

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

Working Party No. 2 on Competition and Regulation

**ROUNDTABLE ON COMPETITION AND REGULATION IN AUDITING AND RELATED
PROFESSIONS**

-- Lithuania --

8 June 2009

The attached document is submitted to Working Party No. 2 of the Competition Committee FOR DISCUSSION under item III of the agenda at its forthcoming meeting on 8 June 2009.

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1. NB. English version of the Law on Audit is available here:
http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=335883.

1. Concentration in the market

1.1 Which are the major accountancy firms in your country? Are these firms affiliated with the “Big Four” accountancy firms (PricewaterhouseCoopers, Deloitte Touche Tohmatsu, Ernst & Young, and KPMG)? Do you have information about the market shares in your country of each of these companies as regards the provision of statutory audits for publicly traded companies and private companies?

2. As provided for in the “Review of the Audit Market 2008”, published by the Chamber of Auditors, in 2008 in Lithuania have been 403 certified auditors, and 201 audit firms. However, there is no official statistics regarding the major audit firms or the shares that are held by the major audit firms. The unofficial statistics on the major audit firms (considering the annual revenue) are the following: 1. “Ernst & Young Baltic”, UAB (the acronym for “private company”), 2. “PricewaterhouseCoopers”, UAB, 3. “Deloitte Lietuva”, UAB, 4. “KPMG Baltics”, UAB.

3. Having in mind the number of certified auditors that work in audit firms, the biggest ones are also the audit firms that belong to the networks of the “Big Four” accountancy firms – “KPMG Baltics”, UAB has 10 auditors, “Ernst & Young Baltic”, UAB has 9, “PricewaterhouseCoopers”, UAB – 6 and “Deloitte Lietuva”, UAB – 4. There are also several other audit firms in the audit services market that have approximately 3-4 auditors therein, both national firms or belonging to the international networks.

4. In 2008 in Lithuania there have been 13% of all auditors that were providing their services as individual enterprises (sole proprietorships), 2% - as members in general partnerships or limited partnerships, and 52% of auditors – in private companies.

1.2 Is there any information as to the market shares of accountancy firms in your country regarding other accountancy services such as financial advice, internal audits or tax advice?

5. No, there is no such information, even for statistical purpose.

1.3 Have there been any recent mergers between accountancy firms in your country? Has there been any involvement in these mergers by a National Competition Authority or public regulator? If so, please describe.

6. No, recently there have been no any mergers concerning the accountancy firms.

1.4 If increased entry would be desired, how could new major accountancy firms develop? Are there any regulatory hurdles to the creation of new firms?

7. In order to create a new auditors firm, several following requirements must be fulfilled (as provided for in Art.17 of the Law on Audit):

- The firm may start its auditing activities only after having been entered in the list of audit firms on the decision of the Chamber of Auditors. Entered in the list of audit firms may be the entity registered in the Republic of Lithuania and audit firms of the member states which have established branches in the Republic of Lithuania and other audit firms of member states which wish to carry out audits according to the procedure established by legal acts of the Republic of Lithuania.

- In order to be entered in the list of audit firms, the firm shall submit the following documents:
 - an application containing the following particulars: name, registered number, names and surnames of the registered office, telephone, full names and addresses of partners, the voting rights of each partner, the numbers of certificates which show the granting of the auditor's name and other particulars established in paragraph 2 of Article 24 of this Law which are necessary for entering in the list of audit firms. When registering the audit firm of a member state which has a branch in the Republic of Lithuania, the data concerning the member state auditors and the branch shall be additionally submitted;
 - a copy of the statutes or other document of incorporation specifying the firm's objectives. When registering an audit firm of a member state, which has a branch in the Republic of Lithuania, a copy of the statutes of the branch and the data of the registration of the audit firm in the member state shall be additionally submitted;
 - documents which show that the firm has taken out insurance against civil liability according to the procedure established in Article 20 of the Law on Audit (i.e. general civil liability insurance must amount to at least LTL 100,000; compulsory civil liability insurance must amount to at least LTL 100,000 per one insured event; when the object of compulsory civil liability insurance is civil liability of the audit firm for damage which would have been caused to the contractor and/or third persons when carrying out audits in public interest entities, the minimum annual sum of civil liability insurance must amount to at least LTL 200,000 per one insured event).

2. Regulation of entry

2.1 Quality standards and entry

2.1.1 *Is a university degree required to practice as an auditor/accountant in your country? Does the requirement of an accountancy degree depend on the type of services provided (for example, providing statutory audits, financial advice, or tax advice)?*

8. Yes, in order to practice as an auditor in Lithuania, a university degree is obligatorily required.

9. To engage in professional accountant activity, a person must have a university degree or a so called "college" degree, as used to be in the old system of education (such requirement is provided for in the Regulation of assessment of professional accountant). However, the practice is that only a university degree has been accepted recently.

2.1.2 *Is additional training required to practice as an accountant? If yes, for which profession (for example, Certified Public Accountant, Chartered Accountant, Auditor, Tax Advisor)? Who decides the content and form of this additional training: the State or the regulated profession? How long does the additional training last? Is there a concluding examination? Does the government play a role in overseeing the establishment of entry standards or the number of training places available? Is the examination selective? Can the examination be repeated?*

10. In Lithuania the regulation is that a person seeking to establish himself or work as an auditor, must have a practice of at least 3 years as an assistant of an auditor in an audit firm. During this period a special mandatory training is provided for all the auditor's assistants, with differentiation as regards the length of the practice as an assistant, but with no exceptions concerning the field of activity they are engaged in.

11. The program of training, content and form thereof is decided upon by the self regulatory body – the Chamber of Auditors (the Regulation of the training of Auditor's Assistant is drafted in accordance with the laws regulating auditors' activities, and is issued by the Chamber).

12. The auditor's assistant must undergo a course of training of no less than 50 hours during one year, until he gets the title of an auditor. At the end of each year no examination is required to pass, the auditor's assistants must only submit to the Chamber of Auditors a report on the subjects learned. Only a final auditors qualification examination exists, which is regarded as an entry standard to the profession. Upon the failure, the auditor's assistant can repeat an attempt to pass such examinations only after 6 months. The number of repeated attempts is not limited.

2.1.3 Are there requirements relating to on-going education for any of the accountancy professions in your country? If yes, who sets the quality standards to be reached and how is it assessed whether professionals satisfy the quality requirements?

13. Yes, according to the Law on Audit, the auditor must continually develop his professional qualification in the auditors professional courses (each three consecutive years hear not less than 120 hours of courses or attend equivalent courses of development the professional qualifications).

14. The requirements of qualification's development courses of auditors (thematic division of mandatory hours, etc.) are established by the Chamber of Auditors in coordination thereof with the Authority of Audit and Accounting (supervision authority, implementing the quality assurance of the audit carried out by auditors and audit firms).

15. The qualification's development courses of auditors must be organized so as to ensure for the auditors the strengthening of theoretical knowledge and its application in practice according to the programmes prepared and agreed in writing with the Authority of Audit and Accounting.

2.1.4 Is registration, a license or membership of a professional body required to practice as an accountant (for example, as a Certified Public Accountant, Chartered Accountant, Auditor or Tax Advisor)? Which professional self-regulatory bodies exist in your country?

16. As it is provided for in the Law on Audit, persons having the auditor's certificate and entered in the list of auditors shall be members of the Chamber of Auditors. This provision applies only to national auditors, i.e. auditors coming from member states or non-member states are excluded from its scope. Therefore, although a membership in the Chamber is not regarded as an entry requirement, it is inevitable in order to practice as an auditor.

17. In Lithuania there exists one self-regulatory body, i.e. the Chamber of Auditors. As mentioned above, it comprises of all the auditors, having a certificate. The Chamber is divided into several internal committees, commissions, and a court of auditor's honour.

2.1.5 Are there quantitative limits (for example, relating to demographic or territorial criteria) regarding the entry into the accountancy profession(s) in your country? If yes, for which professions and/or accountancy services?

18. No, there are no any formal restrictions or quotas regarding the number of auditors.

2.1.6 *For countries outside the EU (for which specific European legislation applies), please also discuss whether there are any barriers for establishment by foreign accountants. Are foreign accountants allowed to provide services? Is establishment or provision of services subject to specific conditions?*

19. Foreign auditors, i.e. those from the countries outside the EU, are allowed to provide their services in Lithuania. However, their activity herein is subject to some additional requirements as compared to national or EU auditors.

20. For auditors coming from foreign countries, same requirements, as set up for EU auditors (Art.15), are required, as well as some additional requirements, as provided for in the Law on Audit, Art. 16. In general, a foreign auditor must fulfil the following conditions:

- The title of the auditor shall be granted to foreign auditors who have been granted the right to carry out audit by competent authorities of the state on the decision of the Authority of Audit and Accounting upon submission of the documents issued by the competent authority of the state which was the first to grant the right to carry out audit, whereby the right to carry out audit in a state is demonstrated and whereby it is demonstrated that the right has not been suspended or cancelled, and after they pass the knowledge tests.
- The aptitude tests shall be taken according to the established procedure in State language in the areas of:
 - - legal acts regulating preparation of annual and consolidated financial statements,
 - - legal acts regulating audit and auditors' activities,
 - - company law,
 - - the law of insolvency and similar procedures,
 - - tax laws,
 - - civil and commercial law,
 - - social-security law and law of employment.
- The requirement to demonstrate that he satisfies the requirements:
 - knows the state language;
 - holds a university degree;
 - is of good repute;
 - has worked in the audit firm and/or in the audit firm of a member state for at least 3 years as an auditor's assistant and if, at the time of submitting the application to be granted the title of the auditor, the person was no longer working in the audit firm, the work in the audit firm as auditor's assistant was completed at least 3 years before submission of the application, and also has passed qualification examinations in the areas specified in the relevant articles of the

Law on Audit and has appropriate theoretical knowledge in the areas provided in relevant paragraphs of the Law on Audit.

2.1.7 *If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes.*

21. N/A.

2.2 Exclusive rights

2.2.1 *Do regulated accountancy professions enjoy exclusive rights? Please specify which rights and indicate the regulated accountancy profession which performs these reserved tasks. The following division may be helpful in answering this question:*

- providing statutory audits to publicly traded companies;
- providing statutory audits to private companies;
- other accountancy services, such as internal audit, insolvency, corporate finance work, due diligence, etc.
- tax advice

22. As it is provided in the Law on Audit, the auditors are vested with competence to operate all the abovementioned functions, with no divisions or exceptions.

2.2.2 *Have exclusive rights associated with the accountancy professions ever been reviewed?*

23. N/A.

2.2.3 *If your country is considering changes in the near future, which affect the answers to the above questions, please give a brief overview of the envisaged changes and reasons for them.*

24. N/A.

3. Regulation of conduct

3.1 Advertising restrictions

3.1.1 *Is advertising allowed subject to the same constraints as in any other business (prohibition of misleading advertising contained in fair trade laws)?*

25. Yes, the auditors are allowed to advertise their services in Lithuania, and advertisement is not subject to any special or peculiar restrictions, except for the same constraints as in any other field of activity. However, a general imperative of the auditors' activities – to comply with the requirements of general ethics and morality principles, is applied herewith.

3.1.2 *Does the state restrict advertising with respect to accountancy services? If yes, specify the restrictions and the services to which they apply.*

26. No, except with basic requirements for any kind of advertising to comply with principles of ethics, morality and provisions of law.

3.1.3 *Do the regulatory bodies restrict advertising? If yes, specify the restrictions and the services to which they apply.*

27. No.

3.1.4 *If there are advertising restrictions, please specify their contents. The following questions may be indicative: Is there a total advertising ban, excluding only name plates, official registers and phone books? Can special expertise be advertised? Can the fee level be advertised? Is comparative advertising allowed? Are there other restrictions, for example related to the ethical standards of the profession?*

28. The advertising is not prohibited in general, on the other hand, speaking about comparative advertising, it should be mentioned that any auditor, when carrying out his exercise, is prohibited from convincing his customer of his advantages and supremacy as compared to other auditors. As it is established in auditing practice, the ethical standards must be complied with when advertising, although there is no any direct provision in the relevant laws.

3.1.5 *If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

29. N/A.

3.2 **Price regulation**

3.2.1 *Are prices freely negotiated?*

30. The Law on Audit does not speak much about negotiation of prices. In Art.7 it is provided that:

- The scope of the audit fee must ensure that the audit would be carried out according to principles of professional ethics and requirements of international auditing standards.
- The audit fee must be set in the audit contract and no contingent conditions which may affect the amount of the fee for the carrying out of the audit may be set in the contract.
- The audit fee shall not be affected by the fee paid for non-audit services provided by the audit firm carrying out other activities established in sub-paragraphs 2 and 3 of paragraph 1 of Article 29 of this Law (i.e. to provide assurance and other related services and to engage in other activities which do not contradict the principles of ethics set in the Code of Ethics for Professional Accountants).

31. At present the prices for auditing services are negotiated freely, however, the Chamber of Auditors in 2004 had issued a recommendation for minimum prices that should be charged for the provision of services for the audit of the European Union structural funds. After the investigation carried out by the Competition Council, the Recommendation was declared as infringing Art.5 of the Law on Competition (prohibition of agreements), see Question 4.1.3.

3.2.2 *Does the government set prices? If yes, indicate for which services (for example, statutory audits for publicly traded companies). Also specify whether these are maximum prices, minimum prices or fixed prices. How does the government pay for auditing services it uses?*

32. The Government does not regulate prices for the provision of audit services.

33. When the audit concerns the Government and its other institutions, the audit is carried out by the National Audit Office of Lithuania, in accordance with the Law on National Audit Office. Additionally, in some occasions audit in the governmental structures can be carried out by private audit firms, under the provisions of charity agreements.

3.2.3 *Do the self-regulatory bodies set prices? If yes, specify whether these are maximum prices, minimum prices or fixed prices and for which services. Is use made of recommended prices?*

34. As mentioned above, in 2004 the Chamber of Auditors issued a Recommendation for minimum prices that should be charged for the provision of audit services of the European Union structural funds, which is declared to infringe the Law on Competition.

35. See Question 4.1.3.

3.2.4 *Specify the criteria upon which the price can be based: number of hours worked, complexity of the audit, contingency fees, etc.*

36. The only criteria on prices mentioned in the Law on Audit are provided for in Art. 7. As already stated, the article foresees that the scope of the audit fee must ensure that the audit would be carried out according to principles of professional ethics and requirements of international auditing standards, and that the audit fee must be set in the audit contract and no contingent conditions which may affect the amount of the fee for the carrying out of the audit may be set in the contract.

37. We assume that the abovementioned criteria, i.e. number of hours worked, complexity of the audit, contingency fees are also relevant when determining the audit price.

3.2.5 *If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

38. N/A.

3.3 *Inter-professional co-operation and business structure*

3.3.1 *Is the formation of multi-disciplinary partnerships allowed? Are accountants allowed to incorporate? If yes, are there any restrictions with respect to the legal form of incorporation (for example limited liability partnership, public limited company)?*

39. Yes, in Lithuania the auditors are allowed to incorporate. In general, as provided for in the Law on Audit, the auditors (audit firms) can operate in one of the following legal forms:

- individual enterprises (sole proprietorships);
- general partnerships;
- limited partnerships;
- private companies.

3.3.2 *Do accounting firms provide consulting services? If so, of what type? Are there conflicts of interest with other professions (for example, lawyers) that may be necessary to avoid?*

40. Yes, the accounting firms are allowed to provide consulting services. Art. 29 of Law on Audit foresees that the audit firms shall have the right to engage in the following activities:

- to carry out the audit;
- to provide assurance and other related services;
- to engage in other activities which do not contradict the principles of ethics set in the Code of Ethics for Professional Accountants.

41. Therefore, the audit firms provide various services other than audit – business advisory, business risk, financial services risk management, finance and accounting advisory services, actuarial services and other.

42. As regards the conflict of interests with lawyers or other professionals, we assume that there can occur a possible overlap of the services provided. However, no such conflict has occurred yet, neither there are any provisions in the applicable laws regarding the possible solution of such a conflict.

3.3.3 *If your country is considering changes in the near future, which affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

43. N/A.

4. Institutional framework of self-regulation

4.1 Application of competition law

4.1.1 *Are rules enacted by self-regulatory bodies (on advertising, prices and business structure) covered by the prohibitions of anti-competitive practices in competition law?*

44. Yes, any rules, enacted by the self-regulatory body of the auditors, i.e. the Chamber of Auditors, are covered by the prohibitions of anti-competitive practices.

4.1.2 *Is there an exemption for (certain types of) self-regulatory rules which are considered necessary for the proper practice of the accountancy profession?*

45. No, there are no any exemptions mentioned.

4.1.3 *Which have been the main effects of competition law enforcement (for example, removal of fixed prices and advertising restrictions)?*

46. The major intervention with the competition law enforcement by the Competition Council into the audit services market has been the removal of fixed recommendable prices.

47. The short summary of the case:

48. In 2004, the Chamber of Auditors had issued a recommendation for minimum prices that should be charged for the provision of services for the audit of the European Union structural funds. The Recommendation stipulated the audit price as a certain percentage of the projects, which were divided into

several categories (according to their price) and the percentage set therefore. Moreover, in 2006 the Chamber of Auditors issued two recommendable documents, in which a minimum hourly tariff of provision of audit services and provisions on working time had been established in detail.

49. As the investigation, carried out by the Competition Council, foreclosed, the recommendations could have been applied not only in cases when the audit concerned the European Union structural funds, but also to the audits on financial accountability.

50. The recommendation and other documents were found to be infringing the Law on Competition by various aspects. First of all, neither the Law on Audit, nor the Statute of the Chamber of Auditors established a right or a duty for the Chamber to regulate or influence in any other possible way the prices charged for the provision of audit services (as mentioned therein, the Law on Audit provides for the free negotiation of prices). The Recommendation could have been treated as a binding document, due to the fact that the Chamber of Auditors in its meetings used to consider the situations, when the prices offered by the audit firms in bid riggings, were low, and required to explain the substantiation of them. Moreover, the regulation provided for therein was detailed and precise, the dissemination of the recommendation was very wide, as each auditor could reach it in the official website of the Chamber of Auditors, and speaking about two other documents – the auditors had been informed of them via e-mails. Having regard to the abovementioned aspects, the recommendation had been considered as of the binding nature.

51. The Competition Council found the Recommendation and two other documents to be infringing the Law on Competition, Art. 5 (prohibition of agreements restricting competition), since such regulation allows the auditors to coordinate their behaviour (setting the price level) on the market, causes the obstacles for new auditors to enter the market, as well as does not motivate the auditors to provide their services as efficiently as possible, compete as regards the prices or improve the quality of their services.

52. The resolution of the Competition Council, founding the infringement of the Law on Competition, was appealed by the unsuccessful party. However, the court of first instance (Vilnius Regional Administrative Court) upheld the position of the Competition Council without any reservation, and the court of cassation (the Supreme Administrative Court of Lithuania) only reduced the fine imposed on the Chamber of Auditors as some procedural concerns of the investigation were established, without repealing the substance of the resolution of the Competition Council.

53. See the press release: http://www.konkuren.lt/en/index.php?show=news_view&pr_id=440.

4.1.4 *If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

54. N/A.

4.2 Regulatory oversight

4.2.1 *Are decisions of self-regulatory bodies subject to approval by the State? If yes, which kind of decisions and who is the supervisory authority (competent Minister)?*

55. No, the decisions enacted by the self-regulatory body are not subject to any approvals.

4.2.2 *Are decisions by self-regulatory bodies subject to antitrust scrutiny?*

56. Yes, such decisions are subject to the antitrust regulation with no exceptions.

4.2.3 *Is there an independent Complaints Office which handles malpractice cases? Or is the imposition of sanctions for malpractice left to ordinary courts (tort liability) and the self-regulatory body (disciplinary sanctions, eventually including expulsion)?*

57. In Lithuania, the malpractice of the auditors is handled in an ordinary way – the auditors, in case of malpractice, shall be liable according to the provisions of the laws (the Law on Audit, the Civil Code or other, depending upon the case). There is no any independent Complaints Office, and only in certain cases the self-regulatory body can impose disciplinary or other sanctions.

58. As it is provided in the Law on Audit, the Auditors' Court of Honour shall be entitled to bring disciplinary action against the auditor on the proposal of the Chamber of Auditors and, upon hearing it, impose penalties for non-compliance with the Code of Ethics of Professional Accountants and certain duties and methodologies set in the Law on Audit. The Auditors' Court of Honour shall have the right to impose the following penalties:

- a warning;
- a reprimand with an official publication thereof in the list of auditors.

4.2.4 *Is there an independent Regulatory Authority for the accountancy professions?*

59. As regards the auditors, only two authorities are mentioned in the Law on Audit concerning the auditors, i.e. already mentioned Chamber of Auditors and the Authority of Audit and Accounting. The Chamber of Auditors has some regulatory functions, for example, setting various methodologies, preparing auditing standards and others. No any independent Regulatory Authority as such exists.

4.2.5 *If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

60. N/A.

4.2.6 *Apart from professional standards of ethics and company reputation, are there any government laws or regulations that enhance incentives to provide full and complete auditing conclusions?*

61. No, there are no such laws, neither regulations as mentioned above.

5. Accounting standards

5.1 *Which specific accounting standards apply in your country? Do these rules differ substantially from the International Financial Reporting Standards (IFRS) or the Generally Accepted Accounting Principles? If yes, are there plans to reduce these differences?*

62. Currently in Lithuania nationally enacted Business Accounting Standards (VAS) apply, which is in general a simplified version of the IFRS. Some major companies or banks apply the IFRS in their business.

63. The goal is to achieve that each company in its business applied the IFRS, however, the majority of them still is under the guidance of VAS.

5.2 *Who is involved in drafting and enforcing these accounting standards? Is there any public intervention or are these standards a result of self-regulation by professional bodies?*

64. The Authority of Audit and Accounting has enacted the Business Accounting Standards. More information, as well as the Standards themselves, can be found here: <http://www.aat.lt/index.php?id=85>.