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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

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## **Global Forum on Competition**

### **COMPETITION AND COMMODITY PRICE VOLATILITY**

#### **Contribution from Kazakhstan**

-- Session I --

*This contribution is submitted by Kazakhstan under Session I of the Global Forum on Competition to be held on 16 and 17 February 2012.*

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## COMPETITION AND COMMODITY PRICE VOLATILITY

-- Kazakhstan --

### 1. Background: Answers to OECD Questionnaire

1.1 *In recent years has there been significant volatility in the prices of commodities that are important to the general population in your country? Please briefly provide details (e.g., among others, on the product(s), market(s) and adjacent market(s) concerned and the magnitude and duration of this volatility, be it prices going up or down).*

1. No, no important commodity price volatility happened in Kazakhstan.

2. From the beginning of 2008, there was seasonal price volatility for some commodities (flour, bread, sugar, vegetable oil, meat and vegetables), also for fuel products. Usually, commodity price increases happen in winter and spring time, commodity price decreases happen in summer and autumn. Due to bad buckwheat crop in Russia, there was a price increase for buckwheat products in Kazakhstan since September, 2010. However buckwheat is not basic commodity in our country.

1.2 *Are the price volatility in these commodities, and the causes of that volatility, global, regional or domestic?*

3. There was no price volatility in Kazakhstan.

1.3 *Does your agency have any ongoing / pre-emptive monitoring activities in relation to these sensitive commodities? For example, do you routinely monitor prices, quantities or behaviours in these markets (both domestic and foreign markets)?*

4. The Agency does not provide constantly commodity price monitoring.

5. According to the Law "On Competition", Agency provides analysis and monitoring of business activities that hold dominant position in sensitive market in order to set high (low) monopoly price.

6. Currently, in State register of market players that hold dominant position, there are 174 companies in food producing market:

- wholesale of vegetable oil 18 companies;
- wholesale of eggs 4 companies;
- wholesale of sugar 31 companies;
- wholesale of bread 54 companies;
- wholesale of flour 52 companies;
- wholesale of milk 2 companies;
- wholesale of tea 2 companies;

7. The Agency participates in the Workgroup that was created by the Government on 2010. Its primary objectives are monitoring of price in domestic and foreign food producing markets, providing ideas about food production safety, stabilization of prices and guaranteeing safety in domestic market that proved efficient and systematic steps in order to stabilize prices for basic provisions.

8. Agency of Statistics and Ministry of Agriculture that in the part of Workgroup also provide monitoring prices of food productions.

## **2. Competition law enforcement & formal investigations**

2.1 *Please provide a brief overview of significant competition law enforcement matters that your agency has undertaken in relation to commodities including:*

*Merger assessments;*

*Cartels and horizontal agreements;*

*Vertical restrictions;*

*Abuse of dominance actions;*

*Any price control or other actions to regulate prices.*

*Please explain how the matter came to the attention of the agency, the substance of the allegation, the analysis undertaken and the remedies imposed (if any).*

9. Facts of price collusion and abuse dominant position in 2011 were brought several administrative cases on food producers and impose administrative penalty.

10. For example, in the markets of five oblast of Kazakhstan were determined 32 anticompetitive actions of vegetable oil and buckwheat producers. Those producers without any objective economic justifications unreasonably increase prices of unchangeable cost of those goods. Those producers were imposed administrative penalty by Court of Justice.

11. In one of the regions of our country, nine bread producers was imposed to administrative penalty because of anticompetitive collusions in corresponding market. Bread producers simultaneously increase the selling prices of bread by having flour in stock from previous delivery that brought by old prices. Those actions help them to produce bread by old prices without any losses. Two flour producers was imposed to criminal case because of anticompetitive collusions in 2010.

12. Relying on the fact of establishing of the monopolistic prices by including unfounded expenses to the price of product the Agency initiated the legal case against the Bakery complex/firm on abuse of the dominant position. In accordance with the "Competition Law" the initiation of formal investigation shall be based on the information of public authorities the applications of individual or legal persons, information received from media-representatives and in the result of analysis provided by the Agency.

13. The investigation shall be carried out within period not exceeding two month and its results shall be discussed/heard at the Agency's Board Meeting. The Board has 5 members; they are the Chairman, his/her two deputies and two representatives from the Government.

2.2 *Has your agency undertaken a market study into any commodity or commodities? Please explain what triggered the market study, the substance of the allegation, the analysis undertaken and the remedies imposed (if any).*

14. Yes, according to the “Competition Law” of the Republic of Kazakhstan the Agency provides analysis and assessment of the competitive environment in the commodities market.

15. In the course of analysis the market subjects, having monopolistic or dominant position are to be determined and to be included to the Agency’s State register of entities with a dominant or monopolistic position.

16. For instance, the Agency investigated a case of an anticompetitive behavior between 8 major milk suppliers in the territory of Almaty city, where the cumulative market share of milk sales amounted for more than 90%. Milk suppliers unreasonably increased wholesale prices by 5-37% without any justified reason and received additional revenues by the concerted practices. In relation to those entities the legal cases on administrative violations of the antimonopoly law by the price establishing and price maintenance have been brought. In the course of investigation some of the milk suppliers have lowered their prices and it also confirms the unreasonable price establishing. At the moment, some of those milk suppliers are already appealed by the court to an administrative responsibility.

2.3 *Has your agency received requests from governments or other parts of society to formally investigate commodities markets or requests for the competition authority to put downward pressure on prices where there has not been information or evidence suggesting anticompetitive behavior? What was the nature and circumstances of the request and how did your agency respond?*

17. Yes, the Agency receives formal requests from the Government to investigate the increase of prices (fuel markets, commodities market – sale of bread).

18. In this case the Agency conducts market analysis and in case of discovering of anticompetitive behavior/ or restriction of competition the measures of antimonopoly response shall be applied. The results of investigation will be submitted to the Government/ or any requesting part.

### **3. Advocacy opportunities and challenges**

3.1 *Has your agency had the opportunity to improve the efficiency and effectiveness in commodities markets through advocacy? For example, have you had the opportunity to recommend or advice on commodity price deregulation? Have you had the opportunity to advise on the reform of government or private sector monopolies for the purchase or sale of particular commodities for domestic consumption or export (i.e. single desks)? Have you had the opportunity to advice on the reform of regulations that fix or control prices or quantities? What was the commodity, the nature of the reform and the outcome?*

19. Yes, the Agency has such opportunity. The Chairman of the Agency participates in the Government meetings and may express his/her opinion on the issues relating or concerning competition policy or the functioning of commodity markets. Moreover, the Agency agrees the adoption of legal acts.

20. For instance, by the proposal of the Agency some changes are made to “The Law on regulation of trade activity”. Marginal levels of the trading extra change have been established. Control over these levels is established by local executive bodies.

3.2 *Has your agency been confronted by a government proposal to address pressing concerns about commodity prices that did impede competition (or would have impeded competition if it had been introduced)? What was the nature of the problem that the government was seeking to address? What was the timing and political constraints upon your opportunity to provide advocacy? What advice did the agency provide and what was the result?*

21. Yes, the Agency had received the Government's proposal to investigate high levels of price increases on the bread market. Therefore, the Agency has analyzed the bread markets of three regions of Kazakhstan and has brought legal cases against certain producers and sellers of bread.

3.3 *Please describe any pre-emptive steps available to your agency to:*

- *Reduce the risk that commodity price volatility becoming a problem in your country?*
- *Reduce the risk that governments or public societies seek policy responses to problematic commodity price volatility that would impede competition?*

22. Within the framework of activities of the Workgroup on Foods Pricing situation on the domestic and external markets the Agency participates in drafting of prompt and systematic measures aimed at the stabilization of price for foods and provisions. In addition, the power of the law compliance of acts that may affect competition is vested in the Agency. Moreover, the Competition Development Programme for 2010-2014 years is adopted by the Government. According to the Programme the Agency makes annual inventory of legal acts with an aim to identify and eliminate norms and regulations that may restrict competition.