

Unclassified

DAF/COMP/AR(2014)11

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

21-May-2014

English - Or. English

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

DAF/COMP/AR(2014)11
Unclassified

ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN LATVIA

-- 2013 --

18-19 June 2014

This report is submitted by Latvia to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 18-19 June 2014.

JT03357749

Complete document available on OLIS in its original format

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

English - Or. English

TABLE OF CONTENTS

1.	Basic Information	3
1.1	Tasks of the Competition Council:	3
1.1.1	Structure of the Competition Council	3
2.	Performance results of the competition council in 2013	5
2.1.	Decisions of the Competition Council	5
2.1.1	Imposed Fines	7
2.2.	Legal Proceedings	8
2.3.	Investigation of Violations of the Competition Law	9
2.3.1	Prohibited Agreements.....	9
2.3.2	Abuse of Dominant Position	9
2.3.3	Merger Control.....	10
2.4.	Sector Inquiries	10
2.4.1	Monitoring of the euro changeover process.....	13
2.5.	Improvement of Legal Framework	13
3.	Management of the competition council	14
3.1.	State Budget Financing and Use Thereof	14
3.2.	Personnel.....	16
3.3.	Improving Performance of the Institution.....	17
4.	Communication with the public	18
4.1	Public Information and Education Measures	18
4.2	Public Involvement	18

1. Basic Information

1. The Competition Council is a direct administrative institution under the supervision of the Ministry of Economics and implements State policy on 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 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 (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the Cabinet Regulation No 795 of 29 September 2008 “By-law of the Competition Council” and other regulatory enactments.

1.1 Tasks of the Competition Council:

- a) To ensure a coherent application of the competition legislation so that:
 - The market participants would not enter into prohibited agreements;
 - There would be no changes in the relevant market that may have a negative impact on consumers and other market participants in case of a merger of market participants;
 - The market participants would not abuse their dominant position that may have a negative impact on other market participants and consumers;
 - The market participants would not disseminate misleading advertising that essentially affects overall competition;
- b) To promote competition in markets with no or limited competition within the competence of the Competition Council;
- c) To ensure that legislation developed by other state institutions ensures protection, maintenance and development of competition;
- d) To ensure that society has access to comprehensive information about the positive effects of competition on functioning of market and social welfare;
- e) To ensure that Latvia’s interests are fully represented in the relevant institutions of the European Union (hereinafter – the EU) and international organisations.

4. Within these directions of action, the Competition Council had set certain priorities for 2013 - to detect and prevent the most severe violations of the Competition Law (cartel agreements and abuse of dominant position), to carry out wide market surveillance activities, to ensure monitoring of the euro changeover process, to strengthen cooperation with other public institutions as well as non-governmental organizations. The Competition Council also planned to reinforce the measures to raise public awareness and education, as well as to ensure quality participation in international competition protection organizations and networks.

1.1.1. Structure of the Competition Council

5. According to the By-law of the Competition Council which defines the structure, division of competencies, management and work organization, the Competition Council consists of a collegial decision-making authority, permanent structural units and an executive institution (see Figure 1).

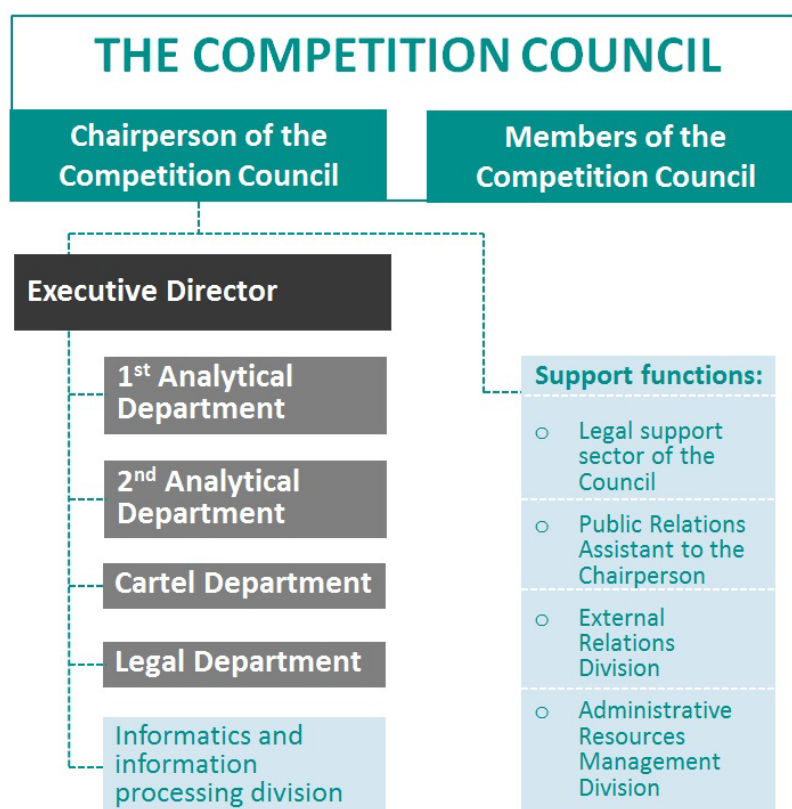


Figure 1. Organizational chart of the Competition Council

6. **The Decision-Making Authority – the 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 to hold their office by the Cabinet of Ministers upon the recommendation of the Minister of Economics. The term of office for the Chairperson and Council Members is five years and these officials may be re-appointed to office. The Chairperson of the Competition Council manages activities of subordinated structural units to the council – Administrative Resources Management Division, External Relations Division and Legal Support Division, as well as the public relations assistant to the Chairperson.

7. **The Executive institution – the Executive Directorate** – is run by the Executive Director who is directly subordinated to the Chairperson of the Competition Council. Structural units of the Executive Directorate – three analytical departments and the Legal Department consider applications and investigate violations of the Competition Law, prepare conclusions and draft decisions, perform supervision of competition environment, ensure control regarding execution of legal obligations under the decisions and represent the Competition Council in courts.

8. In 2013, the **Informatics and information processing division** started to operate within the Executive Directorate. Yet, as a result of reorganization of the existing structural units of the Executive Directorate, the Department of Prohibited Agreements was established on February 1, 2013. The mission of the new department is targeted and focused fight against cartels through detecting and preventing such violations and providing information and educating enterprises and budget authorities across Latvia.

2. Performance results of the competition council in 2013

9. In 2013, 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. Result-based Performance Indicators of the Competition Council

No	Measure/activity result activity	Expected performance result	Achieved performance result
1	Investigation of possible violations/sector inquiry (number of cases and market surveillances)	32	32
2	Assessed the impact of planned mergers of market participants on competition in the market (number of cases)	10	18
3	Provided explanation of legislation regulating competition and proposals for improvement of laws and regulations and draft laws (number of conclusions)	60	62
4	Organized press conferences, meetings, seminars and training (number of measures)	18	20
5	Prepared and published opinions and conclusions on topical issues, published annual reports (number)	10	11

2.1. Decisions of the Competition Council

Table 2. Statistical summary of decisions:

Prohibited agreements	14
Detection of violation	7
Non-initiation of a case	1
Termination of investigation	4
Evaluation of a notified merger	2
Abuse of dominant position	6
Detection of violation	3
Non-initiation of a case	1
Termination of investigation	2
Enterprise merger	20
Permitting a merger	13

Permitting a merger on binding conditions	4
Detection of violation (failure to timely notify the merger)	2
Termination of investigation	1
Violations of the Advertising Law	0
Violations of the Latvian Code of Administrative Violations	1
Failure to provide information or providing of false information	1
Total	40¹

10. In 2013, the Competition Council adopted a total of 40 decisions. Thus, 12 decisions detected violations of the Competition Law, imposing fines in the amount of LVL 3 775 254.95 on 44 enterprises.

11. The Competition Council has also imposed fine of LVL 5000 for the infringement of the Code of Administrative Violations in one case. The fined enterprises have failed to provide information to be provided within the investigation in accordance with the Competition Law.

12. The percentage breakdown of decisions by types of violations is shown in Figure 2.

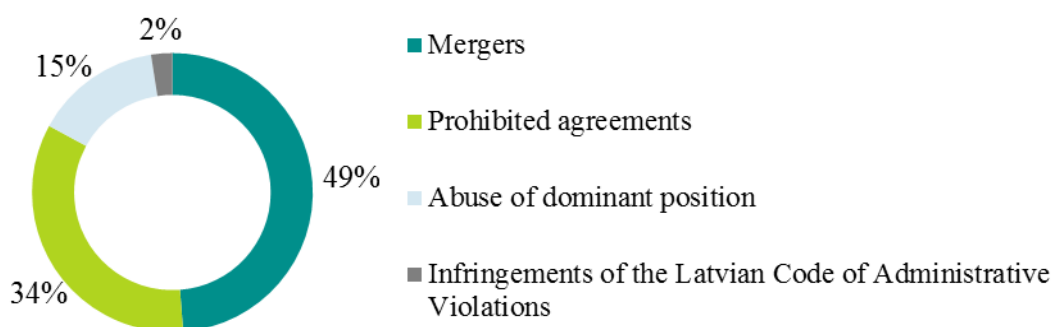


Figure 2. Breakdown of decisions of the Competition Council in 2013 by types of violations

13. As regards detection and prevention of the most severe competition violations – violations of prohibited agreements and abuse of dominant position, a total of 20 decisions were adopted last year and 10 of them detected violations, thus punishing a total of 42 enterprises and imposing fines in the amount of LVL 3 759 964.95.

14. Overall in 2013, decisions on determination of violation were adopted in 12 cases. In 2 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. Yet, 7 decisions were made on termination of investigation in cases where the initial information indicated on possible violation of the Competition Law; however it was not proved during the investigation, while 18 decisions were related to mergers control (see Figure 3).

¹ In one case the decision on non-initiation of a case on prohibited agreement and abuse of dominant positions at the same time was made, and therefore the number of decisions by groups of violations exceeds the total number of decisions.

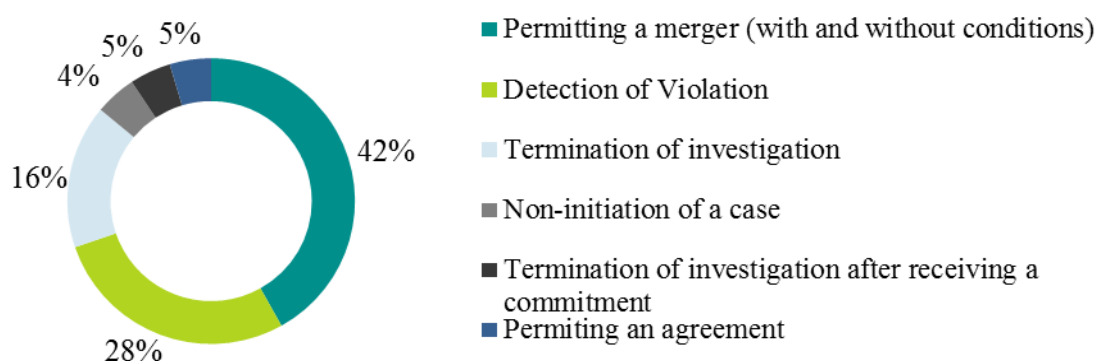


Figure 3. Types of decisions on the Competition Law adopted in 2013

2.1.1 Imposed Fines

In 2013, the Competition Council has imposed fines in the amount of LVL 3 775 254.95 within a total of 13 decisions. The fines have been imposed on 44 enterprises.

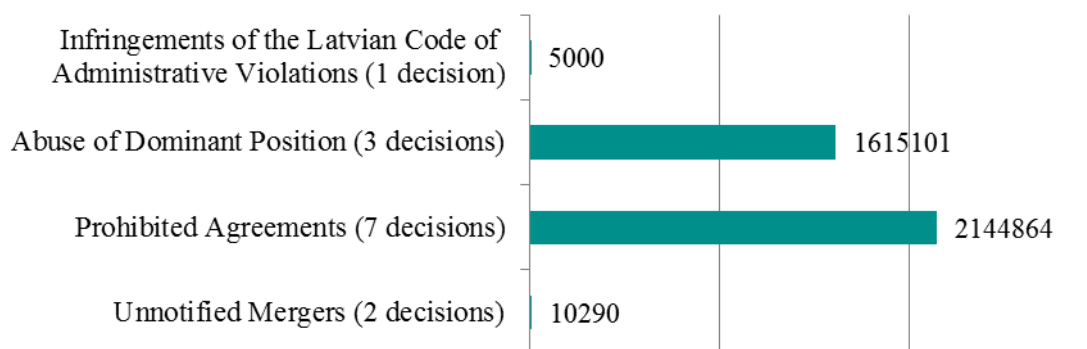


Figure 4. Amount of imposed fines (LVL) by types of violations

15. Within the reporting year, the Competition Council has imposed fines on one enterprise for violations of the Latvian Code of Administrative Violations – failure to provide information or providing of false information.

16. In 2013, **fines in the amount of LVL 338 975.92** imposed by the Competition Council within previous years and in 2013 for violations of the Competition Law and the Latvian Code of Administrative Violations have been **paid into the state budget**.

17. By the end of 2013, fines in the amount of LVL 11 888 983.32 imposed by the Competition Council have not been paid yet – the payment period has not expired yet, a compulsory enforcement of the decision on imposing a fine has been initiated and implemented by sworn bailiff, or the decision has been appealed and there are pending legal proceedings. 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*

18. Final decisions of the Competition Council on violations of the competition law 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 extension of the time period for decision-making cannot be appealed.

19. Thus, 15 of all final decisions of the Competition Council adopted in 2013 were appealed.

20. In 2013, **legal proceedings were closed in 17 cases**, out of which 16 of the Competition Council's decisions were recognized as justified and enforceable by the court. In one case legal proceedings were closed after entering into settlement (signing an administrative contract) and the Competition Council agreed to resume an investigation that had been previously terminated.

21. Overall, **administrative contracts** have been concluded with four market participants. The Competition Council has the right to conclude an administrative contract or settlement to end a legal dispute. That makes it possible to avoid long proceedings that usually are caused by appealing the decisions of the Competition Council, thus allowing to save state administration resources and forcing payment of the imposed fine. Yet, enterprises that enter into the contracts usually are subject to reduced amount of the imposed fine. Pleading guilty for the particular violation is one of the pre-conditions for the administrative contract set by the Competition Council. The decision of the Competition Council comes into force as soon as the contract is signed.

22. During the reporting year, a total of 32 court hearings have taken place to consider the appealed decisions of the Competition Council. At the end of 2013, there were 28 pending cases on the decisions adopted by the Competition Council.

23. Among the most important court rulings is the ruling of the Regional Administrative court thus sustaining the decision of the Competition Council adopted in 2011 on imposing fines on five construction supervision and design enterprises. These enterprises used the permissible legal status of a general partnership as the front to implement prohibited exchange of information and market sharing. The court in its ruling recognized that the Competition Council had reasonably considered the ability of every enterprise to participate in specific procurements individually without partnership as an evidence of prohibited agreement. The court also reconfirmed that defining specific market plays no essential role in carter cases and the Competition Council was allowed to leave the market definition open to interpretation.

24. Equally important is the ruling of the Supreme Court Senate to reject the claim of OU "Eisenberg Scrap Trading & Recycling" to annul the decision of the Competition Council adopted in 2012 not to initiate a case based on the application of the enterprise regarding abuse of dominant position by LSEZ AS "Liepājas osta LM" and AS "Liepājas Metalurģs". According to the decision of the Competition Council, the said enterprises did not have a dominant position, and therefore, they were not able to abuse it. The court sustained the considerations of the Competition Council that large market share on its own was not an evidence of dominant position, and when establishing that an enterprise had market power, the council had to take into consideration flexibility of market participants to the demand, profit, barriers to entry into the market, characterising features of the market and its participants, behaviour in the market and other factors.

25. First instance authorities also sustained the decision of the Competition Council adopted in 2011 to fine 22 commercial banks in Latvia for prohibited agreement.

2.3. *Investigation of Violations of the Competition Law*

2.3.1 *Prohibited Agreements*

26. In 2013, the Competition Council has adopted 14 decisions on possible violations of prohibited agreements. Thus, 7 decisions have detected violations and fines in the total amount of LVL 2 144 863.73 have been imposed on altogether 39 enterprises. One decision has been adopted on non-initiation of a case as thorough investigation did not confirm the concerns about possible violations expressed in submitted notifications. Also, 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.

27. Six out of seven violations that were detected last year involved prohibited agreements among public procurement applicants. These violations resulted in competition distortion in public procurements of construction services, archive services, diving equipment and security services. Yet, the market-sharing of accounting programmes was the only violation that involved no participation in procurements.

28. Last year, targeted implementation of educating measures by the Competition Council, thus ensuring lectures and informative materials about possibilities to identify prohibited agreements among procurement applicants have helped the Competition Council to detect more violations based on the notifications of the procurement organizers. Thus, the Ministry of Foreign Affairs, the Procurement Monitoring Bureau, the Corruption Prevention and Combating Bureau, the State Fire and Rescue Service and other institutions reported violations to the Competition Council.

29. Among the most important violations detected last year was prohibited agreement among 26 energy construction companies - distortion of competition that resulted in rising prices altogether in more than 300 procurements. The total fine in the amount of LVL 2 011 557 was imposed on the companies. Prohibited agreement resulted in distortion of competition in a total of 316 procurements organized by AS "Latvenergo" and AS "Sadales tīkls", three procurements of VAS "Latvijas Dzelzceļš", two procurements of SIA "LatRosTrans" and a procurement organized by CBF SIA "Binders". These commissioning parties purchased construction works of electrical installations and infrastructure (for example, installation, repair and modernization of power lines). The works were mainly performed in Latgale and Vidzeme, while procurement amounts ranged from several thousands to 150 thousand lats.

30. Considering the length of the infringement and severe damage to particular commissioning parties and their clients, the Competition Council imposed the highest fines since its inception in terms of percentage. The companies involved in the majority of cartel procurements were subject to a fine in the amount of 7.5 % their net turnover of previous financial year.

2.3.2 *Abuse of Dominant Position*

31. In 2013, the Competition Council adopted 6 decisions on possible abuse of dominant position. Three of them were made on detection of a violation and imposing a fine, one decision. Two decisions were taken on non-initiation of a case, while one was adopted on termination of investigation as no violation was detected.

32. The Competition Council has imposed fines in the total amount of LVL 1 615 101.22 on three commercial companies for abuse of dominant position.

33. Last year, the Competition Council imposed a fine in the amount of LVL 1 567 180 on AS "Latvijas gāze" – the company abused its monopoly power by refusing to sign natural gas supply contracts with new users before they had paid previous users' debts. The Competition Council commanded AS

“Latvijas Gāze” to halt its unfair practice and change its debt recovery practice. At the same time the Competition Council encouraged consumers and enterprises that have suffered from the illegal actions of AS “Latvijas Gāze” to exercise their lawful rights to claim indemnification of losses.

34. The collective copyright management association AKKA/LAA in Latvia was also fined for abuse of dominant position last year. The association imposed excessive tariffs on the small- and medium-sized stores and service providers for music airplay in customer and visitor areas; these tariffs were considerably higher than similar tariffs imposed not only in Lithuania and Estonia but also in the majority of the EU member states.

35. Yet, SIA “Transporta telemātikas sistēmas” has been fined for hindering competition. The company is the operator of the national database of public transportation and it has sole control of the access to the IT information, thus hindering competition among enterprises that develop, sell and service ticket cash registers and telematics equipment for public transport and gaining competitive advantages in the market. Among other things the infringement resulted in increased expenses of public transport operators and thus also the state as it covers the losses of public transport operators.

2.3.3 *Merger Control*

36. Last year, transactions of 20 enterprises have met the criteria laid down by the Competition Law, which means that in order to merge they have to obtain a permission of the Competition Council. The number of mergers considered last year is considerably higher than in previous years - in 2010, the Competition Council considered just nine mergers, while in 2011 and 2012 - 11 mergers in each.

37. Out of all cases considered in 2013, the Competition Council has adopted a permitting decision in 13 cases, while in 4 cases the merger has been permitted on binding conditions thus preventing possible harm to market and competition, and by two decisions a fine has been imposed on market participant for failure to submit the notification of a merger. In one case the investigation has been terminated because the involved companies never merged.

38. Within supervision of mergers, 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 authority endeavours to ensure fast and quality consideration of notifications submitted by market participants.

39. The Competition Council imposes special conditions to prevent possible harm of mergers to the market, competition and consumers. Thus, binding conditions have been imposed on Lithuanian company UAB “Malinvest” which acquired the shares of AS “Rīgas Dzirnānieks”, and pharmacy owner transactions have been restricted in two cases, while in one case the conditions have been imposed on telecommunication companies – SIA “BALTCOM TV” and SIA “IZZI COM”.

40. Last year, many mergers were carried out in fuel retail market – the Competition Council assessed and permitted six transactions. Along with mergers, two permitted cooperation agreements were concluded in the fuel market last year where companies agreed on providing more opportunities for consumers to use the advantages of loyalty cards.

2.4. *Sector Inquiries*

41. Sector inquiries are an essential tool to promote and protect competition – based on the information on selected target markets obtained within sector inquiries, the Competition Council analyses competition situation, as well as it develops and submits proposals for improvement of competition to

responsible institutions as necessary, and checks the supervised market for violations of the Competition Law.

42. In 2013, the Competition Council completed inquiries in fifteen markets:

- **Within autogas market inquiry** the Competition Council compiled information about competition situation and development trends in the market. The inquiry results allowed to compare autogas consumption behaviour in different European countries - in Latvia along with Belgium, the Netherlands and Italy, the share of autogas was 3.4 % of the total fuel consumption. Yet, Turkey and Poland were leaders in terms of use of autogas, and the share of autogas was 18 % and 12 %, correspondingly. Although autogas was considerably cheaper than petrol, its broader use in Latvia is hindered by such factors as difficulties to purchase and maintain vehicles having autogas devices installed, additional expenses on installation of the autogas device, relatively low number of autogas stations in Latvia, lack of state support and social preconceptions regarding this type of fuel.
- **Sector inquiry of electricity trade in free market** allowed the Competition Council to draw a conclusion that enterprises purchasing electricity in free market have opportunities to easily change suppliers. Besides, current suppliers are able to compete successfully on prices and contractual conditions, and therefore competition has high growth potential in this market. However, timely defining of deadlines for market opening is an essential precondition for successful competition after the expected market opening for electricity supply to households, thus providing potential market participants an opportunity to plan their activities in the market.
- The Competition Council carried out **teaching material publishing and sales market inquiry** at the request of the Ministry of Education and Science. No violations of the Competition Law were detected within the inquiry. At the same the inquiry allowed to conclude that the state and local governments should use the possibilities to purchase teaching materials without retail trade markup at broader level. The retail trade markup for textbooks ranged from 20 % up to 70 %. The huge volume of books sold by publishers to bookstores was a clear sign of the failure to fully use the opportunities to purchase textbooks wholesale.
- The Competition Council commenced **heat supply sector inquiry in Jūrmala city** based on the information of several apartment owner associations and property management companies in Jūrmala regarding possible distortion of competition. Within the inquiry the Competition Council established that SIA “Jūrmalas Siltums” hindered equal competition among local government and private property management companies, thus preventing costumers of private property management companies from making payments directly to SIA “Jūrmalas siltums”. Since the heat supply company voluntarily agreed to halt the discriminatory payment procedure, the Competition Council decided on non-initiation of a case against abuse of dominant position, instead applying a new solution - a warning. Thus, the damage to the market and consumers were prevented as soon as possible, avoiding the entire duration of investigation and possible legal proceedings and saving resources of all parties involved.
- Within the **sector inquiry of sales market of medicinal products for diseases of circulatory system** the Competition Council studied the market structure and trends, as well as evaluated factors that influence the pricing, access to original and generic drugs and their mutual effect. The Competition Council detected no distortion of competition that would prevent new participants from starting to produce or sell drugs for treatment of cardiovascular diseases.
- Within the **sector inquiry of milk supply contractual conditions** the Competition Council checked, whether AS “Rīgas piena kombināts” and AS “Valmieras piens” complied with the binding conditions imposed as a result of their merger in 2012, as well as the Council assessed the impact of the merger on the dairy sector. During the sector inquiry the Competition Council established that in general, both

companies complied with the binding conditions on giving a timely warning to suppliers regarding termination of a contract.

- **The sector inquiry of manufacture and wholesale of veterinary drugs** was aimed at identifying the market structure, the market and trends from 2007 to 2012. The information obtained within the inquiry allowed the Competition Council to detect two violations of the competition law. Thus, a wholesaler of non-productive pet food and medicine was fined for fixing a minimum resale price and market sharing that restricts opportunities of consumers to buy specific products in specialised pet shops and veterinary clinics for lower prices. Yet, another wholesaler of non-productive pet food had been restricting the possibilities of its cooperation partners - retailers to set lower prices in their stores for 11 years, thus violating the condition on prohibited agreements.
- **The sector inquiry of metrology services** allowed to detect the risks of competition distortion caused by activities of SIA “Latvijas Nacionālais metroloģijas centrs” in the market. This company was both a competitor and inevitable business partner of all companies providing metrology services, thus it had the power to influence competition conditions in the market, gaining advantages. The Competition Council reported the identified risks to the Ministry of Economics which had started working on the risk assessment.
- **The regional sector inquiry of drug retail trade in Sigulda** was carried out based on the application of a market participant - the concerns about unnotified and thus illegal merger of market participants did not confirm; however, it became clear that there had been a rapid increase in market concentration of one market participant in Sigulda.
- **The sector inquiry of beauty and household products** was carried out to check the competition situation in the market after the violations committed by AS “Drogas” in 2012. The Competition Council established that the company had complied with all legal obligations imposed by the institution - it had prevented the violations detected and improved cooperation with suppliers.
- The information obtained within the **sector inquire of public procurement of medical devices** gave reason for concerns about supranational barriers to free competition, and therefore the Competition Council forwarded the data obtained to the European Commission for further action.
- **The sector inquiry of AS “Latvenergo” heat energy pricing in Riga heat energy wholesale market** was carried out to evaluate the competition situation in the market after the enforcement of the Competition Council’s decision adopted in 2009 establishing factors affecting competition in the activities of AS “Latvenergo”, while the company undertook to prevent them.
- **The sector inquiry of ship-generated oily waste treatment** provided the Competition Council with information about the competition situation in the market which was necessary for the decision-making on further action under legal proceedings as a result of the Competition Council’s decision adopted in 2012 establishing a violation in the activities of SIA “Eko Osta”.
- Within the **sector inquiry of tugboat services** the Competition Council has evaluated the competition situation in the particular market, while the data obtained within the inquiry will be used in further investigation of violations related to this market.
- After completing the **sector inquiry of pharmacy and laboratory testing** the Competition Council addressed general physicians, encouraging them to promote competition in the laboratory testing market by their choice and actions. Thus, general physicians should select a service provider after careful consideration of all options, as well as explain their patients as far as possible that they are free to choose any laboratory service provider depending on accessibility, prices, service quality and other factors.

43. Thus, in 2013, the Competition Council continued previously initiated and new market inquiries expected to be continued also in 2014. At the end of 2013, the Competition Council continued inquiries in 16 different markets.

2.4.1 Monitoring of the euro changeover process

44. In 2013, Latvia was getting ready for introduction of the euro and the Competition Council participated in the national market inquiry activities and verified that enterprises would not enter into prohibited agreement or otherwise concerted their actions with an aim to increase prices unreasonably due to introduction of the euro.

45. Within the monitoring the Competition Council analysed processes in the market, as well as worked in close cooperation with the Consumer Rights Protection Centre and the Ministry of Economics, using the data of price monitoring conducted by these authorities to assess price fluctuations for certain food and non-food products on a weekly basis, thus analysing relations within one retail chain and among competitive retail companies in different cities and towns across Latvia. The Competition Council also received and evaluated consumer reports to the Consumer Rights Protection Centre regarding the increase in prices.

46. During the reporting year, specialists from the Competition Council met with enterprises and their non-governmental organization to actively inform them about the need to respect the competition law. In certain cases the Competition Council gave a warning based on public statements of enterprises that contained some signs of possible violations in their future actions.

2.5. Improvement of Legal Framework

47. In order to make the application of the Competition Law more efficient and easier for entrepreneurs and to ensure its conformity to the decisions of the EU Court and the best practice of the EU Member States, in 2013, specialists of the Competition Council continued working on the amendments to the Competition Law. Thus, the draft amendments were announced at the Meeting of State Secretaries on September 19, 2013 and the draft law was further coordinated at the first inter-ministerial meeting on December 20, 2013. The said amendments were aimed at expanding the opportunities for enterprises to receive exemption from the fine, to explain their position to the Competition Council and to receive indemnification of the losses incurred due to distortion of competition. The procedure for merger control was also streamlined and the opportunities for the Competition Council to force the enterprises to pay the imposed fines and comply with the imposed obligations were reinforced, as well as an opportunity for the Competition Council to allocate its resources to investigation of the most severe violations was provided.

48. In 2013, massive contribution has been provided to the drafting of the Law on the Prohibition of Unfair Practices of Retailers, by participating to the Committee's meeting of the Cabinet of Ministers and further coordination of the draft law with the interested parties, retailers' and manufacturers' associations. The law is expected to further replace or specify regulations of relations between large retail chains and small and medium suppliers currently laid down in the Competition Law.

49. In 2013, the Competition Council continued working on the amendments to the Civil Procedure Law and the Competition Law to simplify the procedure for bringing an action in court concerning violation of the Competition Law and recovery of losses.

50. In order to eliminate administrative barriers and promote competition for the benefit of consumers, in 2013, the Competition Council has provided opinions on **nearly 20 draft laws and policy planning documents at the various stages in the decision-making procedures, as well as effective laws**

and regulations applicable to different sectors like postal services, waste management, port activities, electricity production, public procurements, and others.

51. During the reporting year the Competition Council has participated in discussions on the possibilities to prevent the distortion risks of competition with the representative from the Ministry of Health, the Ministry of Agriculture, the Ministry of Transport, the Ministry of Justice, the Ministry of Environmental Protection and Regional Development and the Ministry of Finance.

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

53. Thus, last year, the Competition Council objected towards the expected amendments to the Law on Application of Taxes in Free Ports and Special Economic Zones because they were expected to impose additional conditions on business activities in the territory of free ports – the need for the title to land in the port territory. Whether the purpose of the use of the land is provision of certain services (there is no objective need for the title to land for provisions of tugboat services and waste removal services) or not, such requirement would restrict equal competition and business start-up or continuation in the port territory since land in these territories was a particularly limited resource.

3. Management of the competition council

3.1. State Budget Financing and Use Thereof

54. In 2013, the Competition Council has used financing in the total amount of LVL 581.24 thousand (USD 793 916) within the sub-programme “**Implementation of Competition Policy**”. Financing in the amount of LVL 581.21 (USD 793 873) thousand have been used for implementation of the principal activities of the Competition Council (see Table 3).

55. 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 2.2 % of the financing approved within the budget for the sub-programme “Implementation of Competition Policy”.

56. In 2013, the Competition Council has used 97.97 % of the financing allocated to the institution. The main reasons for not using the full amount of financing were the following: it was not possible fill in all vacant positions because a number of personnel selection tenders were closed without results, as well as the final financing under the twinning project were never provided.

Table 3. Financing for principal activities of the Competition Council (LVL)

No	Financial indicators	Previous year (actual performance)	Reporting year	
			Approved by law	Actual financial performance
1.	Financial resources to cover expenditures (total)	576 097	580 256	581 209
1.1.	Grants	576 097	580 256	580 256
1.2.	Chargeable services and other			953

	own income			
1.3.	Foreign financial assistance			
1.4.	Donations and gifts			
2.	Expenditures (total)	541 468	580 256	579 774
2.1.	Maintenance costs (total)	538 145	577 014	576 549
2.1.1.	Current expenditure	538 145	577 014	576 549
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 on capital investments	3324	3 242	3 225

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

No	Financial indicators	Approved by law	Actual financial performance
1.	Financial resources to cover expenditures (total)	13 000	27
1.1.	Grants		
1.2.	Chargeable services and other own income	13 000	27
1.3.	Foreign financial assistance		
1.4.	Donations and gifts		
2.	Expenditures (total)	14 448	1 446.6
2.1.	Maintenance costs (total)		
2.1.1.	Current expenditure		
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 on capital investments		

3.2. Personnel

57. In 2013, the Competition Council had 45 job positions, out of which 38 – state civil servant positions and the remaining seven – employee positions.

58. The actual number of persons employed at the institution in late 2013 was 35 persons, 28 of them were state civil servants and seven – employees.

59. In 2013, 63 % of the Competition Council’s personnel were women and 37 % - men (see Figure 6). The average age of personnel at the end of reporting year was 34.5 years.

60. Six of the Competition Council’s employees work as lawyers (in Legal Departments and Legal Support division), 22 work as economists in analytical departments (some of them have education in law, some in economics), and seven are support staff.

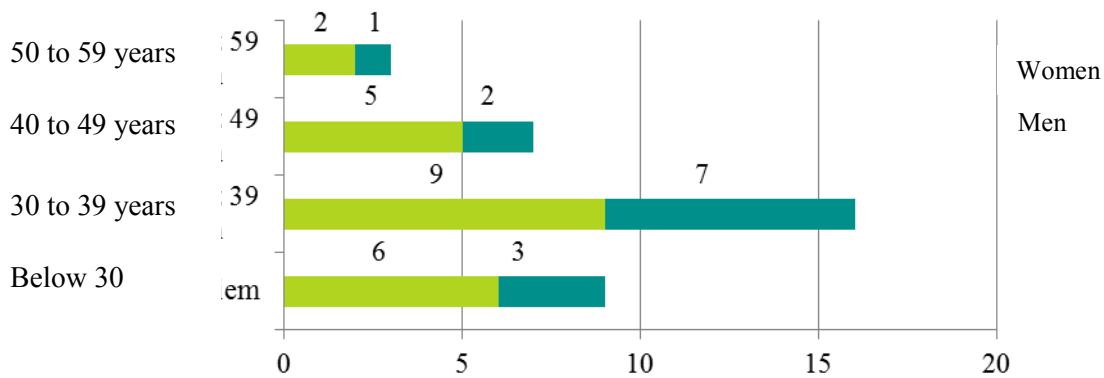


Figure 6. Number of personnel by age and gender groups

61. In 2013, state civil service relations were established with one servant, while employment legal relations were established with one employee. In 2013, five civil servants were dismissed.

62. At the end of the reporting year, 23 % of the employees had worked at the institution for more than 10 years. Breakdown of personnel by length of employment at the institution is shown in Figure 7.

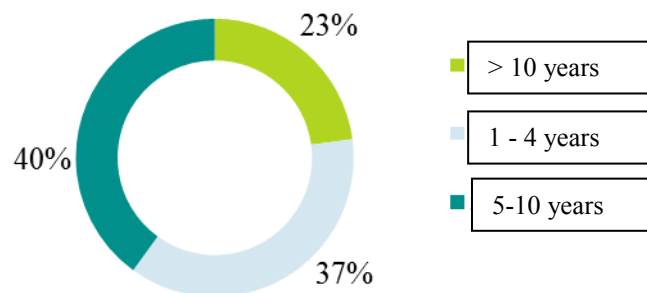


Figure 7. Breakdown of personnel by length of employment at the Competition Council

63. In late 2013, the assessment carried out via the single public administration performance assessment system NEVIS showed that the performance of 76 % employees was assessed as “very good” and “good”, while 19 % - “excellent”. Yet, 5 % of employees should improve their performance.

64. In 2013, 33 of 35 employees of the Competition Council had higher education and 25 employees or 71 % of the total number of personnel had obtained master’s degree. Several servants have acquired two higher educations.

65. Considering the specific nature of the institution, the majority of employees have acquired legal or economic education. The rest have acquired education in engineering sciences, management, communication sciences and other.

3.3. Improving Performance of the Institution

66. The activity of the Competition Council is based on the principles of good governance 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 respects the rights and lawful interests of private individuals.

67. The Competition Council strives to improve its performance, and therefore it is committed to use available internal and external resources as efficient as possible.

68. Thus, in 2013, the Competition Council has taken major steps towards improvements of internal culture and personnel motivation system within the institution. It has been achieved through the single public administration performance assessment system NEVIS, thus identifying and evaluating the needs, desires and opinions of the personnel regarding their work at the Competition Council.

69. In 2013, the structure of the institution has been changed to ensure efficient use of the Competition Council’s knowledge and experience, as well as to develop favourable environment for further growth. Therefore, new structural unit - Informatics and information processing division has been established early last year with the core mission to conduct in-depth analysis of market processes, as well as obtaining and analysing of electronic.

70. Yet, as a result of reorganization of the existing structural units of the Executive Directorate, the **Department of Prohibited Agreements** has been established on February 1, 2013. The mission of the new department is targeted and focused fight against cartels through detecting and preventing such violations and providing information and educating enterprises and budget authorities across.

71. Violations of the competition law are often indissolubly linked with other areas of the law, and therefore the Competition Council has strengthened cooperation with other public administration authorities - the Corruption Prevention and Combating Bureau, the State Revenue Service, the Register of Enterprises, the Security Police - to effectively use the information available to the public administration to detect, assess and prevent distortion of competition.

72. In order to ensure maximum quality and fast investigation of cases by balancing openness and data protection, the Competition Council continued improvements of internal regulations.

4. Communication with the public

4.1 Public Information and Education Measures

73. An essential communication channel between the Competition Council and its target audience is the **website** of the authority www.kp.gov.lv.

74. For the purpose of finding ways to help enterprises to better understand and exercise their competition rights, as well as give an opportunity to find out the latest news of competition surveillance in Latvia and Europe, the Competition Council started to publish a newsletter **Competition Close-Up** in 2013. To receive the quarterly newsletter by e-mail, all interested persons have to register on the website of the Competition Council.

75. In order to match the newsletter with the interests and needs of entrepreneurs, any interested person has an opportunity to suggest a topic on which she/he would like the Competition Council to provide an explanation.

76. The Competition Council **informs mass media** on the adopted decision and latest news in competition control on regular basis because each single decision applies not only to the particular case and market participants but also to the entire competition environment.

77. To provide broader explanation of decisions that are particularly important for markets and consumers, the Competition Council organizes **press conferences**. Thus, four special information measures have been held in 2013.

78. Along with explanation of the nature of the competition law, experts of the Competition Council **provide lectures and seminars** for employees of certain companies and students of Latvian higher education institutions and employees of the state and local governments.

79. To provide practical support and knowledge to enterprises to ensure competition and cooperation in accordance with the competition law, the Competition Council in collaboration with the Employers' Confederation of Latvia held a conference "Competition and Agreement: What an Enterprise Should Know". Participants of the conference had an opportunity to listen to the speeches of international experts - Mr. Hassan Qaqaya, the Head of Competition law and Consumer Policies Branch of the United Nations Conference on Trade and Development and professor Anders Paalzow, the Rector of Stockholm School of Economics in Riga, as well as presentation of Latvian competition law specialists, lawyers and representatives of enterprises and their associations.

80. 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 2013, over 200 consultations have been provided.

4.2 Public Involvement

81. 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 laws and regulations allows to timely prevent possible shortcomings, while consultations on effective law ensure understanding thereof and promote compliance with the law.

82. In order to discuss topical competition policy issues representatives of the Competition Council meet representatives from Professional and sectoral associations.

83. Last year, the Competition Council in cooperation with students of Alberta College implemented business and broader social surveys. Within the business survey the institution identified the intensity of application of corporate compliance programmes of the competition law, thus determining what kind of support enterprises need for development and implementation of such programmes.

84. Yet, the social survey allowed to identify the degree of public awareness of the Competition Council and opinion on competition policy issues.