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**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN ISRAEL**

**-- 2013 --**

**18-19 June 2014**

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

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## ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN ISRAEL<sup>1</sup>

### 1. Executive Summary

1. This report summarises recent developments and changes in Israel's competition law and policy and overviews some of the main enforcement activities of the Israeli Antitrust Authority (hereinafter – IAA) according to the Restrictive Trade Practices Act, 5748-1988 (hereinafter – “Antitrust Act”) for the period of January 2013 through December 2013.

The IAA is an independent government enforcement agency established in 1994 under an amendment to the Antitrust Act. Its mandate includes preventing market power through merger control and prohibition of restrictive agreements, preventing the abuse of a dominant position, and enhancing competition in the various markets in Israel. An Antitrust Tribunal, residing within the District Court of Jerusalem, has exclusive jurisdiction over non-criminal regulatory antitrust proceedings. The District Court of Jerusalem has exclusive jurisdiction over criminal antitrust matters. Both criminal and civil antitrust rulings are subject to appeal before the Supreme Court of Israel.

2. In the period covered by this report, the IAA acted to protect and promote competition in various sectors of the economy through proactive enforcement of the Antitrust Act, merger control, promotion of legislative amendments, and advocacy efforts. The notable developments include:

- During 2013, the Knesset (The Israeli Parliament) passed The Law for the Promotion of Competition and Reduction of Economic Concentration, which dictates that the Director General will **advise the government and its agencies regarding the repercussions of the allocation of economic rights** (e.g. licences and permits) and state assets on competition and on consumer welfare. Furthermore, the Director General was appointed as chairman of the Concentration Reduction Committee, which was formed to advise the government on the ramifications of the allocation of economic rights and state assets on the concentration in the overall economy.
- On December, the Jerusalem District Court convicted Shufersal (the largest food retailer in Israel) and two of its senior executives for not complying with conditions imposed on it in a merger and for **attempting to reach a restrictive arrangement with suppliers aimed to prevent discounts granted by a competing food retailer**.
- On October, the IAA launched an investigation regarding **suspicious of illegal restraints of trade among the leading coffeehouse-chains in Israel**. According to the suspicion, coffeehouse chain owners discussed possible reactions to the entry of a new coffeehouse chain into the market. The investigation has been concluded, and the findings are examined by the IAA's legal department.
- On December, the Director General reached a **consent decree with suppliers of baby formula**. The consent decree induces a situation in which all hospitals are open to all baby formula suppliers, thereby substantially reducing entry barriers and expansion barriers for new or small baby formula suppliers.

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<sup>1</sup> Disclaimer: The information included in the Annual Report on Competition Policy Developments in Israel is published for informational purposes only. It does not constitute legal advice and does not derogate in any way from any official documents.

- On August, the Director General instructed **Shva (a company owned by the 4 largest banks in Israel, which controls and operates the credit card switch)** to remove all technological barriers that prevent or restrict entry of new acquirers and issuers into the Israeli credit card market.
- On September, the Director General published a **proclamation regarding the existence of a global cartel in the Gas insulated switchgear market**, which existed from 1998 to 2004. The global cartel, comprised of foreign companies, also affected the Israeli market, mainly with regard to the Israel Electricity Corp (“IEC”). On December, IEC filed a 3.8 billion NIS lawsuit against the members of the international cartel based on the determination issued by the Director General.
- On November, the Director General exercised the new provision in the Antitrust Act concerning collectively dominant firms, enacted in 2012, for the first time and declared **the two dominant sea ports in Ashdod and Haifa a collectively dominant group in the market of container loading and unloading**. The Director General further ordered the two ports to refrain from taking actions undermining the entry of new players into the two new ports expected to be built in Israel, including an order preventing the incumbent ports from operating the new ports.
- On July, the Director General wrote a letter to the ministers of energy, treasury and economy advocating for **the IAA's vision regarding the optimal competitive structure of the electricity market**. The IAA's analysis shows that only total separation of ownership and control between generation, transmission and distribution of electricity will achieve a well-functioning and competitive electricity market.

## 2. Changes to competition laws and policies

### 2.1 Summary of new legal provisions

#### 2.1.1 *Law for the Promotion of Competition and Reduction of Economic Concentration, 5774 – 2013:*

3. In December 2013, the Israeli Parliament had enacted the Law for the Promotion of Competition and Reduction of Economic Concentration, 5774 – 2013, which, inter alia, provides that the Director General of the IAA will advise government agencies regarding competition considerations in privatizations, the granting of licenses and other forms for allocation of rights in government assets. The new law requires government agencies to seek the Director General's advice in matters in which the Director General has determined he wishes to provide advice. In addition, the Director General is the chair of the Reduction of Economic Concentration Committee, which the law establishes. The Committee is required to advise government agencies on considerations concerning the reduction of overall economic concentration in the Israeli economy. The committee will provide its advice in procedures of privatizations, granting licenses and other forms for allocation of rights in essential facilities.

#### 2.1.2 *Block Exemption for non-Horizontal Agreements which do not include certain price Restraints:*

4. The Director General published a Block Exemption regarding non-horizontal agreements that do not certain include price restrictions such as minimum resale price maintenance. Arrangements that meet the requirements of the block exemption are not subject to the general duty to notify the IAA about them and seek their approval.

5. The Block Exemption has three main requirements. First, it does not apply to horizontal agreements (agreements among competitors); second, the exemption does not apply to agreements that include minimum resale price maintenance and analogous restraints.

6. Third, the exemption does not apply to naked restraints or to restraints that may substantially harm competition.

*2.1.3 Amendment to the Block Exemption for Arrangements among Air Carriers:*

7. The Block Exemption for Arrangements among Air Carriers was amended in November 2013, concerning "Wet Leases" and "Dry Leases" of airplanes. The amendment provides that such leases that involve international carriers are exempt, as long as they do not include naked restraints or restraints that may substantially harm competition. Agreements among Israeli carriers have to meet additional requirements in order to be included in the Block Exemption, and have to be notified to the IAA.

**2.2. Summary of New Guidelines**

*2.2.1 Draft Guidelines regarding exchange of competitively sensitive information between competitors in due diligence procedures*

8. In March 2013 the IAA released draft guidelines regarding the exchange of competitively sensitive information between competitors in the course of due diligence procedures accompanying mergers and acquisitions or joint ventures. Sharing competitively sensitive information between competitors may constitute an unlawful restrictive practice. The draft guidelines define what constitutes competitively sensitive information and instructs how to minimize the risk of committing a restrictive practice during due diligence procedures.

9. By taking into account a variety of transactions, the different circumstances of each transaction and the varying levels of competitive sensitivity of different types of information, the draft avoids issuing rigid instructions that may be too strict in some cases and too lenient in others. Instead, it proposes the implementation of a set of principles and tools based on the specific characteristics of each transaction.

10. The basic principle of the draft is that the strictness in applying the guidelines should depend on how competitively sensitive the information is and how likely it is that the transaction will pass all regulatory and commercial obstacles and be successfully concluded. Being closely acquainted with the transaction, the market, the nature of the information etc., the parties are in a good position to evaluate the relevant factors and the competitive sensitivity of the information and are expected to implement the guidelines accordingly.

11. According to the guidelines, before sharing the information, the parties must evaluate how competitively sensitive it is, taking into consideration the nature of the information, the structure of the market, and the parties' position in it. Information found to be sensitive should not be shared unless it is essential for due diligence and only to the extent that it is necessary, taking into account the stage of the transaction and the probability of its regulatory authorization. Sharing sensitive information should be conditioned on the other party committing to confidentiality. Wherever possible, the information should be shared in an aggregated form, with as little detail as can reasonably be used for proper due diligence. The same principle should apply to how up-to-date the information should be.

12. Wherever possible, considering the aim of due diligence on the one hand and the competitive sensitivity of the information on the other, information should be shown to third parties not employed by the parties, such as lawyers, accountants, professional advisers etc., who would be authorized to supply "bottom line" information to the other party and would avoid transferring sensitive details. Employees of the parties not involved in pricing, marketing or sale of the products in competition may also be exposed to relevant information under the same limits. Where there is a practical necessity, employees of the parties who are involved in pricing, marketing or sales may be exposed to competitively sensitive information, under certain limitations.

13. The draft stresses the critical role of detailed real time documentation of the information-sharing procedures during due diligence.

#### *2.2.2 Draft Guidelines concerning trade associations*

14. In November 2013 the IAA released draft guidelines regarding trade associations and their activities. Trade associations may have an important role in economic life, reducing costs, contributing to professional standards and ethics, representing the sector and its legitimate interests in the regulatory and public arenas, as well as other legitimate activities. Yet trade associations may have the potential to reduce competition in many aspects. Trade associations may be used as a cover for collusion or may encourage parties to coordinate their commercial activity. Trade associations may ease exchange of competitively sensitive information between its members and may be used as a platform to boycott non-member competitors, suppliers or customers. Ethical codes or professional standards may be used to block actual or potential competitors or stifle competition.

15. The draft stresses that a trade association is not regarded per se as a restrictive arrangement, though some of its activities may constitute such an arrangement. It offers a set of principles and practices trade associations may adopt and implement, which would be regarded as best practices and as reasonable means to prevent restrictive arrangements.

16. The draft refers to association meetings, which should not allow the exchange of commercial or strategic information or statements. It also refers to the fact that the association may not issue instructions or recommendations that might restrain trade. Other guidelines include the collection of sensitive information by the association, its processing and distribution to members; representation of the association and its members vis-a-vis regulators, courts and the public; self-regulation and ethical codes that might be used to block or undermine competition; and conditions for membership in the association when membership may affect competitiveness..

### **3. Enforcement of competition laws and policies**

#### *3.1 Actions against anticompetitive practices*

17. Severe antitrust violations of the Antitrust Act may be subject to criminal prosecution that may result in fines and prison sentences. Liability is imposed upon the corporation and its executives.

18. The civil and administrative remedies for infringements of the Antitrust Act include financial sanctions, consent decrees, injunctions and court orders granted by the Antitrust Tribunal. The Director General has the power to declare an activity as prima facie illegal, to issue rules of conduct to monopolies and to collectively dominant firms, and to impose administrative fines. In criminal cases, the antitrust authority can prosecute violators.

The Antitrust Act stipulates that the concentration of more than half of the total supply or acquisition of an asset, or more than half of the total provision or acquisition of a service, in the hands of one person, is considered a **Monopoly**.

The Act defines firms in a market as “**collectively dominant**” when a small group of firms possesses collectively more than half of the total supply or acquisition of an asset, or more than half of the total provision or acquisition of a service, if the following two conditions are met: (1) there is little competition between firms, or there are conditions for little competition; and (2) provisions issued by the Director General may prevent harm or a probable substantial harm to the public or to competition, or may substantially enhance competition or create conditions for considerable enhancement of competition. Conditions for little competition include barriers to entry, combined with two or more of the following conditions: Switching costs, cross ownership or joint ownership among competitors, symmetric market shares, similarity of products or services, a large number of customers or suppliers, transparency of the main terms of trade among competitors.

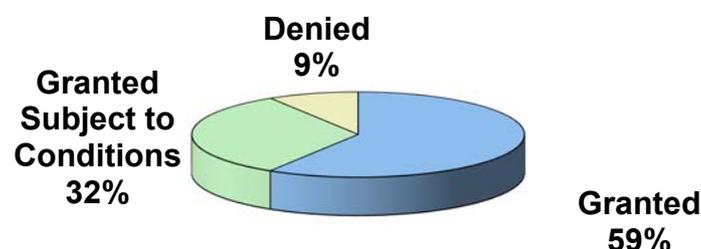
The Act defines a “**restrictive arrangement**” broadly as an arrangement made between two or more persons conducting business that limits at least one party to the arrangement in a manner that may prevent or reduce the competitive process. The Act also provides a list of per se prohibitions. In particular, an arrangement involving a restraint relating to one of the following issues shall be deemed to be a restrictive arrangement: the price to be demanded, offered or paid; the profit to be obtained; division of all or part of the market; the quantity, quality or type of assets or services in the business.

19. Engagement in a restrictive arrangement without prior authorisation of the Antitrust Tribunal or any other temporary authorisation is prohibited, unless the arrangement was specifically exempted by the Director General or in case it was covered by a block exemption, or covered by the exemptions included in section 3 of The Act, such as restraints imposed by law, agricultural produce, and intellectual property licensing. During 2013, the Director General handled exemption requests as follows:

<b>Total number of Exemptions</b>	<b>Granted</b>	<b>Granted Subject to Conditions</b>	<b>Denied</b>
68	40	22	6

20. In many cases, after the antitrust authority expresses concerns regarding a restraint of trade, the parties to it withdraw their application. Many of the cases that were subject to conditions included structural remedies such as divestiture.

## Decisions in Exemption Requests 2013



### 3.1.1 Summary of main activities

21. The IAA devotes extensive efforts and resources to enforcement against anticompetitive practices and cartel arrangements in a wide range of industries. The following illustrates some of the main enforcement activities:

#### 3.1.1.1 Services to the payment card industry:

22. On August 27<sup>th</sup> 2013 the Director General issued conditions for the continued operation of an agreement between several large banks in Israel operating the credit card switch. The conditions were aimed at removing entry barriers to the credit card field.

23. The 4 largest banks in Israel are the owners of SHVA, a joint venture supplying switching and other communication and computerized services. SHVA's services are used by ATM's and credit card companies. The owners of SHVA, namely: Leumi, Hapoalim, Discount and First International Bank are also owners of the three credit cards companies who are connected to SHVA – Isracard, Leumi-Card and CAL.

24. According to an extensive market investigation carried out by the IAA, one of the major entry barriers faced by new credit card companies is associated with the necessity of connecting to SHVA's network. Therefore, the Director General conditioned the banks' joint ownership of SHVA on SHVA rebuilding its computer system in a way that would enable new credit card companies quick and low-cost connection to SHVA. The Director General further ordered SHVA to develop its system according to international standards.

#### 3.1.1.2 IAA's involvement in the media-buying market:

25. The Director General opposed a joint purchase agreement and approved another agreement subject to conditions during 2013.

26. Media buying of commercial airtime on television is provided mainly by specialised companies, most of which are owned by advertising agencies. In 2013, the IAA handled 2 requests of joint purchasing agreements. The first involved two of the top 5 media buying firms, Zenit Media and TMF. The IAA's

analysis revealed that Zenit and TMF's joint market share was substantial. This arrangement therefore raised concern that the joint company would be able to exercise unilateral market power in the media buying market, or that coordinated effects may evolve. Therefore, the IAA opposed this application and denied the grant of an exemption.

27. Later that year, the IAA examined an agreement between the largest media buying company, Universal-McCann and one of the top-10 advertising agencies. The IAA found that the agreement would create a combined market share exceeding 25%, which would have allowed Universal-McCann to exercise market power in the media buying market with respect to television advertisement. For that reason, the IAA conditioned its approval on a restriction barring Universal-McCann from exceeding a 25% market share.

#### 3.1.1.3 Involvement vis a vis the airport authority

28. On August 2013, the Director General had notified the **Israeli Airport Authority** that he refuses to approve the entry of the owner of the largest general terminal for unloading cargo in the Ben Gurion International Airport, Maman, into the **agricultural terminal**. The IAA found that such entry of the owner of the general terminal to the agricultural terminal as well would prevent the entry of a new player to the agricultural terminal. The IAA's inquiry found that there could be competition between the general terminal and the agricultural terminal on the business of exporters of agricultural produce requiring refrigeration. On November 2013, after conducting a new bid, a new player had indeed entered the agricultural terminal.

29. On May to July 2013, the Director General intervened with regard to the **Israeli Airport Authority's decision to reduce the number of firms supplying ground services** to airlines from three to two. Following the IAA's intervention and private litigation, the Airport Authority restored the number of competitors to three.

#### 3.1.2 Criminal Cases

##### 3.1.2.1 The Bread Cartel:

30. The IAA decided to prosecute the major bakeries in Israel: Angel Bakeries, Berman, Davidovich, Merhaviv, Oranim, Ahdut, Alumot, Dganit Eyn Bar, executives and other senior officers. According to the indictment, in late February 2010, the bakeries coordinated, inter alia, prices and allocated the market among them.

31. In July 2013 one of the defendants who played a more minor role in the cartel, pleaded guilty in a plea bargain and was sentenced to 6 months community service and a fine of 50,000 Nis.

##### 3.1.2.2 The Pruning Cartel:

32. In 2013, the IAA filed an indictment against the managers and owners of several pruning companies. According to the indictment, the suspects engaged in bid rigging in bids for pruning services at the expense of the Israeli Electric Company and several Israeli municipalities.

33. During 2013, the case was in trial in front of the district court in Jerusalem.

##### 3.1.2.3 The Insurance Appraiser Association case:

34. The IAA decided to prosecute the Association of Insurance Appraisers and a few of its members for coordinating fees and boycotting bids.

35. During 2013, the case was in trial in front of the district court in Jerusalem and in 2014 all the defendants were found guilty. The sentence has not yet been determined.

#### 3.1.2.4 The Meteorological Station Services Cartel:

36. The IAA decided to prosecute suppliers of services for meteorological stations and their executives for bid rigging in bids for the maintenance of meteorological stations in the Southern and Northern parts of Israel.

37. During 2013, the case was in trial in front of the district court in Jerusalem.

#### 3.1.2.5 Water Meter Cartel:

38. In 2011, the IAA indicted the managers and owners of water meter companies. According to the indictment, the suspects engaged, Inter alia, in bid rigging.

39. In November 2013, one of the defendants, an executive liable through a section in the Act imposing liability on executives that did not commit the violation themselves, that did not know about the violation, pleaded guilty in a plea bargain and was sentenced to 70 days community service and a fine of 175,000 Nis.

#### 3.1.2.6 The Food chain case:

40. In December 2013 the District Court in Jerusalem convicted the former CEO and vice CEO of the largest food chain in Israel in two violations of the terms of a merger and four attempts to reach a restrictive arrangement with large suppliers to stop discounting by the second largest food chain.

41. The sentence has not yet been determined.

#### 3.1.2.7 The Laundromat Cartel:

42. In 2013, the IAA filed an indictment against the managers and owners of two laundromats. According to the indictment, the suspects engaged, Inter alia, in bid rigging.

#### 3.1.2.8 The Contractors Cartel:

43. The IAA indicted several contractors that allegedly coordinated to boycott a bid for constructing protections from missile attacks to the residential areas surrounding the Gaza strip.

44. During 2013, following arbitration ordered by the court, one of the defendants, who owned a small construction company, pleaded guilty in a plea bargain and was sentenced to 60 days community service and a fine of 60,000 Nis.

#### 3.1.2.9 Book Shop Case:

45. During 2013 the IAA held a hearing for one of Israel's leading book chains for allegedly violating terms of a merger approved by the IAA. In 2014, in a consent decree, the CEO of the book chain paid 50,000 ILS and the company paid 1.5 million ILS.

#### 3.1.2.10 Book Distributors Cartel Investigation

46. On May 2013, following a covert investigation, the IAA launched an open investigation against a suspected cartel between 6 major distributors of textbooks in Israel, dividing the market via bid rigging and coordinated boycotts vis a vis schools, municipalities and the ministry of education.

#### 3.1.2.11 Coffee Chain Collusion

47. On October 2013, the IAA launched an investigation regarding suspicions of illegal restraints of trade among the leading coffeehouse-chains in Israel. According to the suspicion, coffeehouse owners discussed possible reactions to the entry of a new competitor to the market. The investigation has been concluded, and the IAA's legal department is examining the findings.

#### 3.1.2.12 Bid-rigging over the purchase of real estate owned by the Jewish Agency

48. On August 2013, the IAA investigated four companies under the suspicion that prior to bidding for the sale of an asset belonging to the Jewish Agency they had agreed to stop the bidding at a pre-arranged amount, allowing for only one bidder to succeed, in exchange for a side-payment.

### 3.1.3 *Monopolies and collective dominance*

#### 3.1.3.1 Bottle Recycling Monopoly:

49. On July 2013, the Director General determined that Ela, the bottle recycling monopoly, abused its dominant position in bottle recycling in Israel by allegedly worsening the terms of one of the bottle collectors for Ella and by that trying to squeeze this collector out of the recycling market, after this collector attempted to compete with Ela as a recycling company.

#### 3.1.3.2 Ports collective dominant group:

50. On November 2013, the Director General has declared that the Ashdod Port Company and the Haifa Port Company (together: "the port companies") are collectively dominant in the loading and unloading of shipping containers.

51. In the declaration, the Director General also ordered the ports to refrain from taking actions which can undermine the competitive benefits of the expected building of two new ports in Israel. In particular, the declaration forbids the incumbent ports from entering the new ports that are to be built or interfere with the entry of the new ports.

#### 3.1.3.3 Baby formula consent decree:

52. On December 2013 the Director General has reached a Consent Decree with the suppliers of baby formula to remove entry barriers into the market.

53. The IAA's inquiry has revealed that the exclusivity of baby formula suppliers in hospitals creates a loyalty of customers to the baby formula supplied to them in the hospital, which allows the exclusive supplier to charge high prices. Consequently, the Director General held a hearing before declaring the baby formula suppliers as collectively dominant and issuing provisions to induce a situation where all hospitals are open to all baby formula suppliers. Eventually, the Director General reached a consent decree with the suppliers implementing the same provisions. The consent decree allows the parents to choose the baby formula supplied to them in the hospital and induces a situation where all baby formula suppliers are present in all hospitals.

## 2.2 Mergers

### 2.2.1 Statistics on merger review

54. Merger review constitutes an important part of the IAA's mission to prevent the formation of market power that is detrimental to competition.

Mergers that cross certain **thresholds** must obtain the approval of the Director General before the execution of the transaction. Merging parties must submit a merger notification in the event that one of the following conditions exists:

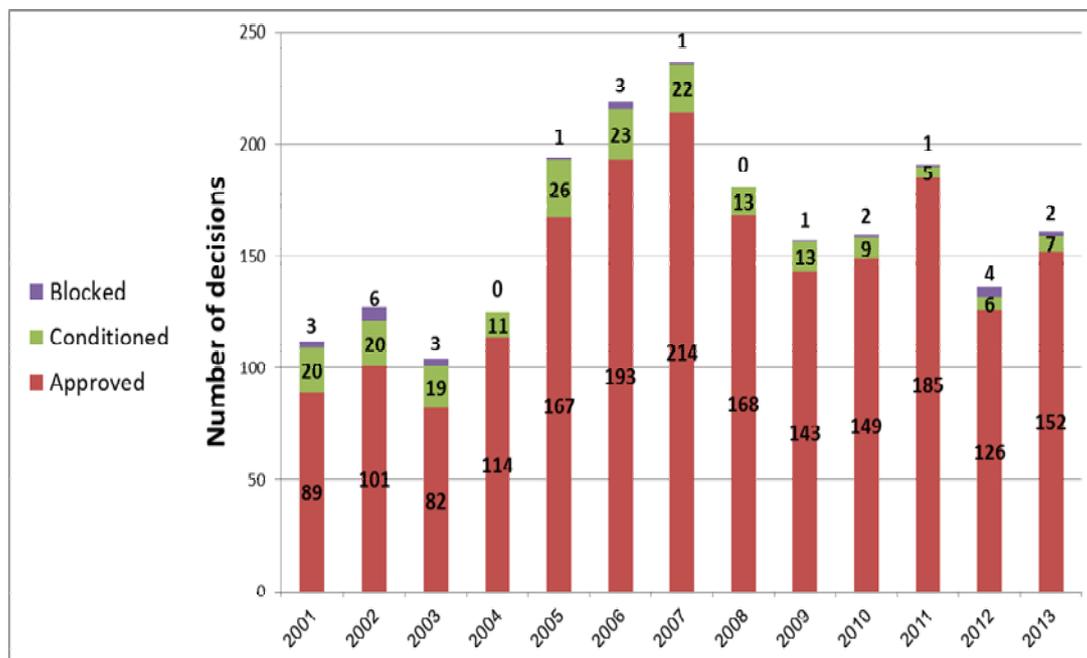
1. As a result of the merger, the share of the merging companies in the relevant market is in excess of fifty percent;
2. The joint sales volume of the merging companies according to their balance sheets for the year preceding the merger is in excess of 150 million NIS and the sales volume of at least two of the merging companies is in excess of 10 million NIS.
3. One of the companies is a monopoly (in any market).

55. The Director General has the power to block a merger or approve it under conditions if the merger raises a reasonable concern of substantial harm to competition or reasonable concern of harm to consumers. The Director General's decision is subject to an appeal to the Antitrust Tribunal. The Antitrust Act sets a review period of thirty days, during which the Director General is required to reach a decision. The period can be extended by the Antitrust Tribunal or with the consent of the merging parties. If the IAA does not decide within the prescribed time period, the merger is deemed to be compatible with the Act.

56. In 2013, the IAA received 161 merger notifications. 2 mergers were blocked and 7 were subject to conditions, some of which demanded divestiture of the assets that raised competitive concerns. Some of the mergers were withdrawn by the parties after the IAA expressed its competitive concerns.

57. The following table describes the type of decisions in merger filings since 2001:

	<b>Decisions</b>	<b>Approved</b>	<b>Conditioned</b>	<b>Blocked</b>
<b>2001</b>	112	79%	18%	3%
<b>2002</b>	127	80%	16%	4%
<b>2003</b>	104	79%	18%	3%
<b>2004</b>	125	91%	9%	0%
<b>2005</b>	194	85%	14%	1%
<b>2006</b>	219	88%	10.50%	1.50%
<b>2007</b>	237	90.30%	9.30%	0.40%
<b>2008</b>	181	93%	7%	0%
<b>2009</b>	157	91%	8.30%	0.60%
<b>2010</b>	160	93%	6%	1%
<b>2011</b>	191	97%	2.6%	0.52%
<b>2012</b>	136	92.4%	4.6%	3%
<b>2013</b>	161	94.4%	4.4%	1.2%



2.2.2 Summary of significant cases

58. The following is a summary of several significant merger cases that were reviewed by the IAA or brought before Courts during the period covered by this report:

2.2.2.1 Pumped-storage hydroelectricity merger

59. On December 2013, the Director General conditioned the entry of the Shicun Ubinui company into a partnership with the Electra company in a pumped storage hydroelectricity project on the divestiture of at least 80% of Electra's stake in the project. After the divestiture, Electra is to hold no more than 10% in the project. The divestiture's aim was to prevent cross ownership holdings among two out of three active pumped storage hydroelectricity projects that raised a reasonable concern fo harm to competition in the market for selling electricity using this technology.

2.2.2.2 Hard disc and Random Access Memory importers merger

60. On March 2013 the Director General conditioned a merger between H.Y Electronics and Data Tech Advanced Solutions, two large importers of computer products, on a structural remedy according to which one of the merged parties divest its computer hard disc and/or Random Access Memory operations. Following the remedy, the merged entity may hold only one of the merged parties' operations in each of these markets. The IAA found that the markets for hard discs and for Random Access Memory is concentrated and that the merging parties hold a substantial share of these two markets.

2.2.2.3 Restaurant Furniture merger

61. On April 2013 the Director General conditioned a merger between Bar Chairs and Classigan on the removal of tacit or explicit exclusivity agreements between them and suppliers of furniture. The IAA's examination found that the market for restaurant furniture is concentrated, with the merging firms holding

a substantial share, and that exclusivity agreements with suppliers of furniture erect barriers to the entry and expansion of competing firms.

#### 2.2.2.4 Supply of Natural Gas to the city Arad

62. On May 2013 the Director General objected to a merger between Amizragas and Magal. Amizragas holds licenses to construct a system for the distribution of natural gas in various areas in the South of Israel. Magal is engaged in the marketing and distribution of natural gas from a local reservoir to certain areas in the South of Israel. The IAA's inquiry found that a 50% stake that Amizragas would hold in Magal following the merger would harm Amizragas's incentives to construct a competing distribution network of natural gas into the city Arad in the South of Israel.

### 4. Key Advocacy Activities

63. In addition to its mandate to enforce the provisions of the Antitrust Act, the IAA serves as an expert advisory body to the government and parliament in matters that concern competition. Subsequently, one of the key capacities of the IAA involves offering its professional know-how and expertise to various government bodies and disseminating competition principles among them. The IAA's advocacy efforts are also directed towards the business and legal communities, as well as the public. In recent years, the IAA has been deeply involved, through advocacy work, in numerous initiatives to open markets to competition and to reduce barriers to entry.

64. The IAA works together with government ministries and other government agencies to enhance market competition and cope with competition problems in various sectors of the economy. It also engages in discussions at the Parliament's Finance Committee and Economic Affairs Committee where its representatives present the competitive aspects relevant to various regulatory, legal and economic issues. The IAA has also been expanding its role as an advocate to competition to the general public, through guest lectures at Israeli universities, holding forums including the IAA's senior management within conferences, organizing specialized seminars, and teaching about competition in high schools. The following summarizes the IAA's main advocacy activities during the period covered by the report:

#### 4.1 *Letter to Ministers on the Reform in the Electricity Market*

65. On July 2013, the Director General sent a detailed letter to the ministers of Energy, Treasury and Economy including the IAA's vision on the optimal structure of the electricity market in Israel. It advocated for complete separation of ownership and control between generation, transmission, and distribution. Currently, the government owned Israel Electric Corporation ("IEC"), controls most of the generation, all of the transmission, and almost all of the distribution of electricity. The IAA's analysis described in the Director General's letter to the minister shows that this ownership structure motivates and enables IEC to block new entrants into the generation segment. It shows that only total separation of ownership and control between the various segments would ensure a well-functioning and competitive market.

#### 4.2 *The Law for the Promotion of Competition and Reduction of Economic Concentration*

66. Throughout 2013, the Knesset, the Israeli Parliament, enacted The Law for the Promotion of Competition and Reduction of Economic Concentration. This law includes provisions according to which the Director General will advise the government and its agencies regarding the repercussions of the allocation of economic rights (e.g. licences and permits) and state assets on competition and on consumer welfare. Furthermore, the Director General was appointed as chairman of the Concentration Reduction Committee, which was formed to advise the government on the ramifications of the allocation of economic rights and state assets on the concentration in the overall economy.

#### **4.3 Credit Card Market study and Committee for reducing cash circulation and the use of cash:**

67. On September 17 2013, the government appointed an inter-ministerial team headed by the director general of the Prime Minister's office, Mr. Harel Locker, to suggest ways to reduce cash circulation in an effort to combat the shadow economy in Israel. The IAA was represented by the Director General, Professor David Gilo.

68. The IAA presented to the committee a detailed market study of the credit-card industry that highlighted the absence of debit cards in Israel as a true alternative to deferred debit cards and the associated social cost and harm to competition involved. The Committee adopted many of the recommendations made in the report, including setting a reduced interchange fee for debit transactions that reflects the lower credit risk involved relative to deferred transactions, prohibiting banks from charging a transaction-based fee for debit cards and instructing debit card issuers and acquirers to transfer payments to merchants immediately. In addition, regulators will work towards ensuring a wide distribution of debits cards.

69. Most of the recommendations made in the IAA's study were also adopted by the Ministerial Cabinet in charge of Lowering the Cost of Living, headed by Minister Naphtali Bennett. Following the Cabinet's decision, the IAA and the Bank of Israel are expected to submit a proposal for legislation following the Cabinet's decisions.

#### **4.4 Committee for Increasing Competition through Imports:**

70. On 10 September, 2013 the Minister of Finance and the Minister of Economy appointed an inter-ministerial team, headed by the Director General of the Ministry of the Economy, to examine the subject of imports and particularly barriers to the importation of goods, as a potential contributor to the observed price differentials in consumption goods between Israel and many developed countries. The IAA's representative to the Committee is Dr. Assaf Eilat, Chief Economist of the IAA. The Committee has been examining regulatory and contractual barriers to personal and commercial importation of goods. On 13 April 2014, the Ministerial Cabinet in charge of Promoting Competition and Lowering the Cost of Living approved the Committee's recommendations on the subject of personal imports, so as to reduce the obstacles to such imports.

71. The Committee's recommendations on the removal of barriers to commercial imports are expected in the next few months. These will include results from a comprehensive market study carried out by the IAA to identify regulations, trade practices and contractual restraints that may give rise to market power and soften competition in certain sectors in which import plays a major role.

#### **4.5 IAA's conferences:**

72. The IAA held its annual conference in January 2014 (summarizing the activities of 2013) with the participation of the president of the Antitrust Tribunal, Justice Nava Ben-Or. The conference included multiple breakout sessions in which representatives from the IAA, the business sector and academia discussed various issues and developments in antitrust policy and enforcement. IAA annual conferences are attended by lawyers, economists, academics, CEOs, prominent members of the business community, government officials and the general public.

73. In addition to the Annual Conference, the IAA initiated roundtable meetings, which takes place one every 3 months, to discuss various issues on the antitrust agenda together with members from the private sector.

#### 4.6 *IAA's publications:*

74. The IAA issues a yearly public report in Hebrew summarizing its activity in the past year. Most of the IAA's decisions are published on the IAA's website alongside the Antitrust Tribunal and Court decisions. The Director General also administers several statutory public registries, which include decisions regarding restrictive arrangements, mergers, monopolies, and consent decrees.

75. During 2013, the IAA published the following guidelines: Draft Guidelines regarding exchange of competitively sensitive information between competitors in due diligence procedures and Draft Guidelines concerning trade associations.

76. In addition, the IAA offers a detailed online database in both Hebrew (<http://archive.antitrust.gov.il/>) and English (<http://eng-archive.antitrust.gov.il/>). The database includes archives ranging from decisions of the Director General, court decisions, legislation and press releases. This database serves as a comprehensive central reference point for people in Israel and abroad regarding information on IAA activities.

### 5. **International cooperation**

77. During the reviewed period, the IAA continued to contribute to the various OECD working groups on specific themes such as Competition issues in Television and Broadcasting, Geographic Competition in Gas Stations, Ex-officio Investigations and Competition and Geographic Concentration in the Israeli Grocery Retail Sector. As a participating member of ICN working groups, the IAA has contributed to discussions about mergers, cartels, and monopolies. The IAA adds professional experience gained from Israel's antitrust proceedings to these working groups and continues to benefit from receiving such insights from the antitrust authorities of other countries.

78. In addition, since 1999, the IAA has had an agreement of bilateral cooperation with the Department of Justice and Federal Trade Commission in the United States. As part of this agreement, the IAA sends representatives to the United States to participate in training sessions, and both parties are in contact regarding consultations. The IAA also works closely with the European Union and the competition authorities in its member states.

79. The IAA's professional staff has given lectures and held presentations at numerous international workshops and conferences throughout the year and invites experts in competition law from around the world to give presentations to the employees of the IAA.

80. On February, the IAA hosted colleagues from the Irish Competition Authority to a workshop on Criminal Intelligence Operations and Investigations. The 3 days' workshop included lectures on Computer Investigations, preparing searches, and intelligence gathering.

### 6. **Resources of the IAA**

81. The IAA's budget for 2013 was 41.2 million NIS (approximately US \$11.5 million). The total number of employees was 110 divided as follows:

Economic Department	29 economists
Legal Department	30 lawyers (including 7 legal interns)
Criminal Investigations Department	24 investigators
Administrative Staff	22 (including IT and HR)
The Director General's Office	5
All staff combined	110 employees

