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

-- 2014 --

**16-18 June 2015**

*This report is submitted by Estonia to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 16-18 June 2015.*

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## Foreword

Dear readers!

I am delighted for the opportunity to present you the latest Competition Authority Yearbook.

Our efforts are targeted at two areas, one is ensuring free competition and the other – exercising regulatory control over economic sectors. We are hoping for the number of regulated sectors and undertakings to continue to decline and the number of undertakings operating in the free competition environment to increase. Estonia can boast with some good examples in this area. While as recently as ten years ago the entire postal services sector was monopolistic, and Eesti Post inevitably had to carry such reputation, Omniva today is an undertaking oriented towards free competition and the highest level of customer service. Customers can choose between several different service providers to send their postal parcels and letters, and the last activity of Omniva that still remains regulated is the obligation to provide universal postal service. In the same way as in the postal sector, restrictions on monopolies were enacted in the electronic communication sector some 10–15 years ago. Today the monopoly service has been replaced by competition on free market. For two and a half years the country has lived under the free electricity market conditions, where the Competition Authority does not need to regulate oil shale or electric energy prices, let alone the sales margins added to prices charged to end consumers.

While in the energy sector the developments towards free market have been positive, there are regrettably still certain sectors where introducing of free market principles is facing considerable difficulties. For instance, on the medicinal products market restrictions on establishment of pharmacies have indeed been abolished, but there is still a number of problems yet to resolve. The matter of restrictions on ownership of pharmacies, that certainly hamper free competition, is still raising questions. It is completely understandable, that in a pharmacy customer service should be provided by employees with the respective education, but establishing restrictions on ownership is definitely over the top. This is like stipulating that shareholders of a power network must be electricians or that only bus drivers are allowed to own bus companies. Developments in public transport are not very satisfying either. This sector too could benefit from free market conditions, where regulations apply to quality, i.e. traffic safety, and not the market. It means that any bus operator who observes traffic rules, operates a fleet of buses compliant with the law, and generally ensures safe commuting, could carry passengers between Tallinn and Tartu.

The year 2014 will be remembered for a heated debate on the topic on whether or not cartel conduct should be regarded as criminal offence. Another issue is whether a participant in a cartel should be considered a criminal, but it is obvious that such complicated matters cannot be detected in a misdemeanour procedure. In a free market economy it is essential to comply with underlying rules, one of the most important of which is refraining from prohibited agreements, and therefore the means of combating cartels efficiently should remain in place. It is also appropriate to point out once again that it is easier to prevent a monopoly rather than to fight against abuse of the monopoly status. In this respect it is important, inter alia, to continue exercising uncompromising control over concentrations.

Wishing everyone creative ideas promoting free competition,

*Märt Ots*  
*Director General*

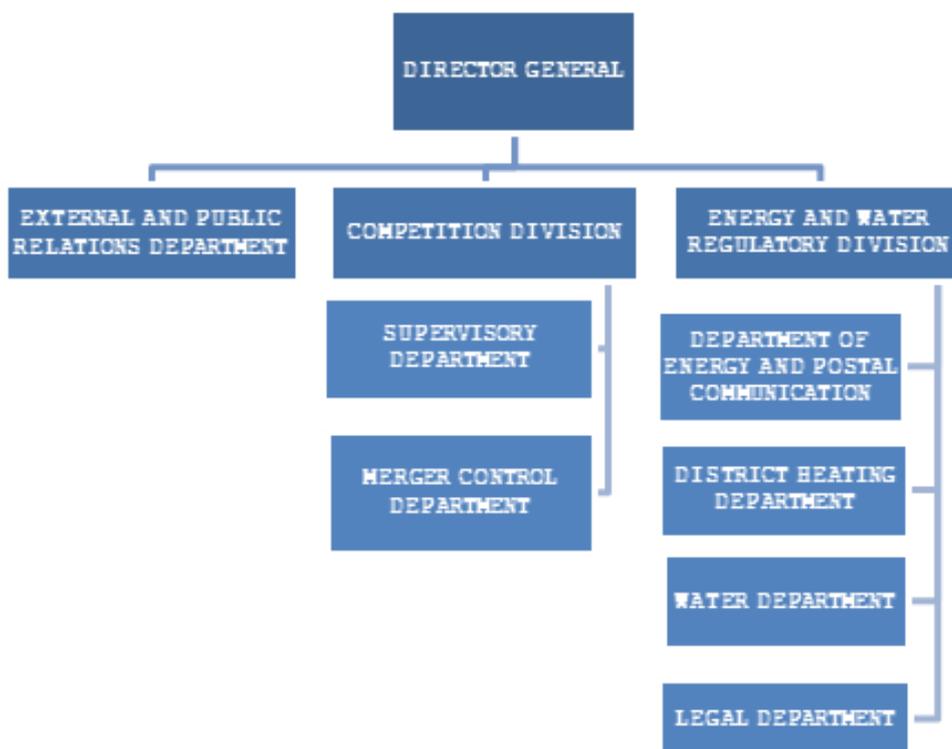
## 1. Organisation

1. The Estonian Competition Authority exercises supervision in the fields of competition, electricity, natural gas, district heating, postal services, water and railways. In addition, the Authority settles disputes regarding airport fees.

2. On 1 July 2014, amendments to the Electronic Communications Act entered into force, modifying the provisions concerning the organisation and supervision of electronic communications at the national level. The tasks, rights and obligations of the electronic communications' market regulator, which previously had been divided between the Estonian Competition Authority and the Technical Surveillance Authority, were brought under the competence of the latter. The Estonian Competition Authority was responsible for regulating electronic communications since 1 January 2008. In relation with these changes, the electronic communications department was also transferred to the Technical Surveillance Authority and the structure of the Estonian Competition Authority was also changed.

3. Since the 1st of July 2014, the Competition Authority includes two field-based divisions, which are the Competition Division and the Energy and Water Regulatory Division. In addition to the Divisions there is the External and Public Relations Department, which is responsible for ensuring effective support services for the Authority. The Director General is at the head of the Authority (Figure 1). Structural divisions are directed by the Heads of Divisions – Deputy Directors General.

Figure 1. Structure of the Authority



4. The functions of the Authority are divided between structural units as follows:
- **The main functions of the Competition Division** are exercising competition related supervision; control of concentration in all economic sectors; analysing competitive situations; counselling undertakings and raising competition related awareness.
  - **The main functions of the Energy and Water Regulatory Division** are implementing price regulation and market supervision in the electricity, natural gas, district heating and water sectors and regulation of postal services market.
  - **The main functions of the External and Public Relations Department** are coordination of public and international relations of the Authority; organisation of state assets and means in the possession of the Authority; personnel work and training coordination; document management and administration of archive.
5. The Competition Authority employed 49 persons as of the end of the year 2014.
6. Most staff members have higher education in economics (business administration; business management; finance; economics etc.) or in law. The third group of officials consisted of those with higher education in other disciplines such as thermal engineering, public administration or other.

## 2. Cooperation on International and National Level

7. The Competition Authority routinely participates in the work of competition, energy, water, postal communications related working groups and associations. The officials of the Competition Division attend meetings and discussions of the ECN (*European Competition Network*), ECA (*European Competition Authorities*), OECD Competition Committee and ICN (*International Competition Network*) working groups and sub-groups. The officials of the Energy and Water Regulatory Division participate in the meetings of CEER (*Council of European Energy Regulators*), ERRA (*Energy Regulators Regional Association*) and ACER (*Agency for the Cooperation of Energy Regulators*).
8. In June 2014, the Authority hosted the Merger Working Group meeting in Tallinn.
9. In 2014 the Estonian Competition Authority continued to be participate in a project „Improving good governance of competition and regulatory authorities in the Republic of Moldova: public administration, e-governance and inter-institutional cooperation.” The project is being funded from the Estonian Ministry of Foreign Affairs Development Cooperation Funds and managed by the Tallinn Law School. The objective of the project is to contribute to the institutional reform of Moldova and to strengthen the institutional capacity of the partner institutions by increasing the relative importance of ICT and e-governance solutions and cooperation between competition authority and sector regulators. The Moldovan partner institutions in the project were the Competition Council, National Energy Regulatory Authority and National Regulatory Agency for Electronic Communications and Information Technology.
10. In the framework of the project, the President of the Competition Council of the Republic of Moldova, Viorica Carare and the Director General of the Estonian Competition Authority, Märt Ots signed a cooperation agreement in Chisinau. The purpose of the agreement is to stimulate professional cooperation and exchange of knowhow between two authorities.
11. On the 7th of October 2014 the Director General of the Agency of Medicines Kristin Raudsepp and the Director General of the Competition Authority Märt Ots signed a cooperation agreement which aims to enhance supervision in the sphere of medicines and develop legislation pertaining to the sphere. The Agencies wish to cooperate for the identification of dominant influence, unfair prices or unequal competitive conditions.

### **3. 2014 in Competition Supervision**

12. The largest share of efforts of the Supervisory Department of the Competition Authority involves conducting supervision proceedings to detect various violations of the Competition Act. This includes supervision of activities carried out by undertakings in dominant position, as well as cooperation between undertakings that could harm competition. In certain cases the Supervisory Department also conducts criminal proceedings. Additionally, the Authority has always considered assessment of legislation and other similar actions of the state to be one of its key objectives, making, where appropriate, suggestions on amending legislation to uphold free competition.

13. The year 2014 marked six years since profound reorganisation of the Competition Authority; among other matters it meant that the Authority started to apply criminal proceedings much more extensively. Agreements distorting competition, above all cartels, cause substantial damages to consumers and to the development of the economy, and Estonia was one of the first countries in Europe to criminalise such behaviour. Assessing the history of criminal proceedings conducted by the Competition Authority over these six years it is appropriate to admit that the business community's understanding of the prohibition of anti-competitive agreements, has certainly improved. There are increasingly fewer situations where a trader commits a prohibited act by reason of ignorance. Moreover, based on the feedback received by the Competition Authority it is possible to conclude that, in particular, larger companies pay much more attention to raising their employees' awareness and to avoiding risks stemming from competition law. This is a very positive trend, seeing that the main objective of competition related supervision is introducing the culture of fair competition in the business community.

14. With regard to criminal proceedings the most significant among them conducted in 2014 was the lawsuit in the biggest competition related criminal case in Estonia, which investigated alleged concerted practices of AS Liviko and a number of retail chains towards establishing vodka prices. In April 2015 Harju County Court rendered a guilty verdict in this matter. Several parties to the proceedings have declared their intent to appeal the judgement. Additionally, last year there was much discussion about the future of penal power vis-à-vis competition related breaches. Namely, competition related offences are criminalised rather extensively in Estonia, covering not just the most serious agreements, but a number of less harmful forms of cooperation as well. In view of the complicated nature of competition law business organisations have expressed their reservations about whether or not it is reasonable to criminalise these violations to such an extent. On the other hand, in comparison with other European countries the nature of penal law in Estonia is rather atypical, because, other than criminal proceedings, there are virtually no possibilities to efficiently sanction persons. The Competition Authority finds that potential amendments to penal law should be made in a balanced manner, and this should not jeopardise effectiveness of the fight against cartels.

15. The amendment to the Competition Act, offering a possibility to assume obligations, entered into effect in the summer of 2013, and based on the results of 2014 one can conclude that traders have accepted this rather well. A trader whose activities could constitute a breach of the Competition Act, and on whom the Competition Authority considers issuing a percept, may submit an application for assuming an obligation. The obligation has to be targeted towards improving the competitive situation, and be appropriate for remedying the damaging effects of the breach. Such solution, on one hand, provides traders a flexible possibility of curing the situation distorting competition and, on the other hand, saves resources of the Competition Authority that otherwise would be spent on litigation. The key benefit of this is that the competitive situation is improved right away, not in some years, after the court has uttered its final position. Two of such cases – assumption of obligations by AS Tallinna Küte and AS G4S – are discussed below as examples. These were extremely complicated discussions where both these traders agreed to improve their activities themselves.

16. Estonia is generally considered a country with rather liberal trade policies, traditionally earning high ratings in economic freedom. At the same time there are situations in the legislation where the regulatory environment of the state either hampers free competition, or at least does not create the best possible conditions for it. The Competition authority has made suggestions about amending, for instance, the Medicinal Products Act, the Public Transport Act, the Waste Act, etc. One of the examples of the last year is the proposal to amend the Health Insurance Act, in which the Authority has suggested that certain clear and transparent criteria be added to the Act that – if met – would give the Health Insurance Fund the right to accord preference to hospitals, covered by the hospital network development plan, over private hospitals without any restrictions. Restrictions on competition contained in several legal acts are not laid down by someone's intent to hamper competition; instead limiting competition is often seen as means to obtain another objective, not directly connected with enterprise. For instance, last year the judgements of the Supreme Court concerning the Medicinal Products Act, which essentially found that restrictions on freedom of establishment of pharmacies are disproportionately high vis-à-vis the sought objective, i.e. uniform distribution of pharmacies across Estonia, attracted extensive discussions. The Competition Authority has suggested that these restrictions be abolished as early as in 2009. The mission of the Authority in such situation is in fact to emphasise the significance of free competition, and to assess whether restriction of competition is indeed the best way to achieve different objectives.

### **3.1 *Changes in the Competition Act***

17. The amendments to the Competition Act enacted by the revision of the Penal Code, which increased the amounts of fines imposed on legal entities for competition-related misdemeanours, entered into effect on 1 January 2015. The punishment stipulated by the Competition Act for enforcement of concentration without permission to concentrate and for concentration, which prejudices competition, as well as for non-performance of obligations of undertakings in control of essential facilities, is a fine in the amount of up to 400 000 euros. The Penal Code was amended so that these necessary elements of competition-related criminal offences, the condition precedent to applying of which was a prior punishment for a misdemeanour, were repealed. In practice since 2004 Sections 399, 401 and 402 had not been applied even once. Therefore, as of 2015 the deeds punishable as criminal offences are agreements, decisions and concerted practices that prejudice free competition, as set out in Section 400 of the Penal Code.

18. Moreover, the rates of turnover to which control of concentration is to be applied under the Competition Act, have become less complicated as well. According to the amendment a concentration is subject to control by the Competition Authority if, during the previous financial year, the aggregate turnover in Estonia of the parties to the concentration exceeded 6 000 000 euros and the aggregate turnover in Estonia of each of at least two parties to the concentration exceeded 2 000 000 euros.

### **3.2 *AS Tallinna Küte assumed a commitment to organise a competition for purchasing peak capacities of heating***

19. In 2012 the Competition Authority initiated supervision proceedings in order to establish the process of purchasing heat generated from natural gas for the district heating network operated by AS Tallinna Küte. In the course of these proceedings the Authority assessed whether the activities of AS Tallinna Küte were in conformity with the Competition Act, above all, in respect of fostering fair competition between the gas boiler owned by AS Tallinn Küte, and the Iru Power Plant of Eesti Energia AS.

20. The Competition Authority presented AS Tallinna Küte its preliminary findings, along with a caution to issue a percept.

21. Based on the information gathered the Authority found that through possessing the district heating network of the city of Tallinn AS Tallinna Küte holds a dominant position on the market of heat transmission in the Central, East and West regions of the city, because it is the only undertaking in these regions that transmits heat via the district heating network of the city of Tallinn. Furthermore, the

Authority assumed an initial position that in the district heating network of the city of Tallinn, AS Tallinna Küte owns an essential facility in the meaning of § 15 of the Competition Act. Building another district heating network doubling the existing one in the Central, East and West regions of the city of Tallinn (as any other district heating network) would be a completely unreasonable venture from the economic point of view, because of high costs, and would be impracticable from the city planning and technical aspects. Pursuant to § 8 (1) of the District Heating Act consumers cannot purchase heat directly from the generating facility, and therefore a heat producer can have no alternative purchasers, other than the district heating network operator. The Authority found that an undertaking producing heat cannot operate on a goods market of heat generation if it lacks access to a district heating network, because without access it would be impossible to sell the heat produced.

22. The Competition Authority established that both AS Tallinna Küte, as well as the Iru Power Plant of Eesti Energia AS, are capable of ensuring the necessary capacity and generate heat using the existing gas boiler plants. Therefore AS Tallinna Küte was obliged to provide Eesti Energia AS access to the network for selling heat on reasonable and non-discriminatory terms. The Authority also found that the terms, set by AS Tallinna Küte, under which Eesti Energia AS was given access to the district heating network of the city of Tallinn for selling heat generated at the Iru Power Plant, could have been discriminating for Eesti Energia AS, vis-à-vis those applied to the gas boiler plants owned by AS Tallinna Küte. Therefore, AS Tallinna Küte could have committed a breach of the obligation to provide access to an essential facility set forth in § 18 (1) clause 1 of the Competition Act. Furthermore, the Authority assumed the preliminary position that, being a dominant undertaking, AS Tallinna Küte could have committed a breach of § 16, clause 6 of the Competition Act, because the decision of the undertaking about whether to purchase heat and capacity from its own gas boiler stations or from the Iru Power Plant of Eesti Energia AS, was based on non-transparent consideration. The Authority found that purchasing heat and capacity from its own gas boiler plants, in a situation where AS Tallinna Küte had not established whether or not the rival provider could offer the same at a lower price, could represent unjustified refusal to buy goods. In the opinion of the Competition Authority AS Tallinna Küte should have purchased heat and capacity in a manner that would have provided Eesti Energia AS an opportunity to compete on equal footing with the gas boiler plants owned by AS Tallinna Küte.

23. AS Tallinna Küte wished to have the supervision proceedings to be terminated, and submitted the Competition Authority an application on assumption of obligations.

24. In accordance with the proposed obligation AS Tallinna Küte, being the network operator in the district heating region of the city of Tallinn, promised to arrange in 2016 a tender on purchasing heat and entering into long-term contracts, in order to establish the best bid, taking into consideration both the impact of the procurement on the end consumer price, as well as the aspects deriving from the hydraulics of the network. To develop the terms of the procurement AS Tallinna Küte has, among others, invited scientists from Tallinn University of Technology, and the terms will be concerted with the Competition Authority. The procurement will be announced on 01.09.2015, and the long-term contract on purchasing peak heat capacities will be concluded with the successful tenderer at the latest on 31.12.2015.

25. Pursuant to the Competition Act, the obligation proposed by the undertaking has to be targeted towards improving the competitive situation, and be appropriate for remedying the harmful effects of the violation. The Competition Authority found that the obligation proposed by the undertaking is necessary and sufficient to resolve the problem with competition pointed out in the preliminary opinion of the Authority, and is an appropriate measure to improve the competitive situation in respect of purchasing of peak capacities of heat into the district heating network of the city of Tallinn. Eesti Energia AS did not have substantive objections against the obligation.

26. The Competition Authority approved the obligation of AS Tallinna Küte, and made it binding on the undertaking.

### **3.3 *Cash-in-transit and cash handling services***

27. At the end of 2014 the Competition Authority ended the supervision proceedings pertaining to the cash-in-transit and cash handling market. These proceedings were initiated on the basis of the application of OÜ Eurex CS. The key issue of the application was price formation of AS G4S Eesti, and its possible conflict with the Competition Act.

28. It was alleged in the application that AS G4S Eesti had established unreasonably low service fees for cash-in-transit and cash handling services for such clients to whom OÜ Eurex CS had quoted its own price. Moreover, the applicant asked the Authority to render its opinion about whether the cooperation between AS G4S Eesti and banks could by its nature be distortive of competition and whether the vault of AS G4S Eesti is an essential facility in the meaning of the Competition Act.

29. The cash-in-transit and cash handling market in Estonia is a highly concentrated market, and there are two service providers operating on it: AS G4S Eesti and OÜ Eurex CS. The latter entered into the market in 2009. The market share of AS G4S has remained over 90% even after the competitor entered into it.

30. The Competition Authority analysed the bases and policies of price formation of AS G4S Eesti, using a number of clients as examples, selecting traders from different customer groups and comparing their contractual terms. In its initial opinion sent earlier to AS G4S Eesti the Authority was not completely convinced that the service fee differences are justified. In particular, the Authority found that the service fee differences should correspond to differences in expenses with regard to providing services to specific customers.

31. In the process of the proceedings AS G4S Eesti filed the Competition Authority a proposal on assuming the obligation to introduce consistent price formation principles, which would apply uniformly to all new and existing clients to whom the company is providing cash-in-transit and cash handling services on standard terms. Existing customers will be transferred to the new pricing principles within two years according to the detailed schedule agreed upon in the obligation. The obligation primarily applies to the 100 largest retail customers. The obligation undertaken by AS G4S Eesti does not apply to certain customer groups that are different from typical, for instance to providers of certain vital services and to those who purchase services within the framework of public procurement procedures. The Competition Authority has approved an obligation undertaken by AS G4S Eesti, because the Authority is convinced that the new pricing principles implemented by the undertaking effectively eliminate the competition related problems emphasized by the Authority during the proceedings.

32. The Competition Authority did not identify any breach of law in the cooperation between AS G4S Eesti and the banks. Contracts between AS G4S Eesti and the banks do not contain any provisions that would have prevented cooperation with other service providers.

33. In respect of the matter of the vault of AS G4S Eesti, the Authority held the position that the vault does not constitute an essential facility in the meaning of the Competition Act. OÜ Eurex CS also has a modern vault, which complies with the requirements established for servicing banks.

### **3.4 *Distribution of medical treatment funding***

34. The Competition Authority analysed competitive situation in medical treatment funding and made a proposal to the Ministry of Social Affairs to initiate the draft to amend the Health Insurance Act in order to add clear and transparent criteria for the distribution of treatment funding between health care institutions to the Act.

35. Assessment of the competitive situation vis-à-vis financing of medical treatments was initiated in connection with applications received from a number of health service providers, in which the applicants asked the Competition Authority's opinion about the conclusion of contracts for financing medical treatments by the Estonian Health Insurance Fund. Namely in respect of financing health services the Health Insurance Fund gives precedence to hospitals listed in the Hospital Network Development Plan (hereinafter HNNDP), and therefore other health service providers are put in an unequal position in comparison with the hospitals covered by HNNDP.

36. The analysis focused on the issue of whether – in case of certain specialities (e.g. outpatient medical rehabilitation) – the Health Insurance Fund's selection of service providers could be arranged such that HNNDP hospitals identified in the development plan were not accorded preference in awarding contracts, and that due selection were to involve all tenderers/ health service providers. Although the analysis used medical rehabilitation as an example, this does not mean that in certain cases the results of the analysis would not be applicable to other health services as well. Feasibility of free competition depends on the particular speciality, and in the case of many highly demanding specialities (for instance, complicated operations, etc.) it is rather doubtful whether free competition would be justified. Therefore the recommendation contained in the analysis is applicable, above all, to those specialities, which have been traditionally rendered by health service providers that are not covered by the HNNDP (non-HNNDP health service providers).

37. A contract with the Health Insurance Fund secures a health service provider turnover and patients. Therefore, awarding of contracts for financing medical treatments does affect the competitive situation on the health services market, as it gives service providers with a contract an advantage over the service providers who have not been awarded a contract.

38. The Health Insurance Act sets out a number of criteria, which the Health Insurance Fund has to consider when concluding a contract for financing medical treatments. Moreover, the Act also prescribes that the Health Insurance Fund has to conclude contracts with hospitals covered by HNNDP, at least within a certain scope. The Competition Authority admitted that the Act leaves room for applying rather different methods of distributing finances for medical treatment. However, the Act does not contain any provisions that would directly respond to the question about the ways and principles of deciding on how to distribute finances between HNNDP and non-HNNDP health service providers. Nevertheless, the Competition Authority has reached the conclusion that the approach applied by the Health Insurance Fund is not probably the only way of implementing the Health Insurance Act.

39. There is no transparent and unambiguous regulation in current legislation, which could serve as a basis for the Health Insurance Fund for deciding the distribution of funding between the HNNDP hospitals and the rest of the health care providers. The Health Insurance Fund has chosen to solely prefer HNNDP hospitals. The Competition Authority underlines that free competition may be of great benefit for both the patients and for the Health Insurance Fund. The current approach of the latter preferring solely the HNNDP hospitals distorts competition which would be excluded in a normal competitive situation. This may lead to situations where the more expensive and/ or of lower quality service offered by the HNNDP hospital is preferred of the others. According to the Authority, possible counter arguments against free competition should be considered on a case-by-case basis and the HNNDP hospital preference should not be automatic in the process of treatment funding. Currently, such a consideration is not carried out.

40. Therefore, the Authority made a proposal to the Ministry of Social Affairs to initiate the draft to amend the Health Insurance Act in order to add clear and transparent criteria. Only in the case of the fulfilment of these criteria, the Health Insurance Fund could have the right to prefer the HNNDP hospitals in certain specialities without any restrictions to funding. In case of health care services that do not meet the criteria, all health care providers should have a chance to compete on equal terms.

41. The Competition Authority is convinced that a respective amendment of the Act would increase transparency of distributing the funds for financing medical treatments, and in justified cases introducing free competition would improve efficiency. Furthermore, clear and transparent rules would also give the Health Insurance Fund a more convincing mandate to give precedence to HNDP hospitals, if appropriate, and would avert unnecessary disputes.

#### **4. Control of Concentrations**

42. The Competition Authority controls mergers and acquisitions, because the concentrations between undertakings may create or strengthen dominant position of an undertaking and this may bring along an abuse of dominance. The Competition Act enables to prohibit concentrations that would give rise to a significant impediment to effective competition. A concentration that is controlled by the Competition Authority may not be enforced before the decision to grant permission has been made.

43. In 2014, 21 notices of concentration were submitted to the Competition Authority and two cases were brought over from 2013. The Authority made 22 decisions to grant permission to concentration, in one case clearance decision with commitments was made. In one case the proceeding was ended, because the concentration was not a subject to the control. In two cases a decision was made to initiate a supplementary proceeding.

44. 20 decisions to grant permission to concentration were made in the first phase of the proceedings, i.e. within the 30 calendar days prescribed by law. In two cases the Authority made a decision to grant permission to concentration in the second phase of the proceedings, i.e. within five months prescribed by law. In two cases the proceedings were suspended in connection with the elimination of deficiencies in the notice. The actual average length of the proceeding in the first phase was 18 days and the actual average length of the additional proceedings was 147 days.

45. The breakdown by types of concentrations was as follows:

46. An undertaking acquired control of the whole or a part of another undertaking in the case of 21 concentrations (Competition Act § 19 (1) p 2);

47. Undertakings jointly acquired control of the whole or a part of another undertaking in the case of 2 concentrations (Competition Act § 19 (1) p 3).

48. Majority of concentrations (16) took place among Estonian undertakings, in six cases both of the parties to the concentration were foreign undertakings and in one case the parties to the concentration were both domestic and a foreign undertaking.

49. The concentrations took place in the following product markets:

- Waste management (2)
- Electronics (2)
- Cereals, milled products (2)
- Healthcare services
- Energy (4)
- Real estate
- Forestry

- Retail and wholesale (2)
- Road management
- Food industry (2)
- Cinemas
- Industrial equipment (2)

50. One of the most significant concentrations in 2014 was the concentration between Orkla ASA ja AS Gutta, NP Foods SIA, AS Staburadze, AS Laima, UAB Margiris ja SIA Detente. The concentration concerned several markets and its complexity requested remarkable resource and time.

The acquirer was Orkla group, who had following subsidiaries in Estonia:

- AS Kalev (production and sale of chocolate and sugar confectionary products, biscuits and mixtures of flour). AS Kalev owns OÜ Maiasmokk (manufacture of pastry and confectionary products));
- AS Põltsamaa Felix (production and sale of ketchup, mustard, juices, juice drinks, jams, wine, mayonnaise, salad dressings, spreads, preserved vegetables, fish products and other foods);
- OÜ Vilmix (production and sale of ingredients for bakeries and confectionaries);
- Sapa Profiilid AS (production of aluminium profiles);
- Axellus OÜ (marketing of health products and food supplements, undertaking is currently in liquidation).

51. The acquiree was NP Foods Eesti OÜ, which is mainly active in the wholesale and promotion of sales of NPF group's products in Estonia. There are products of several undertakings belonging to the NPF group sold in Estonia – juices and soft drinks produced by AS Gutta, chocolate and sugar confectionary products and biscuits produced by AS Laima, biscuits produced by AS Staburadze. In addition cakes produced by AS Staburadze have been started to sell in Estonia, but the sales volumes are still marginal.

52. The Competition Authority has, in the second phase of the proceedings, granted permission to concentrate on a condition that Orkla ASA commits not to raise prices of the chocolate confectionary products (chocolate candies, tablets, bars and chocolate boxes) in Estonia until 31.12.2016. The commitment not to raise prices does not apply in case of increase in prices of inputs (incl cocoa products, sugar, dairy products, nuts, fat, electricity) or changes in legislation, regulation or administrative measures (incl taxes, excise duties, food safety, packaging or labelling requirements).