

Unclassified

DAF/COMP/AR(2015)16

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

19-May-2015

English - Or. English

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

DAF/COMP/AR(2015)16
Unclassified

ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN THE SLOVAK REPUBLIC

-- 2014 --

16-18 June 2015

This report is submitted by the Slovak Republic to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 16-18 June 2015.

JT03376694

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Executive Summary

1. The Antimonopoly Office of the Slovak Republic („Office“ or „AMO SR“) is the central state administration body of the Slovak Republic („SR“). Its main mission is to protect and promote competition and create conditions for its further development. The Office’s competences result from the Act No. 136/2001 Coll. on Protection of Competition as amended („Act“ or „Act on Protection of Competition“). Besides the Slovak competition law the Office applies also European law pursuant to 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 on the Functioning of the European Union (“EU”). Within its competences it mainly conducts investigations of a relevant market, in administrative proceedings it decides in the cases of agreements restricting competition, abuse of dominant position, merger control and restriction of competition by state administration and local administration authorities and it also proposes measures to protect and promote competition.

2. In 2014 the Office issued 32 decisions¹ on anticompetitive practices (cases of abuse of dominant position and agreements restricting competition) and on mergers. The Office issued 29 decisions within the first-instance proceedings (Division of Cartels, Division of Abuse of Dominant Position and Vertical Agreements and Division of Concentrations) and the second-instance body, the Council of the Office, issued 3 decisions².

Number of decisions	Total number	Mergers	Abuse of dominant position	Agreements restricting competition	§ 39
First instance	29	22	0	6	1
Second instance	3	0	1	2	0
Total	32	22	1	8	1

3. Last year Division of Cartels and Division of Abuse of Dominant Position and Vertical Agreements dealt with around 250 complaints on the possible anticompetitive conduct in various sectors. Due to the large number of complaints the Office had to prioritize its activities and focus on cases with significant impact on consumers. These are mainly cartel agreements which belong to the most serious infringements of competition rules, since the mutual agreement of competitors is aimed at elimination of competition between undertakings resulting in significant price increase, limited choice of products and services and reduction of investments. Cartel agreements in public procurement (so called “bid rigging”) dominated in investigated cases. The Office revealed and fined 5 cartel agreements and in other cases administrative proceedings are ongoing. Within its powers to sanction also state and local administration authorities for their anticompetitive conduct, the Office imposed a fine on the municipality of Rimavská Sobota for advantaging the undertaking in the market of funeral and cemetery services.

4. After rigorous analysis of consumer-sensitive sectors of financial services and food industry, which the Office set as its priorities in March 2013, more results came. The Office issued a report on financial sector summarizing the outcomes of the investigation in the area of provision of financial services to households, small and medium enterprises and municipalities in Slovakia. Besides the summary of

¹ For the purposes of this report by decisions are meant only those decisions, which have concluded the first or second-instance proceedings.

² Decisions of the second-instance body have been issued within examination of the cases dealt with by the first-instance bodies.

findings the Office called upon the banks to take specific steps which would lead to improvement of competitive environment in this market. The Office also intensively dealt with competition in providing current accounts to individuals – non-enterprises. Outcomes of the investigations and subsequent steps of the Office will be presented to the public during 2015. During the monitoring of the banking sector the Office acquired more documents and information indicating that the platform was created within the investigated entity through which its members have been discussing the coordination of their procedures aimed at preparation of legislative changes related to the banking sector. This entity also collected information on the business activities of its members that might include competition-sensitive information and thus enable its members to envisage the behaviour of competitors in the market. Based on suspicion of the possible anticompetitive conduct of banks or party to the proceedings, the Office initiated the administrative proceedings in April 2014 and in December 2014 it issued the enforcement decision.

5. In the food industry in 2014 the Office continued in its activities in the market of milk and dairy products started in 2013 when it launched an extensive investigation and addressed entities acting at all levels of distribution network, from basic industry through processing up to sale to the end consumers. Based on the analysis of acquired documents and information and other facts the Office conducted an unannounced inspection in the premises of four retailers and one supplier of milk and dairy products in May 2014. The Office investigated this sector for the suspicion of possible conclusion of vertical agreements.

6. On July 1, 2014 the amendment to Act No. 136/2001 Coll. on Protection of Competition came into force. Amendment is a part of overall strategy of the Office aimed at building a modern competition authority focused on consumer welfare. The amendments respond to the need for legislative changes in certain areas following changes in the practice. They also aim at enhancing the efficiency of the competition rules. All areas of the Slovak competition law were subject to the amendment: merger control, antitrust, as well as procedural instruments. Together with the amendment to the Act also four decrees and one regulation of the Antimonopoly Office came into force that respond to the changes made in the Act on Protection of Competition.

7. Beside the general investigation and decision-making activities the Office was engaged in number of advocacy activities aimed mainly at elimination of potential and existing competition deficiencies. In 2014 the Office dealt with approximately 425 materials, which were submitted within the interministry comment procedure. The Office submitted its comments on 28 materials. In 5 materials it formulated fundamental comments on legislation drafts, 19 comments had the nature of recommendation and 4 were combined. Office's comments referred mainly to Act on Waste, Civil Code of Litigation, Act on Notaries, Act on Insurance and Act on Geodesy and Cartography.

8. Development of competition culture and dissemination of public awareness about the competition rules have been promoted by working meetings with undertakings, state administration and local public administration authorities, students, academic community and experts from other competition authorities. The Office has successfully continued the tradition of May conferences on current trends in competition law where the experts from various countries and institutions meet to exchange information and opinion on competition. The Office also continued in organising seminars on cartel agreements in public procurement. Mainly state administration authorities responsible for management of operational programmes of EU structural and investment funds expressed their interest in such seminars.

9. In the framework of memoranda on cooperation with the Faculty of Law of the Comenius University in Bratislava and the Faculty of Law of the Trnava University in Trnava the Office offered study visits for their students. Also a student from the Faculty of National Economy of the University of Economics in Bratislava completed an expert study at the Office.

10. The Office informed about its decisions and other activities on its website and via the social network Twitter. It also cooperated with media and provided them with press releases on its outcomes and replied to numerous journalists' questions. The Office organized three press conferences for media representatives where it informed about the hot topics of public interest. For the sixth year the Office continued in issuing the Competition Bulletin that informs about decisions and other activities the Office, the European Commission, as well as other foreign competition authorities. At the same time the Office has been regularly publishing in specialised domestic and foreign periodicals devoted to competition issues and the employees of the Office actively participated in expert discussion at both domestic and foreign forums.

11. In 2014 the Office imposed valid fines totalling EUR 15 673 107. 95. In 2014 fines at the amount of EUR 14 318 913. 06 were paid. These include also the fines imposed in the last years. Revenues from fines are income of the state budget. Within the framework of the programme "Competition" for the year 2014, funds totalling EUR 2 017 375.00 were allocated to the Office in the form of expenditures and EUR 200 000 in the form of revenues. Funds totalling EUR 2 034 975.00 were allocated to the Office from the state budget for the year 2015 and the revenues of the Office were calculated in the amount of EUR 200 000. Incomes acquired during the fiscal year are the fines for infringement of the Act on Protection of Competition.

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

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

12. On July 1, 2014 the amendment to Act No. 136/2001 Coll. on Protection of Competition and on Amendments and Supplements to Act of the Slovak National Council No. 347/1990 Coll. on Organisation of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended as amended came into force. The amendments respond to the need for legislative changes and introduce new instruments aimed at enhancing the efficiency of the competition rules.

13. The most significant changes concerned the merger control and should result in higher efficiency of the administrative proceeding in favour of undertakings. The amendment modifies the system of time limits in the merger control and introduces simplified notification using specific forms in certain mergers.

14. Antitrust was also subject of certain amendments. The provisions on leniency programme were amended to increase legal certainty for undertakings. Act directly sets the reservation of ranking for leniency applicant and the guidelines on leniency programme has been replaced by the decree that is a binding legal regulation. The draft amendment provides for possible limitations in case of actions for damages against a successful leniency applicant with the aim to reduce the concerns of potential leniency applicants and increase their motivation to submit a leniency application.

15. The amendment also introduces the possibility to use settlement as an alternative method of case resolution in all types of competition infringements. Application of this instrument follows the Commission's practice and its main advantage is to achieve faster, more effective and more beneficial remedy in the market in accordance with the principle of economy of the administrative proceedings. Besides the reduced fine the party to the proceedings in settlement may benefit from the lower costs which would be otherwise connected with administrative and possibly court proceedings in reviewing the administrative decision. Prior to the amendment the Office used this instrument within the legal option of imposing sanctions and taking into account the mitigating circumstances. Given its importance this instrument has been anchored in the Act.

16. Introduction of the instrument of informant, it means the financial reward for natural persons for providing evidence on cartel is a complete novelty in Slovak competition practice. Cartels are the most serious anticompetitive conduct and they are very difficult to reveal and it is also very hard to obtain information and evidence on their existence. In accordance with the amendment the natural persons will be entitled to reward if they provide the Office with the evidence on their existence. Natural persons thus may help:

- quickly and effectively reveal the cartel,
- punish offenders and
- save significant financial resources of which the cartel agreement deprived the consumers and the whole economy.

17. The main objective is to motivate people to cooperate with the Office and provide it with important information. Financial reward for providing evidence on cartel is up to 1% of imposed fines in one decision of the Office, maximum of EUR 100 000. Provided the fine was not paid, the informant is entitled to receive 50% of the reward which he would otherwise receive, maximum of EUR 10 000.

18. Together with the amendment to the Act also four decrees and one regulation of the Antimonopoly Office came into force. These documents respond to the changes made in the Act on Protection of Competition. Decree laying down thresholds for determination whether the agreement between undertakings, concerted practice of undertakings or decision by associations of undertakings has inappreciable impact on competition (“De minimis decree”) has been adopted. Originally, the thresholds based on market shares of undertakings were laid down directly in the Act. “De minimis” rule will be revised also by the European Union. In order to align these rules also at the national level, the amendment to the implementing regulation would respond to possible legislative changes of the European Union more flexibly.

19. The Office revised Decree laying down details of requirements of a merger notification (“Decree on Requirements of a Merger”) with the aim to speed up and increase the efficiency of merger control. The most significant change is the introduction of simplified notification which the undertaking notifying a merger may use if it meets certain conditions. Notification is submitted using specific forms annexed to the decree which enables the undertaking concerned better find their way in submitting information which is required in a merger notification. Based on experiences of the Office, the submitted information is specified and modified, mainly in terms of market information and instruments of affected markets and potentially affected markets. The aim is to obtain information on activities of undertakings concerned and linked undertakings in the markets already within the notification in a form, which comprehensively enables the Office to determine the existence of possible affected or potentially affected markets.

20. Decree laying down details of settlement conditions („Decree on Settlement“) adjusts mainly the procedure of the Office during the discussion on settlement, as well as reduction of fine in case of settlement. Amendment to the Act introduces instrument of settlement which should be used for all infringements of the Act except the obligations of procedural nature. Instrument of settlement is a common part of legislation frequently used almost in all EU countries. Also the European Commission uses this instrument very often in cartel cases. Prior to the amendment the Office used this instrument in imposing sanctions and while considering the mitigating circumstances. Up to now the Office considered the settlement as mitigating circumstance in setting fine. Adopted change leads to higher legal certainty of undertakings and transparency of Office’s procedure.

21. Decree laying down details of leniency programme („Decree on Leniency Programme“) defines details on application of leniency programme and particulars of application for immunity from fines or reduction of fine. Leniency programme enables to waive or reduce a fine if the undertaking cooperates with the Office in revealing cartels. Undertaking may decide whether it uses this programme or not. Leniency programme has been applied so far, but details on application of this instrument have been listed only in guidelines of the Office. Since the decree is based on principles of existed guidelines its adoption will not substantially change the recent procedure of the Office, it will lead to increased legal certainty.

22. Decree on remuneration of Members of the Council of the Antimonopoly Office of the Slovak Republic directly determines the remuneration of Member of the Council of the Office.

23. The Office issued guidelines that will clarify some instruments and procedures of the Office in more details. Decree on Requirements of a Merger is followed by the Guidelines on requirements in simplified merger notification and by the Guideline on details of granting an exemption from the prohibition of merger implementation. Guidelines on Competence of the Antimonopoly Office of the Slovak Republic to perform Inspection clarify competence and procedure of the Office in conducting an unannounced inspection in business premises.

24. The Office introduced new tool designed to work with Act No. 136/2001 Coll. on Protection of Competition – COMPact. COMPact serves as guide for anyone who needs to be well informed on this Act. It comprises annotations, reasoning reports, case law, as well as relevant literature and articles.

25. Some instruments of protection of competition might be incomprehensible and unclear to public as it is very specific issue. Therefore, the Office prepared the publicly available free online tool with designed to provide general public with the comprehensible information on competition rules, their interpretation and the most significant case law related to the practice of the Office, the European Commission and institutions of the European Union.

26. The new tool is available at the website of the Office www.antimon.gov.sk in section ‘Legislativa’. The various provisions will be continually updated by the Office.

2. Enforcement of competition laws and policies

2.1 Action against anticompetitive practices

2.1.1 Summary of activities

- Agreements restricting competition

Agreements restricting competition may have the form of horizontal agreements between direct competitors, so called cartels or the form of vertical agreements, it means, agreements between undertakings acting at the different levels of distribution network.

Last year the Office fully continued in revealing illegal cartel agreements. After intensified conduction of unannounced inspections in 2013, the suspicion of the Office was mostly proved and on the basis of gathered evidence the administrative proceedings were initiated. The Office issued 5 enforcement decisions. These were all „new decisions“ resulting from the inspections in 2013.

Special form of a cartel is collusion in the public procurement, where the tenderers agree on mutual non-competing beforehand. Such an agreement may thwart purpose and aim of public procurement and leads to waste of the public finances. Taking into account the fact that the

majority of financial resources allocated to projects financed from the EU funds is subject to public procurement the Office actively participates in revealing cartels also in this area. With the aim to strengthen the competition protection through more effective revealing of agreements restricting competition and through more effective performance of public procurement control performed by the state administration bodies and local administration authorities responsible for particular operational programmes, the Office established and intensified the cooperation with the Government Office of the Slovak Republic and with other state administration bodies. Following this cooperation the number of received complaints on suspicion of cartel agreements in public procurement increased several times in 2014. In 2014 the Office received 171 complaints compared to 9 complaints in 2013, which means more than 90% of all complaints on suspicion of cartel agreements. In 2014 the Office initiated 7 administrative proceedings in this area and issued 3 enforcement decisions. Division of Cartels receives increasing amount of requests for consultations and it regularly organizes workshops focused on specification of indications of collusive behaviour, negative consequences of this conduct, relevant law and opportunities to cooperate with the Antimonopoly Office in revealing these cartel agreements.

	General investigations	Administrative proceedings	Decisions
Cartels	9	12	5
Vertical agreements	12	1	1
Total	21	13	6

- Abuse of a dominant position

In order to protect competition the Antimonopoly Office intervenes, inter alia, against the undertakings that abuse their dominant position. The purpose is to prevent the dominant companies from abusing their strong market power, and the Office focuses on those types of conduct that harm the consumers the most. Cases of abuse of dominant position must be based on so-called "theory of harm", it means, that the infringement of the competition rules by the dominant company is constituted only if its conduct has real or potential negative impact on consumer, either in the form of higher price, lower quality or constricted supply. The emphasis is given to the exclusionary practices. Two cases of abuse of dominant position were subject to a more detailed investigation in 2014.

General investigation	Open administrative proceedings	Decisions
2	0	0

- Courts

Decisions of the Council of the Office enter into force when delivered to the parties to the proceedings. If an undertaking has objections against a decision of the Council of the Office, it can bring an action to the Regional Court in Bratislava („RC BA“) and lodge an appeal against the judgement of the regional court to the Supreme Court of the Slovak Republic („SC SR“).

In 2014 the courts decided in 13 cases, of which 5 cases were decided by the Regional Court in Bratislava, 4 cases by the Supreme Court of the Slovak Republic and 4 cases were decided by the Constitutional Court of the Slovak Republic in the matter of objected unconstitutionality of the judgment of the Supreme Court of the Slovak Republic.

2.1.2 *Description of significant cases, including those with international implications*

- IT distributors agreed on service charges

The Office imposed a sanction in total amount of EUR 4,28 mil. on five undertakings acting in the market of distribution of IT technologies and complementary products in the territory of the Slovak Republic for concluding the cartel agreement.

Cartel was grounded in an agreement on introduction of a handling fee in the amount of EUR 1 which was to be charged on each invoice issued to the customers for delivery of goods. The Office's findings show that the cartel agreement was concluded in February 2013 and the undertakings started to charge this fee the following month, gradually within one week. It was also proved that the undertakings agreed on the date of introduction of handling fee which was set differently for each undertaking with the aim not to raise suspicion that the cartel was concluded. This fact also confirms that the undertakings were aware of the illegality of their conduct which they strived to conceal. One of the parties to the proceedings did not apply the agreement in practice and it did not charge the handling fee. In its decision the Office has assessed this fact as mitigating circumstance, which led to the reduction of a fine for this undertaking.

Shortly after the introduction of the handling fee the Office carried out an inspection at the premises of all undertakings, after which most of the participants to the agreement no longer charged the handling fee. During these inspections the Office obtained decisive evidence in the form of communication among representatives of the undertakings concerned, as well as the internal corporate communication. After the inspection one of the parties to the proceedings filed an action for the illegality of the inspection. The Supreme Court of the Slovak Republic principally dismissed this action and thus it upheld the fact that the Office acquired the incriminating evidence legally. Quick and successful intervention of the Antimonopoly Office of SR was enabled thanks to early action by the public comprising exact information on possible cartel agreement. Decision of the Antimonopoly Office of SR is not valid yet, parties to the proceedings appealed the decision.

- Construction companies coordinated their bids in public procurement on reconstruction of medical facility

The Office revealed and sanctioned four undertakings acting in the market of construction works in the Slovak Republic by imposing the fines in the total amount of EUR 613 644 for concluding cartel agreement in public procurement.

Sanctioned companies coordinated their bidding conduct in the public procurement related to the reconstruction of the former medical facility that currently provides social services. The contract was from 2010 from Košice region in the total amount of more than EUR 2 million. The project was financed by the European Regional Development Fund, state budget of SR and Environmental Fund. The Antimonopoly Office acquired information on alleged anticompetitive conduct from another state authority.

In order to confirm its suspicion and ensure further evidence, the Office conducted unannounced inspection in the business premises of various undertakings prior to administrative proceedings. Decision of the Antimonopoly Office is not valid, parties to the proceedings appealed the decision.

- Fine for cartel in supplying goods and services for secondary school in Trenčín Region

The Office issued a decision imposing fines on ten undertakings in the total amount of EUR 97 714 for concluding four cartel agreements grounded in coordination of behaviour of undertakings in four public procurements financed under the Operational Programme Education using the European Social Fund and national resources.

Subject of these public procurements included supply of goods and services for secondary school in Trenčín Region. The Office sanctioned the undertakings which participated in public procurements as possible suppliers of goods and services, but also the undertakings which provided the secondary school administrative services related to obtaining contributions from EU funds and organisations of the public procurements and thus enabled or facilitated the conclusion of cartel agreements. The Antimonopoly Office acquired information on alleged anticompetitive conduct from another state authority.

In order to confirm its suspicion and ensure further evidence, the Office conducted unannounced inspection in the business premises of various undertakings prior to administrative proceedings. Decision of the Antimonopoly Office is not valid yet, parties to the proceedings appealed the decision.

- Two undertakings allocated the market and have been determining the prices of production and distribution of aerial photographs

The Office issued a decision by which it imposed a fine in the total amount of EUR 498 202 on two undertakings operating in the market of production, distribution and sale of products and services related to mapping the earth's surface and products of aerial photogrammetry.

The Office found that during the years 2005 – 2013 the companies coordinated their activities in the relevant market since they jointly determined the distribution prices of products, allocated the market for production and distribution of products and coordinated their behaviour in public procurement. The agreement eliminated competition amongst undertakings and harmed the undertakings' customers including also entities from public sector.

The Office assessed this conduct of undertakings as agreement restricting competition according to article 4 of the Act on Protection of Competition and Art. 101 of the Treaty on the Functioning of the European Union. Decision of the Antimonopoly Office is not valid, yet parties to the proceedings appealed the decision.

- Sanction on the undertaking for creating the platform which enabled the banks to coordinate their activities to the detriment of their clients

The Office imposed a fine on the undertaking acting in banking sector in the territory of the Slovak Republic in the total amount of EUR 185 939 for the restriction of competition.

The findings of the Office show that during the years of 2010, 2012 and 2013 the undertaking was restricting competition by creating the platform which enabled banks acting in the Slovak market to coordinate their activities in the area of providing financial services. Such platform consequently enabled the banks, through the exchange of sensitive information, to predict the competitors' behaviour in the market and thus decrease the intensity of competition. Coordination referred to banking services relating to so-called basic banking product and to cash deposit on own account and its aim was to avoid the regulatory measures implemented by the Ministry of Finance of SR. In the case of the 'basic banking product' the banks, using the platform, agreed that this product should be unattractive to customers and it should be designed only to the target group of socially disadvantaged people. In the case of the cancellation of the fee for cash deposit to own current account for natural persons, on the basis of an agreement made at the undertaking's premises, this benefit was not provided to legal persons and for natural persons it was restricted only for the period of 6 months.

The undertaking's conduct harmed the banks' clients. The Office assessed the conduct of the undertaking as the agreement restricting competition pursuant to the article 4 of the Act on Protection of Competition. Decision of the Antimonopoly Office is not valid yet, parties to the proceedings appealed the decision.

- Investigation of motor vehicle sector

In 2014 the Office dealt with several cases related to motor vehicle sector. This sector has been subject to monitoring by the European Commission and the national competition authorities for a long time. It is one of the sectors characterised by the long-term existence of sector-specific rules, which have progressed and to date they still persist. The functioning of the motor vehicle sector, in particular the area of repair and maintenance services and spare parts distribution can therefore require existence of specific rules, which directly relates to the need of the assessment of competition.

In general, competition in the aftermarket is less intense, since these markets are bound to a specific brand of the motor vehicle. It is therefore important that a consumer has the choice and can act effectively. From the macroeconomic perspective, the motor vehicle sector is an important sector of the economy, while the sector is also important in terms of consumer expenditures. Repair and maintenance of motor vehicles represent an important component of the overall consumer spendings on motor vehicles and also significant part of their budget. Preliminary Office's monitoring indicates potential competition risks in this area.

At the end of 2014 the Office launched an investigation in the area of providing after-sales services related to sales of motor vehicles because of its suspicion of prohibited vertical agreements. The Office addressed more entities operating in this field. The findings are in the process of analysis which will continue also in 2015. The fact that the Office launched the investigation does not imply that the entities concerned have infringed the competition rules, nor does it prejudice the conclusions of the investigation.

- Investigation in the area of milk and dairy products

In 2013 the Office conducted an extensive survey of milk and dairy products. The findings of the market survey and the inspection in the business premises of retail chains and supplier of milk and dairy products served as the basis for investigation for suspicion of possible conclusion of vertical agreements which may have the object or effect of restricting competition and thus have a negative impact on final consumers. In terms of possible form of competition restriction the Office examines whether the undertakings have agreed on resale prices. The findings will be subject to further analysis also in 2015. The fact that the Office launched the investigation does not imply that the entities concerned have infringed the competition rules, nor does it prejudice the conclusions of the investigation.

- Council of the Office upheld the fine for ČSOB

The Council of the Antimonopoly Office of the Slovak Republic dismissed the appeal of Československá obchodná banka a.s. („ČSOB“) and it upheld the decision of the Office from November 25, 2013, by which ČSOB has been imposed a fine in the amount of EUR 3 183 427 for its participation in a cartel agreement in the market of cashless foreign exchange operations.

Banks have coordinated their procedure in terminating the contracts on current accounts for the company AKCENTA CZ and at the same time they agreed on non-concluding new contracts with this company. The aim of their conduct was to exclude company AKCENTA CZ that was their competitor from the market and win its clients or keep the already existed clients. In this decision the Office dealt only with the participation of ČSOB in agreement, since the Supreme Court of the Slovak Republic has already issued a final judgement against two other parties to the agreement, Slovenská sporiteľňa a.s. and Všeobecná úverová banka, a.s. Referring to these two banks, the Supreme Court of SR dismissed their actions and upheld the initial decision of the Office dated on 2009. The decision came into force on April 11, 2014.

- Fine for refusal to cooperate in the inspection

Besides the decisions on the anticompetitive practices the Council of the Office also decided in the matter of failure to allow the inspection by the Antimonopoly Office, in which it upheld the fine in the amount of EUR 44 358 for the undertaking AUTOMAX s.r.o. („AUTOMAX“).

During the inspection in December 2013 in premises of the undertaking AUTOMAX, the manager of the company refused to cooperate and did not allow the employees of the Antimonopoly Office to conduct an inspection. Thus the company AUTOMAX did not fulfil the obligation to provide the Office with the required information and documents, enable the Office to review this information and documents, cooperate with the Office in their assessment and enable the employees of the Office to enter any premises and means of transport of the undertaking. The company AUTOMAX has been imposed a fine in the amount of EUR 44 358 for the violation of obligation pursuant to the article 40 of the Act on Protection of Competition. The fine represents 0,6% of its turnover in 2013. The Council of the Office upheld the fine and the decision came into force on September 22, 2014.

The power to conduct an inspection is one of the most important investigative powers of the Office enabling the Office to reveal the violation of the provisions of the Act. Failure to enable the inspection represents violation of the Act's obligations. Generally it has negative consequences for the exercise of the Office's powers and for the proper revealing of anticompetitive conduct. The purpose of the provisions on obligations of the undertaking to

cooperate with the Office and the corresponding provisions on sanctions for violation of these obligations is to ensure that the Office is not ignored by the investigated entities. If the violation of the Article 40 of the Act is proved, the undertaking may be imposed a fine of up to 1% of its turnover (pursuant to the amended wording of the Act up to 5% of its turnover) for the preceding closed accounting period and this fine is being imposed obligatory.

- The Council of the Office upheld the 10 million fine for Cargo

On November 5, 2014 the Council of the Antimonopoly Office upheld the fine imposed on Railway Company Cargo Slovakia, a.s. („Cargo“) in August 2013 by the Division of Abuse of a Dominant Position and Vertical Agreements. The Office imposed the fine in the amount of EUR 10 253 662 because the dominant company Cargo restricted sale and lease of electric locomotives and refuelling of diesel locomotives to competing private carriers and thus abused its dominant position pursuant to the Article 8 of the Act on Protection of Competition and Article 102 of Treaty on the Functioning of the European Union. The anti-competitive conduct occurred between 2005 and 2010.

In the assessed period Cargo held a dominant position in the freight rail transport market, where also other private carriers operated. To provide their services on the Slovak market, they needed diesel or electric locomotives as an inevitable basic device. Electric locomotives are more cost effective, but those capable to operation in Slovakia were predominantly owned by Cargo. However, Cargo refused to sell or lease these locomotives to its rivals. Private carriers were forced to increasingly use less effective diesel locomotives. Here the private carriers came across another problem. Diesel locomotives need regular oil refuel and the network of fuel stations were owned by Cargo, which did not allow private carriers to refuel the oil into their diesel locomotives.

Both restrictions, i.e. sale and lease of electric locomotives, as well as refuelling diesel locomotives were part of an overall strategy aimed at foreclosure of competitors from the market and maintaining the dominant position, which was supported by the direct evidence acquired by the Office. Conduct of Cargo impeded private carriers to effectively provide their services, succeed in the market and compete with Cargo. Decision came into force on December 5, 2014.

- Constitutional Court of the SR rejected the request of company Slovnaft in the matter of objected unconstitutionality of the judgement of the Supreme Court of the SR

The Constitutional Court of the Slovak Republic rejected arguments of the company Slovnaft, a.s. („Slovnaft“), according to which the Supreme Court of the Slovak Republic („SC SR“) in the case of Slovnaft deviated from the previous case law on punishment under the general clause.

In April 2013 SC SR delivered judgement in the matter of Slovnaft, a.s. versus the Antimonopoly Office of the Slovak Republic, by which it upheld the decision of the Office to impose the fine in the amount of more than EUR 9 mil. on company Slovnaft. The anticompetitive conduct of Slovnaft was grounded in abuse of its dominant position in the form of discrimination in wholesale of petrol in Slovakia in the period from January 1, 2006 to December 31, 2006 and in wholesale of diesel in Slovakia from January 1, 2005 to December 31, 2006.

- Slovnaft filed a constitutional complaint against the judgement of SC SR objecting the infringement of right to judicial and other legal protection pursuant to the Article 46 par. 1 and 2 of the Constitution of SR and right to a fair trial pursuant to the Article 6 par. 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms. According to Slovnaft the judgement was not sufficiently grounded in terms of diversion from the previous practice relating to the punishment under the general clause as reflected in provision of the Article 8 par. 2 of the

Act on Protection of Competition. According to the opinion of the Supreme Court of the Slovak Republic the Act generally does not define what is considered as abuse of dominant position and the more detailed determination of this term is a matter of case law. Demonstrative list of practices listed in the Article 8 par. 2 of the Act is not exhaustive and should provide the undertakings with the idea about the most common and most serious forms of abuses of dominant position. If a practice not listed in the Article 8, par. 2 of the Act occurs in the application practice, the Office must use the general clause mentioned in the Act.

In its judgement the Constitutional Court of SR observed that although the Supreme Court actually deviated from the legal opinions of other panels of judges of SC SR in two previous decisions, it consistently and extensively dealt with the reasons for diversion of its legal opinion on using so-called general clause on prohibition of abuse of dominant position.

The Constitutional Court concluded that the judgement of SC SR was constitutionally sustainable and the objections of company Slovnaft did not justify the verdict on infringement of the constitutional rights of Slovnaft.

2.2 *Mergers and acquisitions*

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

27. In the area of merger control the Office issued new guidelines which should clarify certain instruments related to merger control. Mentioned novelties follow the changes adopted within the amendment to the Act on Protection of Competition and Decree on details of requirements of a merger notification being in force since July 1, 2014.

28. Within the introduced novelty related to the possibility of undertakings concerned to submit a simplified notification using a simplified form, the Office issues Guideline on details of simplified merger notification. This Guideline specifies merger cases where it is possible to submit the simplified notification. On the other hand it determines the most frequent exemptions; it means cases where in spite of the fulfilment of basic criteria for simplified notification the specific circumstances occur that justify further investigation of merger, and thus a possible broader extent of required information and documents.

29. Guideline on details of granting an exemption from the prohibition of merger implementation reflects the new legal regulation providing for the possibility of undertaking to ask for an exemption to the statutory prohibition to exercise the rights and obligations resulting from the transaction until the decision of the Office has been issued. In this Guideline the Office further explains the procedural rules of proceedings on granting an exemption. Guideline also comprises the most common examples of cases and acts for which the exemption could be granted, as well as examples of the acts that are generally not suitable for exemption from the prohibition.

30. The Office also revised Guideline on restriction of competition relating to merger and necessary for its implementation, but only in technical view relating to renumbering of legal provisions by the amendment to the Act.

31. It has become the established practice that the Division of Concentrations informs on its news at workshops with the aim to communicate the important changes directly, answer the additional questions and clarify any discrepancies.

General investigations	Open administrative proceedings	Decisions	Decisions (approval of merger)	Decisions (prohibition of merger)	Decisions (stopping the proceedings)
19	26	22	21	0	1

2.2.2 *Summary of significant cases*

2.2.2.1 *Taking control over AHOLD*

32. On January 29, 2014 the Antimonopoly Office of the Slovak Republic approved the concentration grounded in acquisition of indirect joint control by the undertakings Ing. Michal Holík and Dr. Stephan Fanderl over the undertaking AHOLD Retail Slovakia, k.s., Bratislava („AHOLD“).

33. Prior to the concentration Ing. Michal Holík together with Dr. Stephan Fanderl indirectly controlled the company TERNO, company Diligentia R.C. and several other companies. The main economic activity of both mentioned companies is food retail and retail of non-food products for daily consumption. Diligentia R.C. realizes this activity through the retail stores Moja Samoška. In the time of concentration notification there were 25 TERNO retail outlets and 67 Moja Samoška outlets.

34. Company AHOLD acts in the area of daily consumer goods through the network of Hypernova and Albert outlets with 24 retail outlets around Slovakia. For the specification of relevant markets and consequent assessment of the impacts of concentration on competition the Office addressed selected undertakings acting in the area of retail sale of daily consumer goods, namely the undertakings Billa, Tesco Stores SR, Kaufland, Lidl, Retail Value Stores, Carrefour, CBA, CBA Market and COOP Jednota Dunajská Streda. The Office also relied on the information submitted within the proceedings on concentration „SK Terno/Samoška“, as it was the concentration in the similar area having been assessed few months before and the concentration notifiers were the same in both cases.

35. Assessing the concentration the Office focused on the area of sale of daily consumer goods in retail outlets of various formats. Particular types of outlets show the significant differences. Differences are clear between the Hypernova hypermarkets and small outlets of Moja Samoška. As for the size of retail space and number of assortment items, TERNO and Albert outlets are of various formats and some of them are smaller and similar to Moja Samoška outlets and some of them are of the middle format. However, for the proceedings it was not necessary to specify the relevant market, hence the Office left the question of its precise determination open.

36. Based on the previous decision-making practice of the Office and the practice of the European Commission or other competition authorities, as well as from the perspective of consumer (end user) in the case of retail sale of daily consumer goods the markets are specified locally by the certain catchment area of outlets.

37. The Office ascertained that the activities of participants to the concentration overlap in Bratislava, Trenčín and Pezinok, namely the outlets of Terno, Moja Samoška on one hand and Albert and Hypernova on the other hand. Assessing the impacts of the concentration on competition the Office has been considering the possible options of determination of catchment areas in these cities. The Office determined the options of catchment areas (it means the distance from which the representative customer arrives) based on information submitted by the undertakings operating the retail sale of daily consumer goods in the previous administrative proceedings. The survey proved that the catchment areas differ for the various types of retail outlets. The catchment areas were determined as follows: 10 minutes walking (aprox. 1 km) and 5 minutes by car (aprox. 4 km) for the outlets up to 400 m² in Bratislava and Trenčín and 20 minutes by car (aprox. 20 – 30 km) and 10 minutes by car (up to 10 km) for the outlets over 400 m² in the cities of Bratislava, Pezinok and Trenčín.

38. The Office investigated a consumer has an alternative option of other outlet in the specified catchment area, it means whether there are other retail outlets selling daily consumer goods and what is

their nature. It took into account also the fact that the bigger retail outlets constitute the effective competition to smaller retail outlets, but it does not work vice versa.

39. In Bratislava there are 22 TERNO outlets, 40 Moja Samoška outlets, 1 Hypernova outlet and 4 Albert outlets, thus following the merger the persons notifying concentration will control 67 outlets in capital city. The Office assessed the position and localities of these outlets and their possible competitors within all identified catchment areas where it investigated merger of particular formats of outlets. For bigger outlets it found out that in the catchment area of 20 minutes by car from the particular outlet the existence of more than three undertakings operating the similar outlets has been proved. There were Tesco, Billa, Carrefour, Lidl and Kaufland. These outlets also could be found in catchment area of 10 minutes by car from the particular outlets of persons notifying concentration.

40. The Office identified more overlappings of smaller outlets in catchment area of 5 minutes by car from the particular outlet. In 18 cases the Office found that more than three undertakings operating bigger outlets occur in each catchment area. There were Tesco, Billa, Carrefour, Lidl and Kaufland. In two cases the Office has been assessing the merger in more details. However, no competition concerns have been identified in Bratislava.

41. In Pezinok there is one TERNO outlet and one Hypernova outlet. In catchment area of 20 minutes by car and 10 minutes by car from both outlets there were more than three outlets of undertakings Tesco, Billa, Lidl. The Office did not identify any competition concerns from these reasons.

42. In Trenčín there is one TERNO outlet, one Moja Samoška outlet and one Hypernova outlet, thus following concentration the persons notifying concentration will control 3 outlets in town. The Office assessed the position and localities of these outlets and their possible competitors in two alternatives. It did not identify any competition concerns in no case.

43. After evaluating all the documents and information gathered, the Office concluded that the assessed merger would not significantly impede effective competition in the relevant market, in particular through the creation or strengthening of a dominant position, therefore the merger was approved. The decision came into force on January 29, 2014.

2.2.2.2 Concentration of PENTA INVESTMENTS LIMITED and NaP Holding

44. On May 3, 2014 the Office approved the concentration grounded in acquisition of indirect exclusive control of the undertaking PENTA INVESTMENTS LIMITED („PIL“) over the undertaking NaP Holding. The Office concluded that the concentration would not significantly impede effective competition in the relevant market, in particular through the creation or strengthening of a dominant position of the undertaking PIL.

45. Through concentration PIL acquires control over the general hospitals in Žiar nad Hronom (with subsidiaries in Žiar nad Hronom, Banská Štiavnica, Kremnica and Žarnovica) and in Rimavská Sobota.

46. The Office identified that PIL and NaP Holding realizes activities in the area of healthcare in the following segments:

- hospital healthcare (HHC),
- ambulance healthcare (AHC),
- services of common examination and medical institutions (SEandMI),

- pharmaceutical care (PC) – only undertaking PIL acts in this area,
- occupational healthcare (OHC),
- transport healthcare (THC),

47. covered (except OHC) mainly by the obligatory public health insurance. PIL acts also in the area of providing obligatory public health insurance through the health insurance company DÔVERA. The Office has been assessing the impact of concentration on competition both from the vertical and horizontal point of view.

48. Within the horizontal assessment the Office has been investigating the overlapping of the activities of PIL and NaP Holding health care institution. In the area of HHC and AHC the assessment was based on the data on patients' migration, it means data on number of patients and the sums of payments for patients within particular hospitals/ambulances. Within the vertical assessment the Office has been investigating whether the PIL health care institutions could require more advantageous contractual conditions from the health insurance companies after the concentration and on the other hand it also has been investigating whether the health insurance company DÔVERA could exclude or restrict competition in its relation to competitors of PIL health care institutions by not concluding contracts with certain institutions or through providing worse contractual conditions.

49. In assessing the concentration the Office took into account also the specifics of supply and purchase of health care given mainly by the nature of negotiation of contractual relations and existing regulation in this area.

- Hospital healthcare

HHC is provided by hospitals (general or specialized), also sanatorium, hospice, community care service, spa, spa sanatorium and institutions of biomedicine research, namely to the person whose state of health requires constant health care more than 24 hours. Nature of provided health care depends on particular HHC provider.

In the area of HHC the Office has been assessing the overlapping of PIL and NaP Holding activities and position of PIL after concentration:

- in the view of hospitals as a whole and
- in the view of providing particular specialists
- in the geographic relevant markets determined by the Office based on analysis of migration of patients from the particular districts compared with the districts where PIL hospitals reside.

In area of HHC PIL and NaP Holding activities overlap only in some specialists and only in minimal rate, thus the concentration does not have negative impact on competition from the horizontal point of view.

From the vertical point of view the Office found that after concentration PIL hospitals would play important role in relation to health insurance companies in ensuring the accessible HHC, but the costs of particular health insurance companies on HHC provided by PIL hospitals (including hospitals acquired by concentration) represent only the small share of their costs on health care. As the impact of concentration in the view of excluding the competitors of hospitals acquired by

PIL through Dôvera was not proved the concentration does not have negative impacts on competition from the vertical point of view.

- Ambulance healthcare

AHC is provided by general and specialized doctors which may operate within the hospital polyclinic, independent polyclinic or may have an independent ambulance, namely to the person whose state of health does not require constant health care more than 24 hours.

In this case it was not necessary to deal with the impact of concentration of AHC provided by general doctors and by gynaecologists and dentists. The Office focused on specialized AHC (it means of specialists in the area of ophthalmology, infectious diseases, internal medicine, orthopaedics etc.). Determining the geographic dimension of relevant markets within the specialized AHC the Office applied the district determination since the specialists usually operate in district town and the patients from the given district arrive to district town.

In the view of horizontal overlapping the Office found that the concentration would not result in significant overlapping of activities realized by the parties to concentration.

The Office analysed the concentration in the area of providing AHC also from the vertical point of view and took into account the fact that within the arrangement of conditions between the health insurance companies and AHC providers the associations entering the negotiations on prices and contractual conditions have more significant impact. At the same time the Office found that the costs of particular health insurance companies on AHC provided by health care institutions which will be controlled by PIL after concentration represent only inconsiderable part of their costs on health care, even the negative impact on concentration in the view of excluding PIL competitors was not proved in the area of providing AHC. Based on these facts the Office concluded that the concentration in the area of providing AHC does not have negative impact even from the vertical point of view.

- Services of common examination and medical institutions

Common examination and medical institutions ensure and realize examinations, analyses and tests referring to the provided ambulance health care or hospital health care.

In the area of providing laboratory services of SEandMI the horizontal overlapping of PIL and NaP Holding activities was identified only in the area of biochemistry. In the view of requirements of the SEandMI services consumers referring to the promptness of delivery of laboratory results in biochemistry they may be divided in (1) urgent, so called statim examinations where the HHC (possibly also AHC provider) requires to deliver the result within 1, at maximum 2 hours from submission of biological sample and (2) routine (non-statim) examinations. For this specialization the Office found that providing of subjected laboratory examinations (both statim and non-statim) by the undertaking PIL and NaP Holding does not overlap. Thus the Office did not identify the negative impact of concentration from the horizontal point of view.

Regarding the fact that the parties to concentration provide the mentioned service only in minimum extent and the costs of health insurance companies on purchase of SEandMI services provided by undertakings belonging to economic groups both of PIL and NaP Holding undertakings are inconsiderable, the Office did not identify the negative impact of concentration from the vertical point of view.

- Pharmaceutical care

Only undertaking PIL acts in the area of providing of pharmaceutical care through the public pharmacy, thus in this area the activities of parties to concentration do not overlap horizontally.

- Occupational healthcare

Through occupational health care the undertakings belonging to economic groups PIL and NaP Holding provide their employers with the expert services in protection of health of employees. Employer is obliged to ensure the occupational healthcare for all its employees at its own expense.

As the undertaking NaP Holding over which the undertaking PIL acquires the indirect exclusive control has been providing this service only in minimal extent, the Office concluded that the assessed concentration would not result in significant violation of efficient competition.

- Transport healthcare

THC ensures the transport of patients within district for example on dialysis and extraordinary transports of patients to other healthcare institution for examination outside the given district.

Given the highly local character of the provided service, the Office determined the geographic market by the districts. The closest healthcare institutions were PIL in Partizánske and NaP Holding in Banská Štiavnica. As the provided services have local character and the districts of Partizánske and Banská Štiavnica are not neighbouring districts, the Office concluded that there is no reason to deal in more details with the impact of concentration on competition conditions in providing of THC from the horizontal point of view.

In the view of vertical impacts of the concentration the Office did not identify the competition concerns resulting from this concentration since even after concentration the undertaking PIL would provide the subjected services only in minimal extent and the costs of particular health insurance companies on purchase of THC services provided by the undertakings belonging to economic groups both of PIL and NaP Holding are inconsiderable. The decision came into force on March 10, 2014.

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

50. Besides the decision-making activity the Office promotes and enhances the competitive environment also through competition advocacy. Competition advocacy is aimed at prevention in the area of competition protection and increases the awareness of competition principles among lay and expert public. It covers a wide range of activities from initiating legislative changes, through comments in the interministry comment procedure, organisation of seminars and conferences, various initiative documents to the communication with public through media. According to the Office's experience the enforcement of competition advocacy in sector is more appropriate and effective in many cases. Such approach contributes to creation of more competitive environment through supporting the systematic solutions of problems in the market and is often more acceptable to both market and undertakings than the time-consuming and expensive administrative proceedings.

51. Through the comments on draft acts and other documents the Office seeks to eliminate potential barriers to the effective application of competition rules likely to cause a distortion of market and competitive environment.

52. In 2014 the Office dealt with 425 materials, which were submitted within the interministry comment procedure. The Office submitted its comments on 28 materials. In 5 materials it formulated fundamental comments on prepared legislation, 19 comments had nature of recommendation and 4 were

combined. Office's comments referred mainly to Act on Waste, Civil Code of Litigation, Administrative Procedure Code, Act on Notaries, Act on Insurance and Act on Geodesy and Cartography. In appropriate cases, which could infringe functioning competitive environment, the Office submitted its statement even beyond the interministry comment procedure.

3.1 *The Antimonopoly Office expressed its disagreement with the proposals of Chamber of Notaries for changes in Commercial Code*

53. Within the interministry comment procedure on draft of the amendment to the Commercial Code the Chamber of Notaries of the Slovak Republic submitted comments beyond the draft act. The Office considered some drafts of the Chamber contrary to the requirement for the proper functioning of competitive environment and it commented on them beyond the interministry comment procedure.

54. Chamber of Notaries has been proposing that the establishment of one-person Ltd., change of the deed of incorporation and important decisions made by the single shareholder need to be realized only in the form of notarial record. The Office considered this proposal contrary to the requirement for the proper functioning of competitive environment.

55. According to the Office the drafted measure of the Chamber of Notaries:

- intervenes in the market and introduces the obligation to take this service exclusively from the notary. Notaries, as its providers, will have, de facto, monopoly for the certain kind of provided services and the shareholders in "one-person" companies limited, will not have a choice whether to take this service or not, as they used to have so far. They will have no choice of service supplier either;
- advantages notaries against other providers of legal services as the set acts could be realized only through the notarial record. Indirectly it also motivates to use the notary services for drafting text, as the undertaking is obliged to pay the notary fee also if he/she drafts the text him/herself or by the third person;
- increases administrative costs of companies with single shareholder, by the fee for notarial record at minimum;
- introduces unequal conditions of functioning of the companies limited with the single shareholder and with more shareholders as the companies limited with more shareholders are not obliged to realize these acts in the form of notarial records.

56. The Office did not agree with the arguments of the Chamber that the submitted draft is necessary to prevent fraud on the basis of forged signature of a single shareholder. In the Office's view the proposed regulation is not a solution of problem which would be at least burdensome in terms of competition and business environment. Forged signatures could be prevented also by the requirement for authentication of signature where the shareholders and undertakings will have more choices for realization of this act, including the choice of person authenticating the signature (notary, municipality, district office). Firstly, it is necessary to consider whether such a measure is required.

57. The Antimonopoly Office did not agree with the draft of the Chamber of Notaries and it addressed the Ministry of Justice of the Slovak Republic, which has submitted the act, with the requirement not to accept their comment. Ministry of Justice of the Slovak Republic pledged not to accept the comment of the Chamber of Notaries.

3.2 *Draft of the Act on Waste*

58. The Office submitted more fundamental and specific recommendatory comments on the draft of the Act on Waste. Fundamental comments primarily referred to possible increase of barriers to entry the market.

59. In one of its provisions the draft act regulates the conditions of the systems of associated waste disposal that need to be observed throughout the period of operation of the system. For the first time it is necessary to prove compliance with these conditions already when applying for the authorization which creates high barrier to entry the market since some obligations appear to be very difficult to meet. In the Office's view, the authorization needs to be granted to anyone who meets the conditions laid down by law. System should be open, particularly with regard to the flow of the waste through the organization of producer responsibility ("OPR") which solely specifies also the entities acting in the down-stream markets. Therefore it is necessary to have competition at OPR level. Conditions for granting authorization create high administrative barriers to entry the market which closes this system mainly to newly created OPR. Moreover the Ministry of Environment of the Slovak Republic has the option to deauthorize OPR if it fails to fulfil its obligations under the Act. Authorization applicant is obliged to prove fulfilment of these conditions which could be basically proved only by the functioning OPR. Therefore the Office expressed the need to reduce the administrative barriers to entry the market, it means to granting the authorization.

60. High barriers to entry the market exist also in the case of individual implementation as some conditions are difficult to meet already at the moment of applying for granting an authorization for individual implementation.

61. The Office formulated the fundamental comment on application for granting an OPR authorization where it requires harmonising the provision on date of submitting application with the intention stated in reasoning report. The Proposed wording implies submission of an application for granting an OPR authorization no later than two months after the effective date of the act what de facto closes the market after 2 months after the act enters into force and prevents from entry of new OPR.

62. The Office also finds necessary to ensure the sufficiently effective control of OPR as they have powerful position and basically they will decide on entities acting in the down-stream markets. Therefore the effective control system should exist, but not in the form of unreasonable administrative barrier to entry the OPR market. Entry to OPR market must be open and conditions to grant an authorization should be set in such way that the newly entering OPR may really meet them in such time horizon that the entry to the market is economically feasible and it could compete in this market.

63. The Office also highlighted the adjustment of cooperation in collection of packaging waste and waste from non-packaging products collected together with the packaging waste by municipalities. System enabling one municipality to have contract only with one OPR may restrict competition as the contract with municipality ensures the access to waste. If it is not possible to monitor the waste flow or to collect all waste from the municipality in other way than to have contract only with one OPR, it is necessary to keep the access to municipalities open, it means to enable OPRs to compete for these municipalities and to enable the newly created OPR to enter the market.

64. The Office also pointed out that establishment of OPR coordinating centre and the individually implementing producers of identical commodities should not serve as platform for exchange of sensitive information as the competition between these entities is base of effective functioning of this system.

65. Other comments related to disclosure of information on OPR website, setting the conditions of system of individual implementation of selected obligations, financial guarantee of OPRs and producers,

possibility to terminate the contract concluded between the municipality and the authorized organization/collective organization and other discrepancies between the draft act and the respective reasoning report.

3.3 *Draft of the Act on Geodesy and Cartography*

66. In this draft act the Office considered appropriate that the payment for the qualification examination should be equivalent to the costs related to testing. Excessive payment for the completion of the qualification examination that is precondition of realization of this activity could constitute barrier to entry the market of providing geodetic and cartographic services. Entry barriers may discourage some entities from applying for qualification examination what may lead to reduced competition in the market resulting from the lower number of competitors and thus to the negative impact on consumers. Since the qualification examination should not be a business, the payment for it should have been set in such way that the chamber would not profit from testing. At the same time determination of the payment at the level corresponding to the costs of the testing should prevent from setting the excessive payment that would represent barrier to entry the market.

3.4 *Draft of the Act on Insurance*

67. The Antimonopoly Office required to omit from the draft act the provision according to which the infringement of duty of confidentiality will not be constituted by exchange of information between insurance companies, insurance companies from other Member State, branches of foreign insurance companies, reinsurance companies, reinsurance companies from other Member State, branches of foreign reinsurance companies, in case of mutual exchange of information aimed at prevention and revealing of insurance fraud and other illegal conduct, while insurance companies may inform each other and share information on facts related to insurance of persons and its arrangement including information on representatives of insured persons and other persons participating in damage or insurance event, also through the legal person that is not insurance company, reinsurance company or financial agency for insurance and reinsurance.

68. In the Office's view this formulation arouses competition concerns as exchange of information in such extent goes beyond what is necessary to achieve the purpose.

69. The Office neither agreed with the establishment of common register of insurance information using automated or non-automated means through which the insurance companies would be entitled to disclose and provide data on insurances, insurances of items of pledge, blockages of payment, claims and claims record. Register in such extent arouses concerns of restrictive impacts on competition in the form of exchange of sensitive information among competitors.

3.5 *Draft of the Act on Notaries and Notary Services (Notary Order)*

70. The Antimonopoly Office submitted fundamental comments on the draft of the Act on Notaries and Notary Services. Firstly, it stated that proposed wording preserves the present status when the number of notaries is restricted, thus the notaries are not exposed to effective competition in notary services which are carries out on a commercial basis and which should offer freedom of choice to clients.

71. Current regime that is applied and is planned to be applied is contrary to the European Commission's philosophy of liberalisation of professional services having been declared in the past in various documents, for example in Lisbon Strategy or in Report on Competition in Professional Services in EU, where it called upon the Member States to review the state of regulation with the aim to liberalize it.

72. In the Office's view the deliberalisation and regulation of number of notaries may be reflected in efficiency of notary services and indirectly in negative impact on consumer and authorized entities.

73. The Office also pointed out that on April 24, 2013 the Government of the Slovak Republic adopted the Resolution No. 198 that approves the document "The National Reform Programme 2013" stating that the strict regulation of freelance occupation distorts competition among providers of services and that there is a need to identify and eliminate those regulations resulting in unnecessary competition development barrier. Thus the submitted draft is contrary to the objectives determined set out in this document. Maximum number of notaries in the district should be generated by market and the Ministry should assure the minimum number of notaries in the area (mainly for the function of court commissioner).

74. For the above-mentioned reasons the Office proposed to revise the system of establishment and staffing of notary's offices so that their number in the district is not restricted and this service is liberalized. The above-mentioned represents clear barrier to entry the market for other entities qualified for these services and they are hindered from the participation in the competition.

75. The Office also raised its comments on provisions that prolong the practice necessary for notary services. It considers the prolongation of this period as excessive and aiming at higher barriers to entry. Even the argument that the state has liability for notary services is not justifying as the act in its current form already requires long legal practice and preparation for the notary services.

76. Prolongation of the required practice undesirably increases barriers to entry the market for future notaries and is a step back in liberalization of this market. Any unfounded barriers to entry the market can lead to lower competition level and it may result in lower quality of provided services or increased prices.

4. Resources of Competition Authority

4.1 Resources overall

4.1.1 Annual budget

	2013		Change
Total expenses	2 076 000 EUR	3 001 512 USD	-96 066 EUR (-132 734 USD)

4.1.2 Number of employees

	2013	2014
Economists	13	14
Lawyers	18	21
Other professionals	2	2
Support staff	24	18
Total	57	55

4.2 Human resources

	2014
Enforcement against anticompetitive practices	21
Merger review and enforcement	6
Advocacy efforts	8

4.3 Period covered by the above information

- Year 2014