chairperson of the Competition Council. Structural units of the Executive Directorate – two analytical departments and Legal Department – review applications and investigate violations of the Competition Law, prepare opinions and draft decisions, perform supervision of competition environment, ensure control regarding execution of legal obligations of decisions and represent the Competition Council in courts.

Figure 1. Organizational chart of the Competition Council



2. Performance results of the Competition Council in 2011

11. In 2011, the Competition Council has achieved all expected performance results defined for the institution in the budget sub-programme “Implementation of Competition Policy” (see Table 1).

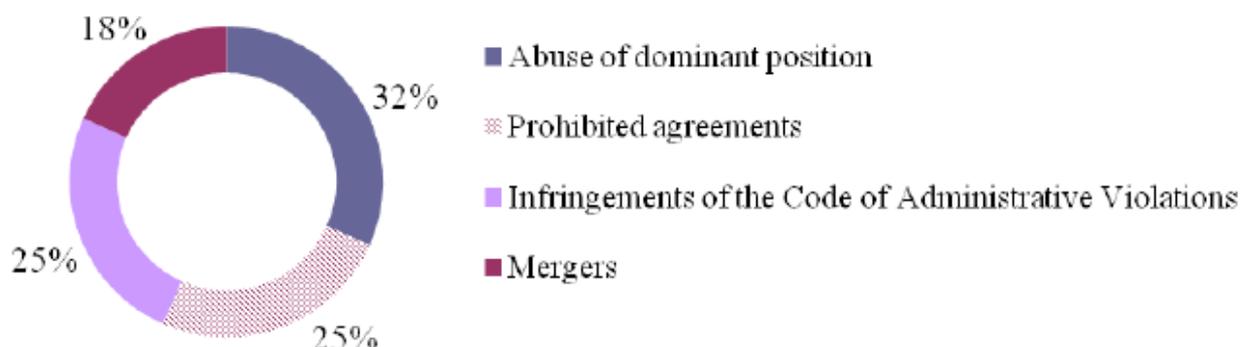
Table 1. Performance Results of the Competition Council

No	Measure/activity result activity	Expected performance result	Achieved performance result
1	Investigations of the most severe violations of the Competition Law (prohibited agreements and abuse of dominant position) (maximum number)	18	21
2	Length of investigations of the most severe violations of the Competition Law (average number of month compared to the period of 24 months defined in the Competition Law)	15	11
3	Carried out inspections of observance regarding the prohibition of abuse of dominant position in retail trade (number of measures)	8	10
4	Performed control of enterprise mergers (the maximum number of cases)	7	11
5	Duration of examination of notifications on mergers of market participants (the period of time for consideration is 120 according to the Competition Law)	100	83
6	Survey of the competition situation by sector inquiries (the number of sector inquiry cases), particularly focusing on such fields as food, oil, sugar trade, fuel retail, public utilities for society, etc.	12	13
7	Explanations of legislation regulating competition and conclusions regarding legislation (the number)	60	68
8	Organized training, seminars, conferences for representatives of sectoral associations, local municipalities, entrepreneurs and judges about competition rights in Latvia and the EU (the number of measures)	2	2
9	Representations of the institution in court (the number)	45	50

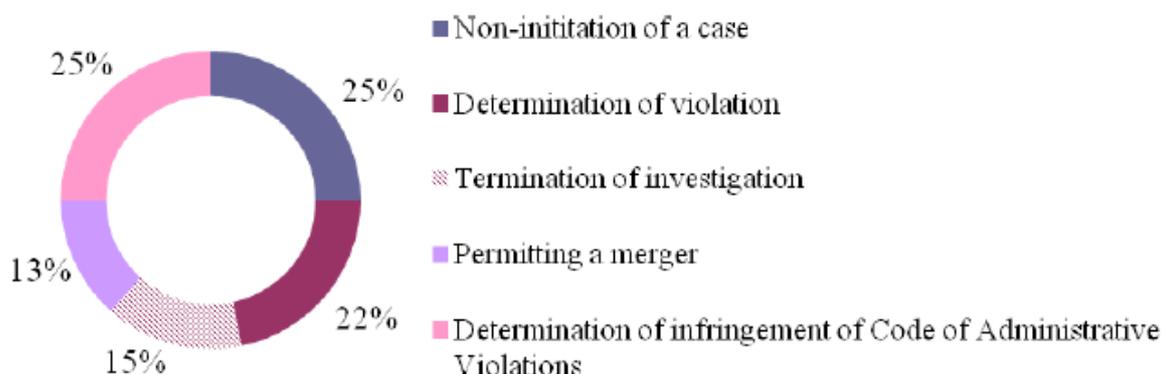
12. Thus, according to the expected results, the Competition Council has provided both assigned interinstitutional services and public services: examined notifications on violations of the Competition Law and the Advertising Law, provided consultations about competition rights, examined notifications on notified mergers of market participants, adopted decisions on mergers of market participants, as well as informed the public about protection and surveillance of competition.

2.1 Decisions of the Competition Council

13. In 2011, the Competition Council adopted total 60 decisions on possible violations of the Competition Law (see Figure 2). Within 13 decisions violations of the Competition law were detected, imposing fines in amount of LVL 6 298 931.47 on 44 enterprises. The Competition Council has also imposed fines for the infringements of the Code of Administrative Violations in 15 cases last year (in total amount of LVL 8120).

Figure 2. Decision of the Competition Council in 2011 by types of violations

14. In 2011, the key priorities of the Competition Council in the field of protection of competition were detection and prevention of the most severe competition violations – prohibited agreements and abuse of dominant position. Within this field, total 34 decisions were adopted last year and in 11 of them violations were detected, imposing fines on 42 enterprises in total amount of LVL 6 262 276.47.

Figure 3. Types of final decisions adopted in 2011

15. Overall in 2011, decisions on determination of violation were adopted in 22 % of all closed cases.

16. In 25 % of the cases the Competition Council decided not to initiate a case because the concerns about possible violations expressed in notification of market participants did not confirm. 15 % of the decisions were made on termination of investigation in cases where the initial information indicated on possible violation of the Competition Law, however did not prove in the investigation, while 13 % of the decisions are related to mergers control (see Figure 3).

17. As compared to previous years more decisions (25 % of all adopted decisions) were made on imposing fine on market participants who have violated the Latvian Code of Administrative Violations. It means that these enterprises have either failed to provide information or provided false information, or they have failed to fulfil the decisions of the Competition Council or lawful requests of officials.

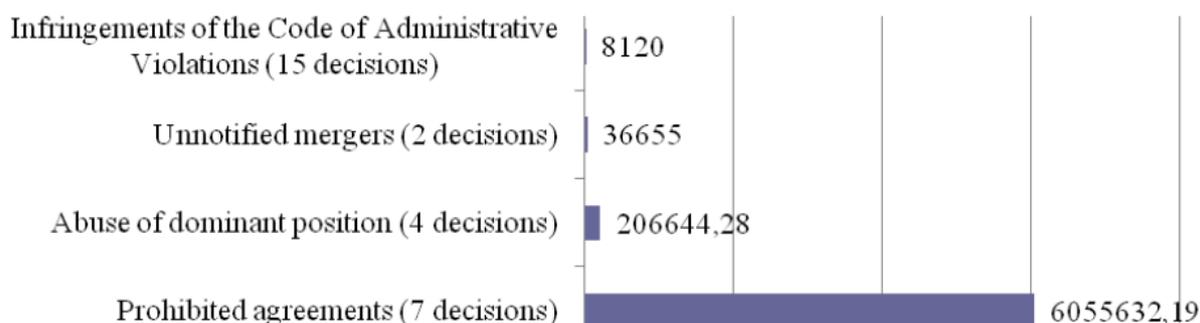
Table 2. Statistical summary of decisions:

Prohibited agreements	15
On detection of violation and imposing a fine	7
On non-initiation of a case	4
On termination of investigation	4
On abuse of dominant position	19
On detection of violation and imposing a fine	4
On non-initiation of a case	11
On termination of investigation	4
Merger control	11¹
On permitting a merger	9
On detection of violation and imposing a fine for failure to timely notify the merger	2
On termination of investigation	1
On violations of the Advertising Law	0
On violation of the Latvian Code of Administrative Violations	15
Failure to provide information or providing of false information	13
Failure to fulfil the decisions of the Competition Council and lawful requests of officials	2
Total	60

2.1.1 Imposed Fines

18. In 2011, the Competition Council has imposed fines in amount of LVL 6 307 051.47 within 28 decisions. The fines have been imposed on 58 enterprises.

19. In terms of the total amount of imposed fines and the number of detected violations with respect to violations of the Competition Law (see Figure 4), the most of the fines have been imposed for prohibited agreements. A decision on detection of violation of the Competition Law and imposing a fine has been adopted also in four cases on abuse of dominant position and in two cases on non-notified mergers.

Figure 4. Amount of imposed fines (LVL) by types of violations

20. The amount of fines imposed on market participants for violations of the Competition Law within the reporting period ranged from LVL 1590 to LVL 2 830 374. The size of the imposed fine depends on duration of the violation and consequences for non-notified mergers or on net turnover for the previous financial year of the involved market participant, severity, duration, consequences of violation and other factors for prohibited agreements and abuse of dominant position.

¹ One decision involved both permitting a merger and imposing a fine for failure to notify a merger.

21. Within the reporting year, the Competition Council has imposed fines for violations of the Latvian Code of Administrative Violations in 15 cases – failure to provide information or providing of false information, as well as non-fulfilment of decisions of the Competition Council and lawful requests of officials.

22. In 2011, fines in amount of LVL 3 221 067.2 imposed within previous years and in 2011 for violations of the Competition Law, the Advertising Law and the Latvian Code of Administrative Violations have been paid into the state budget.

23. By the end of 2011, fines in amount of 9 089 105.37 imposed by the Competition Council have not been paid – the payment period has not yet expired, an enforcement of decision on imposing a fine has been initiated and implemented by sworn bailiff, or the decision has been appealed and legal proceedings are in progress. In case the decision of the Competition Council is appealed, the enterprise shall pay the fine imposed by the decision only after closing the legal proceedings unless the court cancels the fine.

2.2 Legal Proceedings

24. Final decisions of the Competition Council may be appealed to the Administrative District Court within a month from entering into force of the decision. Decision on initiation of a case, on initiation of an additional investigation in merger control cases and prolongation of the time period for decision-making cannot be appealed.

25. 19 of all final decisions of the Competition Council adopted in 2011 were appealed.

26. In 2011, legal proceedings were closed in 17 cases, by entering into force of decisions made by the Competition Council regarding all cases. In three cases legal proceedings were closed after signing administrative contracts, but in 14 cases the court has upheld the decision of the Competition Council.

27. Among the most important decisions of the Competition Council entered into final force by court ruling last year are such decisions as the decision of 2006 on punishing three paper product wholesalers for prohibited agreement and decisions adopted in 2009 on punishing five distributors of Samsung appliances for prohibited agreement and three egg producers for prohibited exchange of information. The decision on violation of distributors of Samsung appliances is fundamental because it is the first decision of the Competition Council entered into final force after legal proceedings which involves both violation of the Competition Law and infringement of Article 101 of the Treaty on the Functioning of the European Union or concerted practices affecting cross-border trade.

28. Important is also the decision of the Supreme Court Senate to reject initiation of appeal proceedings, thus sustaining the decision of the Competition Council adopted in late 2008 on fining “Latvijas Propāna gāze” Ltd. for abuse of dominant position by applying unfair price for liquefied petroleum gas to consumers across Latvia.

29. During the reporting period 50 court hearings has taken place to consider appealed decisions of the Competition Council. At the end of 2011, 41 case regarding adopted decisions of the Competition Council were subject to legal proceedings.

30. In 2011, the Competition Council has concluded administrative contracts with four enterprises.

31. The Competition Council is entitled to conclude an administrative contract or settlement to resolve a legal dispute. Thus, lengthy legal proceedings on appealed decision of the Competition Council are prevented, allowing to save state administration resources and speed up payment of imposed fines. For enterprises which conclude the administrative contract, in their turn, the size of imposed fine is usually

reduced. The Competition Council consider pleading guilty for the particular violation as one of preconditions for signing the administrative contract. As soon as the contract is signed, the decision of the Competition Council enters into force.

2.3 Investigation of Violations of the Competition Law

2.3.1 Prohibited Agreements

32. Prohibited agreements are particularly severe violation of competition rights that may cause vast and usually irreversible harm to the particular market and often in long-term also to the enterprises involved in the violation as without the pressure of competition they loose competitiveness. Thus, detection and prevention of prohibited agreements is one of the key priorities of the Competition Council.

33. In 2011, the Competition Council adopted 15 decisions on possible violations of prohibited agreements. With seven decisions the Competition council established violations, four decisions were on non-initiation of a case as thorough investigation did not confirm the concerns about possible violations expressed in submitted notifications. In four cases the Council decided to terminate the case because no evidence of possible violation was obtained in investigation, though initial information available to the Competition Council indicated on such violation.

34. Last year the Competition Council imposed fined in total amount of LVL 6 055 632.19 on 39 enterprises for involvement in prohibited agreements.

35. In three out of seven cases, which detected violations, investigation was initiated on the Competition Council's initiative – the institution obtained information on possible violations within sector inquiries. Two cases were initiated based on information provided by other institutions, while market participants reported another two violations to the Competition Council.

36. Although entrepreneurs have the option to report participation in cartel within the Leniency programme and get relieved from the fine as the first informant, this option has not been used yet. Therefore, detection of prohibited agreements to a great extent relies on active work of the Competition Council by analysing processes in the market.

37. One of the most significant violations of competition rights detected last year was prohibited agreement among 22 Latvian commercial banks. In the result of the violation, banks fixed interchange fee for accepting payment cards for a long period of time, thus setting the lowest level for payments made by traders accepting payment cards at their sales points, as well as the banks fixed interchange fees for activities of a card holder at other bank's ATM. Thus, competition was distorted, as well as harm was caused to traders accepting card payments and consumers. The prohibited agreement was related to commission paid by banks for card payments as well as ATM services.

38. The decision on fining RIMI group companies SIA "RIMI Latvia" Ltd, "Supernetto" Ltd and „Plesko Real Estate" Ltd for a prohibited agreement adopted by the Competition Council last year is also very important to consumers and producers. The agreement between these companies and the lessor of shopping centre area involved prohibition to rent area to other enterprises without permission of the RIMI group companies, thus limiting possibilities of competing specialized food shops to operate at these shopping centres. The decision of the Competition Council is a clear message to other traders and lessors that there are no place for any impediments to development of alternative distribution channels of specialized food shops and producers.

39. Four out of seven violations of prohibited agreement detected last year involved illegal activities of four enterprises in relation to public procurements. Thus, the Competition Council adopted a decision to

fine two construction companies which assigned the same person to preparation of offer and allowed exchange of information on participation in public procurement. A fine was imposed also on three food traders who submitted agreed offers while participating in tender for food supply for 13 kindergartens announced by Jūrmala city council.

40. Prohibited agreement was also detected in activities of two education centres – both centres had concluded mutual cooperation agreement yet both went beyond limits of permitted cooperation, thus distorting competition among education service providers participating in procurements of the State Employment Agency.

41. Limits of permitted cooperation in relation to participation in procurements were exceeded also by five construction supervision and planning enterprises which agreed on market division and exchange of information within a partnership, which in its substance is a permitted cooperation. While fining these enterprises, the Competition Council emphasized that partnership itself is not a violation; it is one way for enterprises to jointly participate in procurements. Yet, a partnership does not allow its members – competing enterprises – to violate competition rights.

2.3.2 *Abuse of Dominant Position*

42. In every free market, there may develop enterprises possessing a dominant position. Such enterprises are powerful enough to operate completely or partially independently of competitors, customers, suppliers or consumers; yet, dominant position itself is not a violation – the Competition Law prohibits enterprises from abusing dominant position and preventing competitors from entering or operating in particular market.

43. Prevention of abuse of dominant position is particularly important to small and medium-sized enterprises who cannot win battle over unfair competition due to limited resources. Prevention of abuse of dominant position of any market participant is essential also from the point of view of consumer interest as it helps prevent fixing of prices inconsistent with the market situation.

44. In 2011, the Competition Council adopted 19 decisions on possible abuse of dominant position. Four of them were on detection of a violation and imposing a fine, another four of the decisions were on termination of investigation and 11 – on non-initiation of a case.

45. The Competition Council imposed fines in total amount of LVL 206 644.28 on three commercial companies for abuse of dominant position.

46. Last year, the capital company “Jūrmalas Siltums” of Jūrmala city council was fined for abuse of dominant position by two decisions. At the beginning of the year, the Competition Council concluded that activities of “Jūrmalas Siltums” Ltd. within heat energy procurement market has forced an independent producer of environment-friendly energy “Dubultu šķelda” Ltd. to terminate its activity in Dubulti heat supply area, thus preventing consumers from benefiting from less pricy and environmentally-friendly heat energy supply for local heat supply network. Therefore, in September, “Jūrmalas Siltums” Ltd. was fined for its activities ordering “Dubultu šķelda” Ltd. to suspend its heating boiler for two days in heating season without objective justification.

47. The Competition Council fined also Riga Freeport for repeated violation – activities against competitor. The detected violation involved abuse of dominant position by limiting activity of competing tugboat service provider in the territory of freeport.

48. In 2011, one enterprise was fined for abuse of dominant position in retail trade² –in the beginning of the year, the Competition Council adopted a decision concluding that “MAXIMA Latvija” Ltd. has abused its dominant position in retail trade by applying unreasonably lengthy payment periods to the products delivered by a small bakery “Siguldas Maiznieks” Ltd. and using delayed payments for its own business development. In its decision, the CC has also defined that settlement period within which a retailer as a buyer must pay for delivered products can be regarded as sound and fair if it does not exceed the average turnover time of the particular products plus up to 10 days that might be required for verification of mutual payments and other operations with payments. In this particular case such term was considerably exceeded and since “MAXIMA Latvija” Ltd. has a dominant position in retail trade of daily consumer goods retail market in supermarket sector in Latvia and has established market power over “Siguldas Maiznieks” Ltd., application of such unreasonably lengthy payment periods is prohibited by the Competition Law.

2.3.3 Merger Control

49. Last year, transactions of 11 enterprises met the criteria laid down by the Competition Law and had to notify the merger and get the permission of the Competition Council in order to merge.

50. In nine cases, the Competition Council cleared the merger, in two cases a fine was imposed on market participant for failure to submit the notification of a merger, while in one case it was decided to terminate investigation because the notified merger did not exceed the criteria of the Competition Law according to which the transaction requires permission of the institution.

51. Thus, at the end of 2011, the Competition Council extended the validity of binding obligations applied in 2009 by the institution to enterprises JSC “Sentor Farm aptiekas” and JSC “Recipe Plus” to prevent harm that might be caused to competition in case of their merger. Thus, the enterprises above are prohibited until 2015 to acquire pharmacies in Riga, Jēkabpils, Talsi and Dobeles, cities where they already have significant market power, without permission of the Competition Council.

52. As refers to merger control, the key priority of the Competition Council is protecting public interests by preventing excessive market concentration and maintaining consumer rights to choose. At the same time, the institution endeavours to ensure fast and quality examining of notifications submitted by market participants, obtaining additional information and proper decision-making. Last year, the average time required for examining of one merger case at the Competition Council was 83 days, while the maximum time for examining of such cases is 120 days as defined in the Competition Law.

2.4 Market Inquiries

53. Market inquiry is an essential tool for promoting and protecting competition – based on the information on selected target markets obtained within market inquiry, the Competition Council analyses competition situation, and develops and submits proposals for improving competition to responsible institutions as necessary, as well as checks the supervised market for violations of the Competition Law.

54. In order to eliminate the negative impact of economic crisis on national economy within its competence, the key priority of the Competition Council is surveillance of markets significantly affecting daily costs of society.

² A dominant position in retail trade significantly differs from the classical notion of dominant position in terms of market power. An enterprise holding a dominant position in retail trade is able to impose unfair business conditions or payments on suppliers, yet, contrary to the classical notion of dominant position it cannot act completely independently of consumers or competitors. Thus, an enterprise holding a dominant position in retail trade is particularly responsible for relations with suppliers.

55. Thus, four out of all violations of the Competition Law established in 2011 were detected based on information obtained within market surveillance carried out by the institution.

56. Last year, 11 new cases on possible violations were initiated based on information obtained within market inquiries.

57. In 2011, the Competition Council completed inquiries in 13³ market sectors:

- Within **fruit and vegetable market inquiry** the Council analysed competition at both wholesale and retail level and concluded that enterprises operate in competitive environment, there is a wide range of fruits and vegetables available for consumers, and in general retail price markups for fruits and vegetables are reasonable. Latvian consumers prefer local products and are ready to pay more for that. The Competition Council also concluded that unfair activity of enterprises that does not directly violate competition law, is the greatest threat to fair competition – often fruits and vegetables imported from other countries are offered as Latvia products, thus abusing consumer loyalty to local products and distorting competition. As a response to the violations above, in 2010, the Food and Veterinary Service launched intense control of the origin of fruits and vegetables.
- Within **market inquiry of pharmaceutical products distribution** the Competition Council analysed price formation process of pharmaceutical products, pointing out the market issues in the result, as well as available opportunities to use targeted business competition and legal framework to ensure lower prices and wider choice to consumers. The Competition Council concluded that both the mark-up system approved by the Cabinet of Ministers and the pharmaceutical producers' fight for doctor's choice instead of patient's choice in case of analogue medicine and administrative barriers to registration of pharmaceutical products, opening and location of pharmacies, parallel import of pharmaceutical products and distribution of generic medicinal products, as well as the inability of responsible institutions to ensure inclusion of all allowances for wholesalers of pharmaceutical products and pharmacies in calculation of final price for pharmaceutical products have made it impossible to fully make use of the opportunity to set lower price for pharmaceutical products. The Council reported the drawn conclusions to the Ministry of Health which is responsible for the policy of the sector.
- Within **the sugar distribution market inquiry** the Competition Council assessed the completion in ordinary 1 kg pre-packed sugar market and concluded that the price for sugar in stores has remained high because of population's desire to buy sugar produced in Latvia irrespective of its price. Although Latvia stores offered relatively cheap sugar, including traders' self-brand sugar and sugar in plastic packages, consumers continuously preferred paying more for sugar produced in Latvia. Thus, the previous statement in mass media on sugar price in Latvia being among the highest ones in Europe mainly applies to sugar consumers have deliberately chosen, although much cheaper sugar produced abroad was also available. The Competition Council also concluded that market prices significantly differed from one another and were fixed independently. The minimum mark-up applied by wholesalers ranged from 7 % to 35%, while in supermarkets – from 4 % up to 56 %.

³ Information on two out of all market surveillances completed in 2010 which was expected to be included in the report of 2011, as well as information on one market supervision completed in 2011 is going to be published in the report of 2012 as disclosure of detailed information at the end of 2011 may harm the interests of investigation.

- Information obtained within **fuel retail market inquiry** served as a base for initiation of a case of possible prohibited agreement in activities of three largest Latvian fuel traders.
- **Market⁴ inquiry of wholesale and retail of electrical supplies, electrical and telecommunications wires and cables** lead to a conclusion that there is strong competition at wholesale level in the particular market and the market concentration is moderate; although most of wiring supplies get directly from wholesalers to professional buyers, there is intense competition among retail companies as well. From 2008 to 2010, market sales have been constantly decreasing, while the market structure has changed – in 2007, Latvia produces 25.6 % of the total amount of products released in the market, and the rest was imported from abroad, in 2009, the share of Latvian products increased to 51.5 %.
- **Within market inquiry of agricultural and forestry machinery, repair, maintenance services and spare parts** the Competition Council assessed competition in the market by obtaining and evaluating information on legal framework of the sector, import and export volumes, dynamics of registered tractor machinery units, the most popular tractor machinery brands, market concentration, turnover of market participants, as well as by survey of opinion of market participants regarding situation in the market situation. Moreover, terms and conditions of sales agreements on sale of tractor machinery and maintenance services and sale of spare parts and conditions included in distribution agreements signed between authorized representatives and producers, as well as randomly selected projects submitted within the European Union Farm Modernisation Programme and requirements of SJSC “Latvijas valsts meži” for forestry machinery were assessed separately. In the course of the surveillance, the Competition Council obtained information that allowed detecting a prohibited agreement between two agricultural machinery traders.
- **Market inquiry of dry cleaning services** made it possible for the Competition Council to get acquainted with the market structure and the principles of price formation, thus leading to a conclusion that market participants compete with each other and there is no prohibited agreement on the market. In order to promote maximum efficient use of resources, the Competition Council reported the conclusions of the market inquiry to the largest state and municipal organizers of public procurements for dry cleaning services.
- **Edible oil market inquiry in Latvia** was launched in late 2010 and allowed the Competition Council to obtain information necessary to reply to notifications of market participants, as well as the Council obtained and summarized detailed information on the oil market structure, price formation and dynamics. No violations of competition rights were detected within the inquiry.
- **Within market inquiry of dairy co-operative activities** the Competition Council studied competition in the particular market so that it would have the necessary information in case of possible changes in the European Union legislation – the European Commission is forwarding a draft granting rights of members of recognized milk and dairy sector producer organizations to agree on price as long as the amount of untreated milk per one organization does not exceed: 3.5 % of the total volume of milk production in the EU, 33 % of the volume of milk production in the milk producing member state and 33 % of the volume of milk production in the particular member state to which the milk is to be imported. The draft envisages that in certain cases national competition authorities may decide on prohibition of price fixing to prevent elimination

⁴ Installation products are different electric installation materials– switches, sockets, extension blocks, constructions, door bells, cables and wires, alarm and control systems, alternators, electricity switchboard, control panels, moderate power devices, lighting elements, construction fasteners and tools

of competition or serious harm to competition. At the same time, the market inquiry provided information to the Competition Council on possible prohibited agreement between two competing dairy co-operatives; therefore the Council initiated a case of violation.

- **Salt wholesale market inquiry** allowed the Competition Council to get acquainted with the competition in both technical and edible salt market. The Competition Council found neither violations of law nor administrative barriers, however, conclusions drawn within the inquiry indicated on several factors affecting the particular market, for instance, huge impact of governments of the CIS countries on their producers, high salt transport costs, etc.
- Within **household waste management market inquiry** the Competition Council got acquainted with the competition in regions of Latvia, the market participants and their activities in the market. The Competition Council has reported the conclusions drawn within the inquiry on necessary amendments to the regulatory enactments to solve existing issues in the market to the Ministry of Environment Protection and Regional Development which is responsible for the sector. Inquiry of this market will proceed in 2013 when currently signed agreements will expire and local municipalities will organize procurements pursuant to the new provisions of the Law on Waste Management.
- **Market inquiry of lease contracts for premises in shopping malls** was initiated last year after the Competition Council had detected a prohibited agreement between RIMI group companies and owners of premises in shopping malls. The agreement involved contracts prohibiting shopping malls to rent space to other enterprises without consent of RIMI group companies and limiting possibilities of competitive specialized food shops to operate at these shopping malls. Within the market inquiry the Competition Council inspected other market participants for similar violations the limits development of specialized food shops and significantly increases dependence of producers on retail super markets at the same time as it is impossible for them to build efficient – large enough, fast and easy accessible alternative distribution channel when building their own chain of specialized shops. The inquiry resulted in initiation of two cases of possible violations.

58. In 2011, previously initiated and new cases of market inquiry were continued and the Competition Council will continue investigating these cases also in 2012. Thus, at the end of 2011, the Competition Council continued investigation in 12 different markets.

2.5 Improving Regulatory Enactments

59. On February 3, 2011, the draft law “Amendments to the Competition Law” was approved in the first reading at the Saeima, envisaging that a store shall pay the producer for all delivered products within 30 days, thus strengthening the prohibition of abuse of dominant position under the Competition Law. Yet, since these issues are further to be introduced to the Trade Law which is being developed under guidance of the Ministry of Economics, these amendments were not forwarded for further consideration.

60. Last year the Competition Council developed guidelines for imposing fines for violations of Article 175.⁵ (failure to provide information and the provision of false information to the Competition Council) and Article 175.⁶ (failure to comply with decisions of the Competition Council and lawful requests of state officials) of the Latvian Code of Administrative Violations. These guidelines are aimed at setting key principles for imposing fined based on the principle of proportionality and preventive objective of the fine. The maximum fine for both violations is LVL 10 000.

61. In order to eliminate administrative barriers and promote competition for the benefit of consumers, in 2011, the Competition Council has provided conclusions on nearly 30 draft laws and policy planning documents announced at the meeting of State Secretaries, as well as effective laws and regulations applicable to different sectors like pharmacy, public services, management of residential buildings, electronic communication and many others.

62. After evaluating draft laws and regulation, the Competition Council aims at eliminating unjustified barriers, requirements for entering the market, unreasonably different regulations as any kind of unjustified restrictions in the particular market have negative impact on competition and in long-term – also on consumers.

63. So, for instance, last year the Competition Council developed and submitted to the Saeima Economic, Agricultural, Environmental and Regional Policy Committee a conclusion on the draft law “Amendments to the Energy Law”. Within the framework thereof, the Competition Council proposed amendments and supplements to precisely regulate rights of natural gas supply enterprises and prevent JSC “Latvijas Gāze” from abusing its dominant position to the prejudice of a large part of society and enterprises that was partially taken into account.

2.6 International Cooperation

64. The objective of international cooperation of the institution is to fully make use of opportunities offered by the participation of the Competition Council in the European Union and world competition authorities’ networks, while priorities are to participate in development of legislation at the European Union level and ensure duly transposition of the requirements in Latvia legal system, participate in discussions on document, preparation of meetings and participate in the meetings.

65. The Competition Council also ensures cooperation with the European Commission and competition protection authorities of other countries for investigation of joint cases and exchange of experience.

66. The Competition Council is actively involved in international organisations and networks; among the most important are the European competition network, the International competition network and the Organisation for Economic Co-operation and Development (OECD).

67. **The aim of the European Competition Network (ECN) is** to provide an opportunity to competition authorities of the European Union to discuss application of Article 101 (prohibited agreements) and Article 102 (abuse of dominant position), as well as to promote cooperation among these authorities.

68. In 2011, the Competition Council continued active participation in the ECN activities. In order to obtain the experience of other member states of the European Union and the European Commission in investigating violations of competition law, to promote cooperation with other competition authorities and to participate in discussions on the latest Commission initiatives, members of the Competition Council participated in the ECN plenary sessions and several meetings of its working groups and sub-groups addressing anti-cartel practice and policy development related issues, as well as issues on the experience of the EU member states in supervision of mergers and processing electronic evidence (*Forensic IT*), issues on competition in pharmacy, telecommunication and food market, as well as financial and payment service market. The Competition Council of Latvia was also represented in the European Commission expert working group for a better functioning food supply chain, as well as the senior economist working group.

69. The Competition Council has also provided information for the ECN Brief that is published every two months. The Brief contains information on the major news about activities of the ECN member state

competition authorities – important investigated cases, carried out inquiries and market surveillance, latest laws and other important competition policy related issues.

70. The International competition network (ICN) ensures exchange of information and experience among competition authorities around the world, thus facilitating dynamic dialogue that, in its turn, serves to build consensus and convergence towards sound competition policy principles. In the reporting year, the Competition Council provided information on competition law issues in Latvia to the ICN.

71. The mission statement of **the Organisation for Economic Co-operation and Development (OECD)** is to support economic growth, promote employment, increase quality of life, maintain financial stability, support economic growth of other countries, as well as to promote trade. One of the key directions of this organisation is supervision of competition. Last year the Competition Council asked the OECD to consider wider scope of its participation, and at the end of 2011, the Competition Council received an official OECD invitation to participate as an observer in the OECD Competition Committee for next two years. This will make it possible for the Competition Council to learn international experience and participate in development of international economic policy.

72. In 2011, the Competition Council represented Latvia in the OECD Global forum on Competition. The forum particularly addressed such topics as crisis cartels and cross-border merger control. The issues discussed within the forum allowed the Competition Council of Latvia to come to a conclusion that quality and duly merger control is carried out in Latvia, besides it has proper legal framework and access to resources.

73. In 2010, the management of the Competition Council participated in several annual events of international competition authorities – the annual meeting of heads of competition authorities held by the European Commission Directorate General for Competition, the meeting of heads of European competition authorities, the European Competition day conference, as well as the Competition day conference held by the competition authority of Russian Federation.

74. Last year the Competition Council responded to questions about Latvian competition policy asked by the European Bank for Reconstruction and Development and international law journal *Global Competition Review*.

75. In 2011, within **the cooperation of Baltic competition authorities**, a delegation of Latvian Competition authority participated in the 8th annual competition conference of the Baltic States in Vilnius.

76. During the reporting year, the personnel of the Competition Council provided the required support to representatives of the European Commission Directorate General for Competition conducting unannounced inspections within Baltic railway companies and gas sector based on suspicions of possible violations of the European Union competition rules. Thus, upon a request of Lithuanian competition authority, the Competition Council carried out an unannounced inspection at the office of JSC “AirBaltic” in Riga.

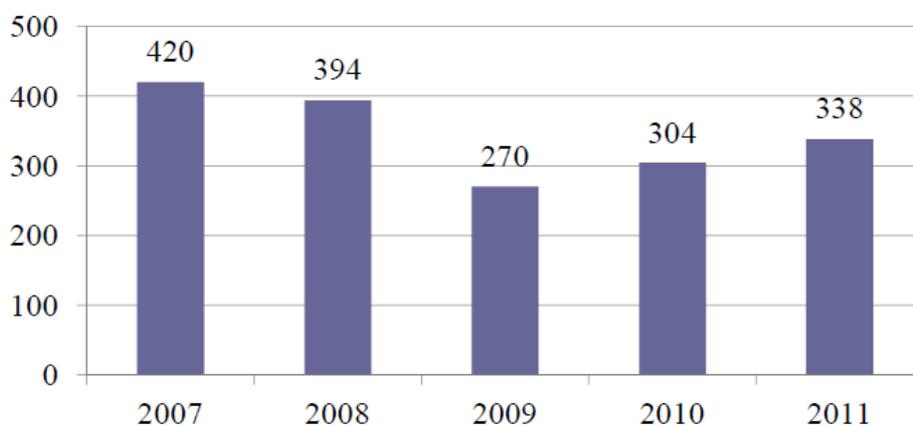
2.6.1 Participation in Development and Enforcement of the European Union Laws

77. Within the reporting year, the Competition Council participates in development of the Latvia’s position on the Proposal for Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets (Single CMO Regulation), as well as preparing response to questions in the Public Consultation of the European Commission “Towards a Coherent European Approach to Collective Redress”.

78. In 2011, the Competition Council received information on 338 cases submitted to the European Commission for consideration regarding the Council Regulation No. 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation). Out of them, cases declaring turnover of participants of a merger in Latvia found no merger that might significantly affect competition in Latvia, therefore, there was no need to ask the Commission to consider a merger case or hand over a part of a case to the Commission for consideration according to the Competition Law.

79. Last year, as compared to the last two years, the number of merger cases considered by the European Commission has increased, though the level of 2008 has not been reached yet (see Figure 5).

Figure 5. The number of merger cases considered by the European Commission



80. Overall last year, the most of notifications on fusion, merger of enterprises or establishing a joint venture in Europe was submitted by participants of pharmacy, medical supplies, consumer goods, financial service markets, as well as electricity and gas markets. A number of merger cases last year were also in markets of chemical industry, television and information technologies.

81. Last year in addition to these cases last, pursuant to the EC Regulation No. 773/2004, the institution received information on investigation of 6 cases of violations of Article 101 and 102 of the Treaty of Functioning of the European Union (abuse of dominant position and prohibited agreements) initiated by the European Commission, thus making it possible to avoid parallel investigations.

2.6.2 *Participation in Implementation of Twinning Project at Moldova Competition Authority*

82. By applying for the call for proposals in 2010, the Competition Council obtained rights to participate in implementation of the twinning⁵ project of Moldova, Romanian, Latvian and Austrian competition authorities. The project is aimed at supporting the Moldova competition authority in introducing and implementing competition and state aid policy. The kick-off conference in Chisinau in March, 2011 launched the project to be implemented in 18 months with allocated European Union financing in amount of EUR 1 million.

⁵ The main idea of twinning projects is to build capacity of public administration institutions and promote improved legislation by involving experts from the EU member states and making it possible to develop partnerships and cooperation between different countries. Project implementation is financed by the European Union. The twinning programme was launched in 1998 to provide full support to the EU candidate countries, potential candidate countries, as well as new member state in building administrative and legal capacity in accordance with the EU requirements.

83. The project management is organized by Romanian competition authority as the lead partner, while Latvian and Austrian competition authorities participate as junior partners. Each of the authorities is responsible for implementation of one component or thematic part, as well as appoints their own experts for implementation of the rest of components.

84. The Competition Council of Latvia supervises implementation of the part “Strengthening Institutional Capacity”, envisaging participation in activities towards organisational efficiency of the institution, for example, preparation of strategic plan and improvement of internal procedures. Latvian experts also participate in implementation of the component “Competition Law”. The third component of the project, in its turn, addresses state aid issues.

3. Management of the Competition Council

3.1 State Budget Financing and Use Thereof

85. In 2011, the Competition Council has used 96.3 % of the total financing allocated to the institution. In this year, the Competition Council participated in implementation of the EU financed twinning project “*Support to Implementation and Enforcement of Competition and State Aid Policy*” in the Republic of Moldova. The financing earmarked for the project implementation (see Table 4) constituted 13.06 % of the financing approved within the budget for the sub-programme “Implementation of Competition Policy”.

86. Thus in 2011, financing of total LVL 490.14 have been used within the sub-programme “Implementation of Competition Policy”, including financing in amount of LVL 433.65 for implementation of the general activities of the Competition Council which is by LVL 15.58 thousand or 3.47 % less than in 2010 (see Table 3).

87. Expenditures, as compared to the previous year, have reduced for two reasons: firstly, consolidation of the government general budget resulted in reduced the financing for the general activities of the Competition Council by LVL 7.88 thousand; secondly, a large number of employees and officials have given a notice of resignation stating inadequate wage as the main reason.

Table 3. Financing for the general activities of the Competition Council

No.	Financial indicators	Previous year (actual results)	Reporting year	
			Approved by law	Actual financial performance
1	Financial resources to cover expenditures (total)	450 401	442 524	442 524
1.1	Grants	450 401	442 524	442 524
1.2	Chargeable services and other own income			
1.3	Foreign financial assistance			
1.4	Donations and gifts			
2	Expenditures (total)	449 229	442 524	433 649
2.1	Maintenance costs (total)	446 239	442 524	433 649
2.1.1	Current expenditure	446 239	442 524	433 649
2.1.2	Interest expenditure			
2.1.3	Subsidies, grants and social benefits			
2.1.4	Current contributions to the European Union budget and international cooperation			
2.1.5	Maintenance cost transfers			
2.2	Expenditure for capital investments	2 990		

Table 4. The EU financing for the Competition Council for implementation of the twinning project in Moldova

No.	Financial indicators	Approved by law	Actual financial performance
1	Financial resources to cover expenditures (total)	66 450	66 450
1.1	Grants	66 450	66 450
1.2	Chargeable services and other own income		
1.3	Foreign financial assistance		
1.4	Donations and gifts		
2	Expenditures (total)	66 450	56 489
2.1	Maintenance costs (total)	63 450	53 577
2.1.1	Current expenditure	63 450	53 577
2.1.2	Interest expenditure		
2.1.3	Subsidies, grants and social benefits		
2.1.4	Current contributions to the European Union budget and international cooperation		
2.1.5	Maintenance cost transfers		
2.2	Expenditure for capital investments	3 000	2 912

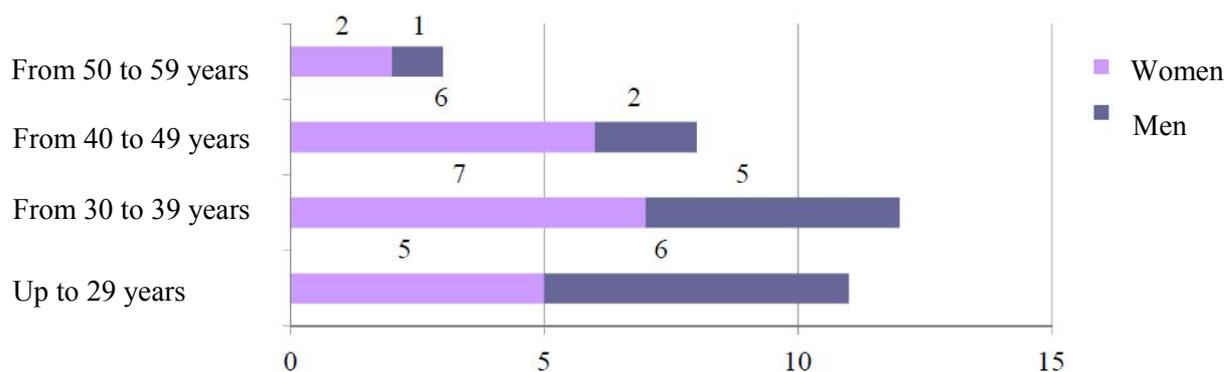
3.2 Personnel

88. In 2011, the Competition Council had 43 job positions, out of which 36 – state civil servant positions and the remaining seven – employee positions.

89. The actual number of persons employed at the institution in late 2010 was 34 persons, 29 of them were state civil servants and five – employees.

90. In 2011, 59 % of the Competition Council's personnel were women and 41 % - men (see Figure 6). The average age of personnel at the end of reporting year was 35 years.

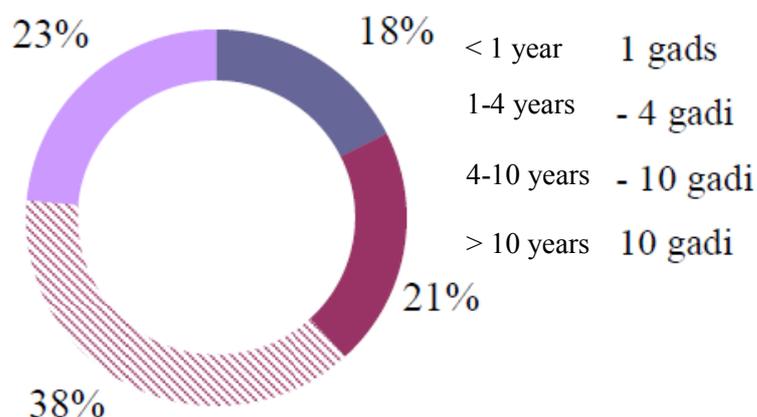
Figure 6. Number of personnel by age and gender groups



91. In 2011, seven civil servants and three employees were dismissed. Six servants and one employee started state civil service relations. Last year, the term of office of the Chairperson of the Competition Council and one of its members expired. Both officials were approved for another term of office. At the beginning of 2011, a new member of the Competition Council started state civil service relations after appointment to the position through a tender.

92. At the end of the reporting year, 23 % of the employees had worked at the institution for more than 10 years or the entire period since establishing of the Competition Council as an independent public administration institution. Breakdown of personnel by time worked at the institution is shown in Figure 7.

Figure 7. Breakdown of personnel by time worked at the Competition Council



93. At the end of 2011, 47 % of the personnel had been awarded 6th qualification degree, while 21 % – 5th qualification degree.

3.2.1 Education of the Personnel

94. In 2011, all 33 of 34 servants and employees employed in the institution had higher education and 22 employees or 65 % of the total number of personnel had been awarded master's degree.

95. Considered special character of the institution, the majority of employees have acquired legal or economic education. The rest have acquired education in engineering sciences, management and other. Several servants have acquired two higher educations.

96. In 2011, after assessing performance results of the personnel, the necessary training was identified and 16 employees were sent to five trainings offered by the State administration school and two seminars in other educational institution for increasing qualification according to the prepared training plan. The employees of the Competition Council attended training in such fields as competition law, prevention of corruption, public procurements, English, French and other.

3.3 Improving Performance of the Institution

97. The activity of the Competition Council is based on the principles of good administration that according to the State Administration Structure Law include openness with respect to private individuals and the public, the protection of data, the fair implementation of procedures within a reasonable time period and other regulations aimed at ensuring that State administration observes the rights and lawful interests of private individuals.

98. In order to ensure maximum quality and fast consideration of cases by balancing openness and data protection, the Competition Council pursues improvements of internal regulations.

99. In 2011, an interinstitutional agreement with the State Revenue Service was signed aimed at making the information process within investigation cases more efficient, as well as terms and conditions of the relevant data storage were developed.

100. Within the reporting year the Competition Council signed an agreement with the Ministry of Economics on transferring computers and other office equipment to the Ministry as a part of optimisation of resources required for ensuring support functions launched in previous years,.

101. For the purpose of **efficient use** and control of **the resources** allocated to the institution, the Competition Council has updated several internal regulations, including with respect to procedure for organising public procurements, as well as the use of resources of the institution.

102. In order to prevent the risk of corruption, a control system for preventing interest conflicts was updated, as well as the internal control system of official secrets was revised in 2011. The Code of Ethics of the Competition Council was also revised, as well as the data protection system of natural entities was updated.

4. Communication with the public

103. One of the key tasks of the Competition Council is promotion of competition by improving public understanding of competition law and its influence on business environment and the public in general.

104. By informing and educating the public, the Competition Council strives to develop a knowledge-based competition culture and thus according to its mission statement to promote consumer interest-oriented market and strong competition among fair enterprises.

105. If the public in knows competition law and its meaning, they are intolerant of violations of competition law, thus reducing the possibility to violate the law, while making it more possible for the supervising institution to detect violations of the law.

4.1 Public Information and Education Measures

106. An essential communication channel between the Competition Council and its target audience is the **website** of the institution www.kp.gov.lv. It covers information about the Competition Council its functions and performance results – decisions of the Competition Council, information on market surveillance and inquiries, as well as information of latest news in competition policy at national and European Union level and Latvian court rulings regarding the decisions of the Competition Council are published on the website.

107. At the same time, people can ask questions to specialists of the Competition Council, thus providing feedback to the institution – information on assessment of its performance and possible problem areas to be particularly addressed.

108. The Competition Council **informs mass media** on the adopted decisions and latest news in supervision of competition on regular basis because each single decision applies not only to the particular case and market participants but also to the entire competition environment. Publicly available information on detected violations clearly shows consequences of illegal activities, thus increasing public awareness and promoting legal activities.

109. In order to explain competition and tendencies in different products and service markets by prior assessing the importance of information to the public, the Competition Council informs mass media on the results of market inquiries.

110. For the purpose of holding interests of investigation harmless, as well as avoiding any damage to reputation of inspected enterprises, before adopting a decision and therefore also before it is clear that the law has been violated, the Competition Council provides no information on initiated investigations and performed inspections. Yet, last year, after performing inspections in two dairy co-operatives, the inspected enterprises themselves spread false information on performed inspections. In order to prevent the false information from limiting fair farmer's cooperation, the Competition Council held a press conference and explained the reason and aims of the performed inspections.

111. In order to encourage market participants to act legally and to achieve common understanding on effective competition law, the Competition Council holds events related to explaining the content of norms of laws.

112. Last year the Competition Council prepared and published guidelines for imposing fines for violations of Article 175.⁵ (failure to provide information and the provision of false information to the Competition Council) and Article 175.⁶ (failure to comply with decisions of the Competition Council and lawful requests of state officials) of the Latvian Code of Administrative Violations on its website.

113. Having ascertained within market inquiry that retailers include in their agreements with suppliers (wholesalers) conditions imposing an obligation on the supplier to pay the retailer the difference in price if the supplier has sold the products to another retailer for lower prices, the Competition Council prepared and published an explanatory article that such a practice might be recognized as prohibited agreement restricting the freedom of action of suppliers and reduces price competition among retailers.

114. The Competition Council also published on its website the good practice guide document developed by the ECN Merger working group and approved by the European Commission and heads of the European competition authorities aimed at promoting cooperation and exchange of information among the national competition authorities in the European Union in cases when the European Commission does not consider the merger of market participants, yet permission is required in several member states. The guide is developed to reduce difficulties that notification of such a merger might cause for several authorities. They identify those assessment stages where the cooperation among authorities is the most needed, as well as define information to be exchanged among the authorities.

115. Last year the magazine "Jurista Vārds" (Lawyer's Word) started to publish the most important decisions of the Competition Council and court rulings in column "Tiesību prakse" (Law Practice) thus providing a deeper insight into problem areas of competition rights.

116. In order to bring into light and explain competition law issues, last year specialists of the Competition Council wrote articles for business magazine "Kapitāls" (Capital) on such topics as notified agreements, special responsibility of a dominant undertaking, prohibition of abuse of dominant position in retail trade and problems of competition law within sectoral associations.

117. Since detection and prevention of prohibited agreements among applicants of public procurements is one of the priorities of the Competition Council, the institution held a seminar in Ventspils in 2011, thus launching a series of lectures on possibilities to identify and prevent applicants of procurements from violating competition law for procurement specialists of local municipalities and undertakings. As procurement organizers work with submitted proposals, they are the ones who first

could notice any signs of prohibited agreement between the applicants, thus taking further steps to protect their organisation and local municipality – and thus population from the damage caused by such violations.

118. The members of the Competition Council also actively participate in events held by other organisations to explain issues related to competition rights and to inform about the latest news. In 2011, specialists of the Competition Council shared their presentations at two events held by the publishing house Dienas Bizness – food sector forum “Healthy Competition – Basis for Development” and a conference “Health Care 2011 – present and forthcoming” for heads of health care undertakings.

119. In the conference held by sworn attorneys at law office “BORENIUS”, the Competition Council gave presentation about prohibited agreements in public procurements.

120. The BA School of Business and Finance, in its turn, hosted a public lecture of the Chairperson of the Competition Council “Competition Policy in Latvia: Legal Framework and Its Application” during which the Chairperson gave an insight into legal framework of competition rights in Europe and Latvia, explained the role and tasks of the Competition Law, describes abuse of dominant position and prohibited agreements, as well as principles of merger control and practical application.

121. As part of their daily work, employees of the Competition Council provides consultations on competition issues to representatives of legal service offices, entrepreneurs and other interested persons in writing, by telephone or within consulting hours for visitors at the office. In 2011, over 200 consultations have been provided.

122. By participating on a regular basis in international conferences and working groups of the European Union for application of competition law in the member states, the members of the Competition Council informs civil society, non-governmental organisations and commercial companies, thus developing competition council at international level.

4.2 Public Involvement

123. Cooperation between the Competition Council and **non-governmental sector** (entrepreneurs and their professional associations, civil society) plays an important role in development of competition policy and culture – exchange of information within development of regulatory enactments allows timely preventing possible shortcomings, while consultations of effective law ensure understanding thereof and promote compliance with the law.

124. Within the reporting year, employees of the Competition Council have met representatives of the Association of Latvian Food Traders, the Latvian Traders Association, the Latvian Insurers Association, the Association of Hotels and Restaurants of Latvia, the European Competitive Telecommunications Associations, the Latvian Association of Electronic Communications, the Telecommunications Association of Latvia, the Latvian Association of Civil Engineers, the Latvian Association of Power Engineers and Energy Constructors, the Latvian Authorized Automobile Dealers Association, the Latvian Agricultural Cooperatives Association and other organisations, as well as market members – enterprises to discuss topical competition policy issues.

125. Public participation – market participant notifications on possible violations of competition law is an essential source of information that helps the Competition Council detect and prevent market distortion.

126. Another important type of public involvement is its assessment of performance of the institution – this feedback helps identify and eliminate shortcomings in performance of the institution. Dialogue with commercial companies allows the Competition Council avoid possible conflicts.

5. Plans for 2012

127. In 2012, the key priority of the institution with respect to protection of competition will be detection and prevention of the most severe violations of the Competition Law – cartel agreements and abuse of dominant position.

128. The Competition Council will focus on the markets affecting daily expenses of population – basic food products, fuel, medicine, etc.

129. Particular attention will be paid also to activities of public procurement applicants as prohibited agreement between enterprises may significantly raise the price of any procurement, thus forcing the state or local municipalities and subsequently the population to overpay.

130. For the purpose of promoting competition the Competition Council has planned to carry out sector inquiries that allow fast obtaining and analysing information on competition in the major markets, as well as finding solution to improve it.

131. Market inquiries make it possible for the institution not only to detect and prevent violations of competition rights on its own initiative but also to identify unjustified competition distortion caused by legal framework of different sectors, as well as to give market participants and the public an insight into competition and development tendencies of various sectoral markets.

132. The budget of 2012 will increase possibilities of the Competition Council to retain highly qualified servants, as well as to fill part of the vacancies, which, in its turn, makes it possible to carry out high quality market inquiries to prevent unfair competition and limit the risk of unreasonable rise in prices in such sectors as construction, health, food, public services, as well as to supervise implementation of the third energy package and the Services Directive for prevention of the risk of unreasonable rise in prices.

133. In 2012, the Competition Council also plans to propose amendments to the Competition Law to prevent enterprises from targeted termination of their business thus avoiding the fine imposed by the Competition Council. So, with respect to fines, Latvia would apply similar conditions as in the European Union matters yet adjusted to the national legal system.

134. The Competition Council will also continue following the progress of development of the new Trade Law – this law is being developed under the guidance of the Ministry of Economics in cooperation with other institution and non-governmental organisations of entrepreneurs.

135. In order to ensure easy accessible, wide and useful information on competition law in Latvia, as well as surveillance activities, the Competition Council plans to improve its website.

136. Within the international cooperation the Competition Council will continue participation in the European Union and other working groups that prepare proposals for improving the European Union legal system, as well as ensures investigation of cross-border violations.

137. As of 2012, the Competition Council is invited to participate as an observer in the OECD Competition Committee for next two years, thus giving the Competition Council an opportunity to gain international experience and participate in developing international economic policy.

138. The Competition Council will also continue participation in implementation of the twinning project of Moldova, Romanian, Latvian and Austrian competition authorities, thus supporting the Moldova competition authority in introducing and implementing competition and state support policy.