

COMPETITION COUNCIL OF THE REPUBLIC OF LITHUANIA



ANNUAL REPORT 2005



- ◆ International cooperation
- ◆ Competition culture



- ◆ Competition law
- ◆ Fuels
- ◆ Energy sector

- ◆ Trade networks
- ◆ Advertising



- ◆ Telecommunications and information technologies



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The meeting of Valdas Adamkus, the President of the Republic of Lithuania, and Rimantas Stanikūnas, the Chairman of the Competition Council in May 2005.

FOREWORD

The Activity Report of 2005 of the Competition Council of the Republic of Lithuania has been produced to represent a generalised overview of the achievements and the challenges encountered thereby while implementing the national competition policy and enforcing the competition rules in compliance with the European Union requirements within the limits of the institution's competence. The Lithuanian competition authority has, for the first time ever, acquired valuable new experience in terms of application of the EU competition rules as well as provisions of Articles 81 and 82 of the EC Treaty. Active cooperation by virtue of the European Competition Network has efficiently facilitated the exchange of information and the improvement of the investigation exercise. The outcome of this close cooperation was the resolution passed by the Competition Council late in 2005 upon a successful completion of a complex and extensive investigation of actions of AB Mažeikių nafta qualified as infringement of not only the provisions of the national Law on Competition but also of the provisions of Article 82 of the EC Treaty. This was the first ever case where, after the Lithuania's accession to EU and the enactment of the EU competition rules the Competition

Council recognised a Lithuanian company having abused its dominant position in part of the EU common market and by its actions affected trade between EU Member States: Lithuania, Latvia and Estonia. The investigation was a challenge for the qualification of our specialists and their capacities in collecting sufficient evidence; it also presented a chance to accumulate invaluable experience in terms of the enforcement of Articles 81 and 82 of the EC Treaty.

During the period covered by the present Report the Competition Council has been continuing its efforts to further strengthen its status as that of the institution free from any political influence as well as any business interests. This has an enormous impact upon the objectivity and impartiality of decisions passed by the Competition Council as well as the institution's public image building.

In 2005, the focus was undoubtedly placed upon the issues of the quality of investigations and the efficiency of sanctions imposed upon undertakings for infringements of competition regulations. The Rules on the establishment of the amount of fines imposed for the infringements of the Law on Competition approved, late in 2004, by the Government of the Republic of Lithuania enabled the Competition Council to take a more comprehensive and flexible approach when assessing the actions of the undertakings and establish the amount of the fines providing for a due consideration to the circumstances extenuating or aggravating the liability. The method for the establishment of fines is congenial to those employed by the European Commission. It is important that now the reduction of fine in respect of cartel participants has been put in place. The Competition Council has the right to reduce the fine by up to 75% provided the parties to prohibited agreements cooperate with the Competition Council and facilitate the detection of the most severe infringements of the Law on Competition.

In 2005, the scope of the activity of the Competition Council expanded both in terms of the investigation geography and because of the growing interests of undertakings to enforce the fair competition principles in the market. This is clearly demonstrated by the growing number of legally substantiated applications as well as the business community response to the resolutions passed by the Competition Council and the investigations conducted.

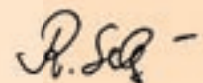
For the purpose of performing their functions specialists of the Competition Council have been exercising not only the authority granted to them, but also were using measures implementation of which contributes to the improvement of the overall competitive environment and competition culture in Lithuania. In this background the Lithuanian Competition Council has been persistently strengthening the cooperation with other public authorities, such as the Public Procurement Office, the State Property Fund and other institutions with a view to introducing more efficient tools designed to restrict the market and production monopolisation attempts. All public authorities have to be interested to an efficiently enforce the competition provisions that are vital for the enhancement of the prosperity of the society. In this context, I would like to stress that while seeking to ensure the freedom of free competition the Competition Council does not only seek to impose economic sanctions for the infringements of competition rules, – the main purpose is to promote,

among the economic entities, fair competition in the market. Therefore, the Competition Council has always been very favourably disposed in respect of efforts of economic entities to address certain indications of unfair competition by self-regulatory methods.

The 2005 Activity Report summarises the operating results of the Competition Council during the period reviewed. This includes the investigations conducted and resolutions passed for the purpose of the enforcement of the Law on Competition and the Law on Advertising, also measures to coordinate the State aid granted to undertakings, the practice of pleading of cases in courts, development of international and public relations, etc.

The fact that the performance of the Competition Council was appraised on the international scale served as an impetus to further intensify its operations and improve the quality of the investigations performed. The active performance of the Competition Council undoubtedly influenced the extension of the observer's status of Lithuania in the OECD Competition Committee for two years.

By actively availing itself to the competition experience accumulated by counterpart authorities in other countries and developing the mutual partnership relations, as well as enforcing the guidelines of the DG Competition of the European Commission, the Competition Council is determined to continue discharging its mandate in the area of enforcement of the competition policy.



Rimantas STANIKŪNAS
Chairman of the Competition Council

Summary of the events of 2005

February
3

The Competition Council passed the Resolution to the effect that the Taxi Services Provider Association and some taxi service providers in Vilnius have violated Article 5 of the Law on Competition by concluding a prohibited agreement: having concerted their actions the taxi companies raised

the ride rates. Sanctions were imposed to the infringing companies in total amounting to LTL 100 000.

February
17

Chairman of the Competition Council participated in the Fifth Global Forum on Competition, hosted by the OECD in Paris.

March
10

Representatives of the Competition Council participated in the international conference held in Brussels discussing the practical application of the EU competition rules.

March
17

A fine amounting LTL 45 000 imposed upon *UAB Porektus* for the use of misleading advertising having committed a repeated infringement of the Law on Advertising.

April
28

Two Finnish companies were authorised to acquire shares of the Lithuanian entities. *Vaasan & Vaasan Oy* controlled by *UAB Baltvestica* was authorised to acquire the 100% holding of *UAB Vilniaus duona plius*, and *Fortum Power Heat Oyj* was permitted to implement concentration by acquiring

90% of shares of *UAB Suomijos energija*. As part of this concentration award was granted to the application of *UAB Suomijos energija* to implement concentration by acquiring the 100% holding of *UAB Ekošiluma*.

May
10

Valdas Adamkus, President of the Republic of Lithuania met Rimantas Stanikūnas, Chairman of the Competition Council to discuss the issues related to the activity of the national competition authority.

May
27

Having regarded the changes in the conditions the Competition Council passed a resolution whereby it revoked the concentration conditions and obligation imposed upon *UAB Vinvesta* to sell its holding in *AB Kelmės pieninė*.

June
15

The Committee on Economics of the Seimas of the Republic of Lithuania considered and approved the 2004 Annual Report of the Competition Council.

July
14

The Competition Council concluded the completion of the investigation of actions of *AB Mažeikių nafta* and announced the preliminary findings. In the view of the suspicions of a possibility the company has infringed not only the Law on Competition but also Article 82 of the EC Treaty, the notification to that effect was posted in the European Competition Network.

September
1

The Resolution to authorise *UAB LAL investicijų valdymas* to implement concentration by acquiring the 100% holding of the national air-line company *AB Lietuvos avialinijos* was passed.

September
29

Rimantas Stanikūnas, Chairman of the Competition Council participated in the ECN meeting of Directors General for competition held in Brussels.

October
27

Acting in accordance with the provisions of the Law on Competition the Competition Council while authorising one of the largest telecommunications and information technologies service provider in Estonia *Elion Ettevotud AS* to implement concentration by acquisition of 100% shares of *MicroLink AS*, obligated

AB Lietuvos telekomas to sell *UAB Micro Link Lietuva*.

October
19

Upon the expiry of the term of office of two members of the Competition Council on nomination of the Prime Minister, President of the Republic of Lithuania signed the decree appointing S.Cernolonskis and J.Rasimavičius to the position of members of the CC for a six years' term of office.

November
10

A fine of LTL 30 000 imposed for the use of misleading advertising upon *UAB Porektus* that was sanctioned for the third time.

October
24

The proposal to renew the observer status of Lithuania in the OECD Competition Committee for another 2-year period was accepted.

December
8

A group of representatives of the Competition Council participated and made presentations in the conference in Jurmala hosted by the Latvian competition authority. The participants of the conference included competition specialists of all the three Baltic States, Russian Federation and Ukraine.

October
27

Seeking to avoid the creation of a dominant position the Finnish company *Rautakirja Oy* was authorised to implement concentration by acquiring 100% of shares of the Vilnius agency of *UAB Lietuvos spauda* subject to specific obligations and terms for the implementation of the concentration.

December
22

The Resolution passed concerning the compliance of actions of *AB Mažeikių nafta* to the requirements of the Law on Competition and Article 82 of the EC Treaty. The fine of LTL 32 million was imposed upon the company for the established infringements.



Activity overview

The Table below presents the summary data on the scope of the tasks performed by the Competition Council (hereinafter – CC) as assigned to its competence and the average duration of the performance of such tasks.

Total resolutions by the CC in 2005	166
Of which:	
Upon completed investigation	74
Of which:	
☒ <i>ex officio</i> investigation	12
☒ upon complaints	62
Refused investigations	14
Continued investigation	30
Terminated investigations	9
Resolutions on legal acts	5
Other resolutions	34
Positions concerning the EU regulations submitted to the Government of the Republic of Lithuania using the LINESIS system*	4
Harmonised positions prepared by other institutions using the LINESIS system	17
Comments to draft laws and resolutions of the Government of the Republic of Lithuania	44
Comments to draft regulations of other institutions	42

Written responses to received inquiries	541
Approved prices and tariffs	208
Approved procedures for the setting of prices and tariffs	4

* Information system on Lithuania's membership of the EU

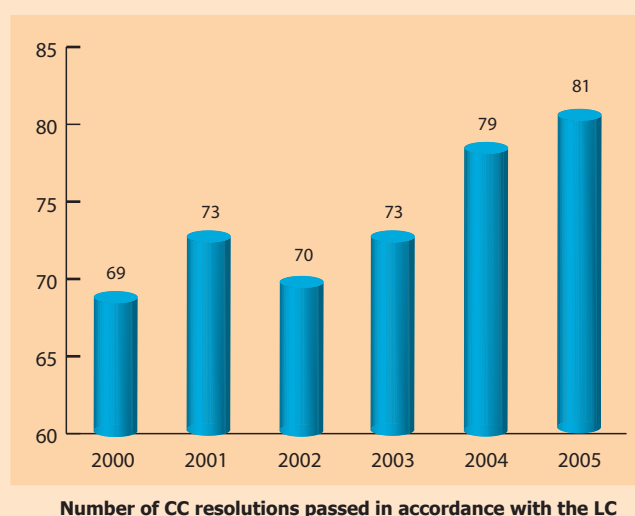
Average duration of investigations completed in 2005	Months
Infringements of the Law on Competition	7.5
Of which :	
-prohibited agreements	9
-abuse of a dominant position	9
-infringements of Article 4	4.5
Concentration control	1
Infringements of the Law on Advertising	5.5
State aid notification approvals with the aid providers	1

I. Enforcement of the Law on Competition

In 2005, the CC effectively enforced not only the Lithuanian Law on Competition (further – LC), but for the first time in its practice while passing a decision in a case of abuse of a dominant position applied Article 82 of the EC Treaty.

While performing the obligations assigned to it – to protect the freedom of fair competition, the CC gave a great attention not only to the establishment of severe infringements of the LC and the strengthening of competition, but also to the prevention of competition infringements by way of enhancing the public awareness on issues related to the practical enforcement of the Lithuanian and the EU competition rules.

Acting in accordance with the LC the CC initiated 79 investigations including those started *ex officio* and others on the basis of complaints filed by undertakings. Total 81 resolutions were passed on the basis of the LC, including those in respect of investigations started in 2004. Within the recent years the number of resolutions passed in accordance with the requirements of the LC was steadily increasing which is well presented in the Table below.



Number of CC resolutions passed in accordance with the LC

1. Prohibited agreements

Cartel agreement in the taxi service market

In 2005, the CC completed the investigation concerning the compliance of actions of the entities providing taxi services in Vilnius and the Taxi Services Provider Association (hereinafter – the Association) with the requirements of Article 5 of the LC.

The investigation established that entities providing taxi services in Vilnius, having concerted their actions, concluded the agreement considered prohibited under the provisions of LC.

The contents and the chronology of the minutes of the meetings of the Association allowed a conclusion of the persistent preparatory arrangements with a view to increase the tariffs. Furthermore, several members of the Association while giving explanations acknowledged that during the meetings of the Association the issues of tariff increase had been discussed. Some members of taxi companies not members of the Association indicated in their explanations that they had been urged by some members of the Association to join the initiative of the Association and also to introduce the minimum tariff proposed by the Association.



Also the course of the investigation produced the conclusion that some of the participants of the cartel agreement (8 companies members of the Association) nearly at the same time (end of September, 2004) applied to a company

that adjusts and installs the taxi meters with a request to set new taxi tariffs in the taxi meters (prior to introducing the new tariffs taxi companies have to adjust their taxi meters).

The taxi companies also notified the Vilnius Municipality of the adjusted and equalised taxi tariffs. This meant the obligation of the companies to apply the tariffs, as they could be considered committing a violation if a competitor files a complaint to the Vilnius Municipality.

The CC fined the taxi companies a total of LTL 100 000 for the infringement of Article 5 of the LC. Upon assessment of the economic position of the taxi companies the actual fines imposed were rather moderate (LTL 5 000), with an exception of the initiator of the infringement *UAB Martonas* that was fined LTL 50 000. The Association appealed the Resolution of the CC to court. (See the details on litigation in Chapter IV).

Investigation in the cash register market

In December 2003, the CC initiated the investigation concerning the compliance of undertakings trading in cash registers and providing the technical maintenance services

to the requirements of Article 5 of the LC.

The investigation was initiated with a view to establishing whether the undertakings operating in the cash register market have performed any actions prohibited by the LC. The basis for the initiation of this investigation was the information received by the CC that the companies performing the cash register maintenance services have established the annual LTL 185-250 fee for the regular check-ups of cash registers. According to the Ministry of Finance, this situation was caused by the practice of licensing by the producers and importers of cash registers, under which one model of cash registers is normally being served by a single company or representatives of the company authorised to operate on the territorial basis. The Ministry of Finance also assumed that the cash register maintenance and repair prices might be established by one or several inter-related and licensed undertakings.

The investigation did not establish any infringement of the LC, and in May 2005 the investigation was closed.

Investigation concerning agreements between the trade networks



The trade network *UAB VP Market* lodged a request to investigate a possible infringement of Article 5 of the LC by *UAB Senukų prekybos centras* where the latter has been urging its suppliers not to cooperate with

the newly opened construction materials and household commodities trade centre *Ermitažas*. In its request *UAB VP Market* indicated that in the course of preparation for the opening of the new construction materials and household commodities trade centre it had applied to Lithuanian and foreign producers and suppliers with a proposal to act as suppliers of the new trade centre. Part of the producers and suppliers refused to conclude supply agreements referring to their mutual obligations to supply goods to *UAB Senukų prekybos centras*. To its application *UAB VP Market* attached a copy of the leaflet distributed to producers and suppliers of the *UAB Senukų prekybos centras*, and containing a reference to new market participants “seeking to penetrate into the market” and seeking to “disbalance the market” and thus prevent *UAB Senukų prekybos centras* from fulfilling its long-term obligations in respect of its suppliers.

The investigation, which included a thorough examination of the agreements concluded between *UAB Senukų prekybos centras* with the suppliers and producers, did not establish any terms restricting competition. Responses by the suppliers to the communications distributed by *UAB Senukų prekybos centras* also did not provide any grounds to conclude the presence of any agreement not to supply goods to the newly opened trade centre *Ermitažas*. The investigation was closed.

Vytautas Gliubus, Head of the Consumer Goods Division:

"The investigation concerning the agreements between the trade networks included an in-depth analysis of exclusive distribution terms and the assessment in the view of the Commission Regulation (EC) No. 2790/1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices".

Investigation in the market for consulting services related to the EU structural funds

The investigation concerning a possible prohibited agreement was started upon the receipt of the application from the PI Lithuanian Business Support Agency. The agency is the institution responsible for the administration of projects funded from the EU structural funds according to the measures defined in the Single Programming Document. The information collected in the course of the investigation gave grounds to the suspicion that several undertakings might have agreed to participate and jointly submit coordinated proposals for the investment projects applying for the ES structural funds support in the area of energy. The investigation is in progress.

Investigation in the paper market

During 2005, the CC continued the earlier started investigation in the paper market. The investigation was initiated by the CC on *ex officio* basis having suspected, in the view of the rising prices in the paper market, that major players in the market are forming and dictating the prices of different kinds of papers. The investigation was initially commenced in accordance with Article 5 of the LC. However, in the course of the investigation certain indications were obtained proving a possible effect by actions of entities operating in the relevant market on trade between the EU Member States, – Lithuania, Latvia and Estonia, therefore a decision was passed to supplement the investigation by provisions of Article 81 of the EC Treaty. The EC was in a timely manner

notified of the application of the EC Treaty in the investigation conducted by the CC. Under the EU competition rules the EC had a legal authority to take over the investigation and proceed exercising its own authority, which the EC did not do until the expiry of the established time limit. This formally constituted a legal authorisation granted to the CC to proceed with the investigation applying the provisions of Article 81 of the EC Treaty. Appropriate notifications on the supplement of the conducted investigation were also filed to the Latvian and Estonian competition authorities with whom the CC has been actively cooperating and exchanging information in the course of the investigation. Certain investigative actions were conducted not only in Lithuania but also in the territory of Latvia, where the Association of paper trading companies is established. Being extensive in scope and complex in its nature the investigation is being continued.

Investigation in the music albums' distribution market

The CC refused to initiate an investigation concerning the compliance of actions of *UAB Intervid plius* and *UAB VP Market* with the provisions of the LC having concluded that distribution of the first edition of the album *Padovanosiu Tau* recorded by a popular Lithuanian singer Rytis Cicinas could not infringe the LC. Efforts were made to clarify the grounds for the initiation of the investigation on possible agreement between *UAB Intervid plius* and *UAB VP Market* whereby until 15 September 2005 the latter is given an exclusive right to distribute the new album of Rytis Cicinas (CD and audiotapes).

Having established that the terms for the sale of the first edition of the album were announced publicly, and the sale process could not be qualified as exclusive as included only the sale of the first edition, furthermore, it was a onetime and short-term action, the CC concluded that such onetime sale in the view of its insignificant impact cannot be considered as substantially restricting competition.

Based on the evidence collected during the investigation the vertical distribution agreements of the type (exclusive distribution and exclusive supply) are considered compliant with the provisions of Article 6(1) of the LC provided they meet the requirements of the Commission Regulation (EC) No. 2790/1999 of 22 December 1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices.

2. Abuse of dominance

Investigation of abuse of a dominant position by *AB Mažeikių nafta*

The investigation concerning the compliance of actions in the period from 2002 to 2004 of *AB Mažeikių nafta* – the single oil refinery of high capacity in the Baltic States, – with the requirements of the LC was initiated *ex officio* by the CC. The purpose of the investigation was to establish whether the activity of the company could have possibly had an impact upon the constant rise in gasoline and diesel fuel price levels in Lithuania as compared to those in other Baltic States, also whether the lasting price differences could have resulted from the actions of *AB Mažeikių nafta* in the gasoline and diesel markets through the abuse of its dominant position in Lithuania. When initiating the investigation the CC also was basing itself upon the information furnished by other companies and complains concerning actions of *AB Mažeikių nafta* in the gasoline and diesel fuel markets.

Although initially the investigation was started in accordance with Article 9 of the LC, suspicions having arisen in the course of the investigation that actions of *AB Mažeikių nafta* also could affect the trade between the EU Member States – Lithuania, Latvia and Estonia, the CC decided to supplement the investigation with



the provisions of Article 82 of the EC Treaty. In the established manner the CC notified the EC of the application of the EC Treaty provisions in the investigation of the actions by *AB Mažeikių nafta*. According to the EU competition rules the EC had a legal authority to subject the investigation to its jurisdiction; however, the EC did not exercise that authority within the established time limits, therefore the investigation was further continued by the CC.

The appropriate notifications on the supplement of the investigation by the relevant provisions of the EC Treaty were furnished to the Latvian, Estonian and Polish competition authorities.

For the purpose of the drawing up of findings of the investigation the CC conducted an in-depth analysis of the documents of *AB Mažeikių nafta* and other entities engaged in trade in oil products, and collected all possible explanations from parties concerned. Also the CC analysed the information received from Latvian and Estonian competition authorities and other institutions which turned very instrumental for the assessment of actions of *AB Mažeikių nafta* and *UAB Mažeikių naftos prekybos namai* when concluding agreements with entities trading in oil products in those States.

Arvydas Mačiokas, Head of the Industry Division:

"The investigation was conducting in close cooperation with the Latvian, Estonian and Polish competition authorities that furnished material especially valuable for the investigation".

The investigation allowed a conclusion that higher prices of fuels in Lithuania as compared to those in Latvia and Estonia have resulted from a number of reasons stemming both from the different conditions in individual areas of the Baltic markets, as well as actions restricting competition exercised by *AB Mažeikių nafta*. To a degree the price differences might have resulted due to differences in the excise duty conversion, also due to the requirements operational in Lithuania to accumulate the reserves of fuel, which in turn results in freezing part of the funds thus increasing the fuel prices, etc. The CC has been for several years insistently seeking reduction of the previous 15% customs duties on fuels (currently – 4.7% for gasoline imported from third countries), and opening imports of less expensive fuels from neighbouring countries vital for the enhancement of competition in this sector. In 2002 – 2004, in Latvia and Estonia oil product import was exempted from customs duties, and after the accession to the EU in May 2004, all the three Baltic States set uniform customs duties for oil products.

The investigation established a number of facts and circumstances constituting a proof of the abuse of dominant position by *AB Mažeikių nafta* and *UAB Mažeikių naftos prekybos namai* by applying different strategies and economically groundless and discriminative pricing policy for Lithuanian, Latvian and Estonian buyers, as well as the annual loyalty and non-competing obligations, as well as other restrictive practices which resulted in dissimilar conditions for the entities operating in the market and allowed discrimination of individual companies. Therefore the companies were forced to sell fuels to Lithuanian consumers at higher prices than in Latvia and Estonia. Certain actions imposing discriminative prices and purchase conditions incurred damage to consumers.

Facts of the abuse of the dominant position by *AB Mažeikių nafta* provided sufficient grounds for the conclusion of the infringement of Article 9 of LC in the fuel market of Lithuania, and, in accordance with the provisions of Article 82 of the EC Treaty, – in the fuel markets of Lithuania, Latvia and Estonia. The CC resolved to impose upon *AB Mažeikių nafta* a fine in the amount of LTL 32 million for the committed infringements of the LC. The company was also obligated to discontinue the actions restricting competition.

Natural gas market

The CC examined the applications filed by *UAB Akmenės energija* and *UAB Ukmergės energija* to conduct the investigations concerning a possible abuse of dominance by *AB Lietuvos dujos* and an allegedly prohibited agreement concluded thereby with *UAB Dujotekana* in the natural gas market.

UAB Akmenės energija and *UAB Ukmergės energija* are heat supply companies, i.e. independent consumers of natural gas purchasing and selling natural gas for the production of heat energy and supply of heat to final consumers (residents, kindergartens, schools, etc.). Following the established procedure *UAB Akmenės energija* and *UAB Ukmergės energija* appealed to *AB Lietuvos dujos* concerning the sale of natural gas and the conclusion of purchase-sale agreements. *AB Lietuvos dujos*, however, refused to conclude the sale-purchase agreements, making reference to its inability to provide with natural gas all consumers, including *UAB Akmenės energija*, and *UAB Ukmergės energija*. *AB Lietuvos dujos* was able only partly to cover the demand of all consumers. Upon the receipt of the response from *AB Lietuvos dujos* the applicants were forced to conclude the natural gas supply contracts with *UAB Dujotekana* and, there being no other gas suppliers in Lithuania, pay higher prices for the natural gas.

AB Lietuvos dujos is supplying natural gas to regulated and independent consumers of natural gas, that it purchases from *OAO Gazprom* under established natural gas purchase quotas. *AB Lietuvos dujos* is under obligation to cover the demand of regulated consumers also it may conclude agreements with independent consumers, but is not in a position to fully satisfy the demand of all consumers.

Having examined the situation, the CC concluded that the market concerned is regulated. According to the provisions of the Law on Natural Gas the National Control Commission for Prices and Energy examines all complains concerning the transfer, distribution, supply, purchase, sale and storage of natural gas. The CC refused to initiate the investigation as the issue was falling outside its competence. The issue was also deliberated in judicial order, and the resolution of the CC remained unchanged.

AB Lietuvos paštas

During the year under review the CC continued the investigation concerning the compliance of actions of *AB Lietuvos paštas* with the requirements of Article 9 of the LC. The investigation was started



in December 2004, upon the request of *UAB Biznio mašinų kompanija* to examine whether actions of *AB Lietuvos paštas* whereby the company was fixing different prices for the delivery services may constitute an abuse of its dominant position.

The investigation was completed in 2005, although the final decision will be passed in 2006.

AB Lietuvos telekomas – internet access services market

On 26 May 2005, the CC initiated an investigation on the basis of a request filed by *UAB Microlink Lietuva*, *UAB Baltnetos komunikacijos*, *UAB Tele2*, *UAB Penki kontinentai*, *UAB Elneta*, *SE Infostruktūra* to examine whether actions of *AB Lietuvos telekomas* comply with the requirements of the LC. The request was prompted by a suspicion of possible abuse of dominance by *AB Lietuvos telekomas* in the internet access provision market. The applicants noted that *AB Lietuvos telekomas* is the only operator of the fixed telephone communications network with the widest retail coverage in the entire Lithuania. The network is also used to provide the broadband access services (in addition to DSL – *digital subscriber line*). *AB Lietuvos telekomas* holds dominance in the retail and wholesale broadband access services market and the retail broadband access services market for household and business customers. The applicants claimed that *AB Lietuvos telekomas* had on more than a single occasion improved its retail DSL offers without modifying the terms of the wholesale DSL services provision. This deprived the applicant of the possibility to compete with *AB Lietuvos telekomas* in a number of retail market segments, since the difference between the retail and wholesale prices was insufficient to enable the provision of the service at competitive prices. In the competition law practice such behaviour is known as “price squeezing”. The investigation is still in progress.

AB Lietuvos telekomas – telecommunications network connection services

The CC received a letter of the Communications Regulatory Authority of the Republic of Lithuania concerning the request of *UAB Nacionalinis telekomunikacijų tinklas* to examine actions related to the telecommunication networks connection services provided by *AB Lietuvos telekomas*. The applicant claimed that by blocking the transmission of foreign calls to the customers of the applicant *AB Lietuvos telekomas* was abusing its dominant position thus violating Article 9 of the LC. Having assessed the information provided in the letter of the applicant and the annexes thereto the CC did not establish sufficient grounds for the conclusion of an infringement of provisions of the LC by *AB Lietuvos telekomas*. By its Resolution of 29 September 2005, the CC refused to initiate the investigation.

UAB Klaipėdos laikraščio redakcija

The CC received an application from *UAB Vakarinė Palanga* claiming that *UAB Klaipėdos laikraščio redakcija* was holding a dominant position in the newspaper printing market in Klaipėda and was abusing its dominance by fixing unfair rates for the newspaper printing services, and unfair sale prices for the newspaper *Palangos tiltas* it distributes, also by imposing unfair rates for placing ads and notices in the newspaper.

The investigation concerning the actions of *UAB Klaipėdos laikraščio redakcija* to the requirements of Article 9

of the LC was started in April 2005. The investigative actions allowed a conclusion that *UAB Klaipėdos laikraščio redakcija* is not dominating in the newspaper printing market and is not the only printing house specialising in the newspaper printing; the company's facilities also fully meet the requirements for printing of a regional newspaper. Having considered that the company was actually not in a position to exercise any decisive influence upon the rates of printing and sale of the newspaper issued by *UAB Vakarinė Palanga*, or prices of advertising and posting notices in the newspaper the CC decided to terminate the investigation.

LKAB Klaipėdos Smeltė

The investigation concerning actions of *LKAB Klaipėdos Smeltė* in the sea port stevedoring market that was started in 2004, was continued during the period under review. The investigation was started on the basis of the request by *UAB Klaipėdos šaldytuvų terminalas* to investigate the possible infringement of Article 9 of the LC by *LKAB Klaipėdos Smeltė*. The latter company was allegedly preventing *UAB Klaipėdos šaldytuvų terminalas* from performing the stevedoring operations by itself through establishing unreasonably high charges for the permits for employees and vehicles of *UAB Klaipėdos šaldytuvų terminalas* to enter the territory operated by *LKAB Klaipėdos Smeltė* and charging for the use of the infrastructure facilities. The investigation established that *LKAB Klaipėdos Smeltė* did not hold the dominant position in the market. Furthermore, the CC was informed that the right



to use the quay was normally licensed by way of tender. At the time of announcement of the tender for the use of the port land all entities have equal opportunities to acquire the right to use the land and facilities. The examination of the licensing and infrastructure charge collection systems

neither revealed any implications of differences in competition conditions. On that basis, the CC concluded that actions placed under investigation did not infringe the provisions of the LC, therefore the investigation was discontinued.

PI Kauno radijas bei televizija

In its application *UAB Pūkas* indicated that the television company *PI Kauno radijas bei televizija*, while holding the dominance in the TV show production market, in the tender for a production and conducting a TV show, was offering unfair prices seeking to expel from the market other undertakings, thus abusing its dominance. Having established that the company did not hold the dominant position in the relevant market the CC refused to initiate the investigation.

3. Control of concentration

Overview

During 2005, the CC received 64 notifications applying for authorisations to implement the concentration of market structures. In 59 cases the CC, by its Resolutions, authorised the intended concentrations; this included 2 cases of concentration notifications filed late in 2004, in 4 instances the examination of the notifications will be continued in 2006. In four cases the Resolutions of the CC authorised the implementation of the concentration subject to certain conditions and obligations, including 2 cases authorised under Article 14(2) of the LC, whereby the obligations and conditions are imposed with a view to preventing the creation of a dominant position or a significant lessening of competition in the relevant market. On six occasions seeking to expediently handle the applications of the entities to authorise the implementation of concentration, also having concluded that the intended concentration deals will not result in the creation of dominance or lessening of competition, acting in accordance with Article 12(3) of the LC, the Resolutions of the CC authorised the implementation of individual actions of the concentration transactions pending the final decision. In two cases the entities withdrew their previously filed concentration notifications. In one case *Actavis Group HF* was intending to

acquire *UAB IIsanta* which would have resulted in a significant concentration in the market of individual pharmaceuticals, such as the market of infusion solutions, however, after the CC started examining the notification, the applicant withdrew the notification. In another case, four travel agencies, having acquired equal shares of the travel agency *UAB Aviaturas ir partneriai* submitted a notification on intended concentration. The investigation established that in conjunction with the related persons the applicants would have acquired a very large share of the travel service market. Therefore the four companies transferred the acquired shares of *UAB Aviaturas ir partneriai* to an unrelated person and withdrew its application concerning the implementation of concentration.

In 2005, three decisions of the CC on the authorisations of concentration were appealed to court. On two occasions the appellants, having familiarised themselves with the investigation material, withdrew their appeals, and in one instance the court upheld the Resolution of the CC. On another occasion the entities intended to appeal to court the Resolution of the CC concerning the concentration deal, however, after they were submitted the appropriate explanations and the substantiation of the decision, abandoned their intentions to appeal to court. In the period 1996–2005, on a single occasion only the decision of the CC concerning the authorisation of concentration was appealed to court, but the case was never

submitted to the judicial examination, and the appellant entity withdrew its appeal. Thus, in the course of 10 years not a single resolution concerning concentration of the CC was changed by the court ruling. This definitely demonstrates that the CC decisions on concentration are duly grounded and adequately substantiated.

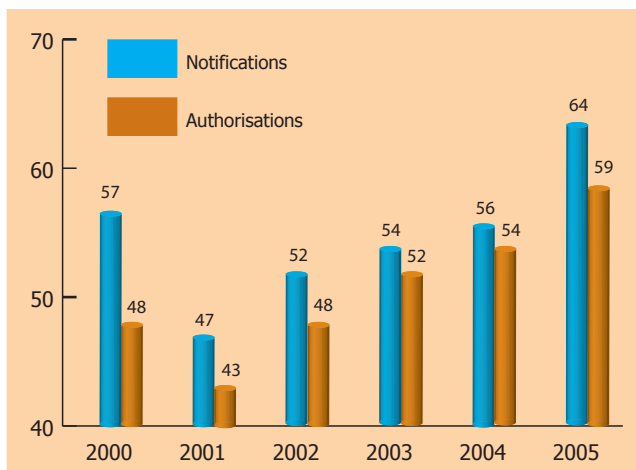
The CC specialists made every effort to examine the concentration notifications expediently and without any undue delay: in 2005, the examination, on average, took 21 business days, even having included the two particularly complex investigations that lasted more than two months.

Authorisations to foreign entities

In 2005, more authorisations were granted to foreign entities as compared to the previous year (22 and 15 in 2004), which included 6 cases of concentration among entities registered in foreign States that were also operating in the Lithuanian commodity markets, therefore the intended deals were increasing the degree of concentration therein; and in 16 cases foreign entities acquired the undertakings registered in Lithuania. Out of the 22 cases whereby authorisations were issued to foreign entities, in 9 cases these were granted to investment funds.

Authorisations to Lithuanian undertakings

The concentration between the Lithuania-based undertakings was effected in the 37 cases considered by the competition authority, which included 10 authorisations issued to undertakings controlled by foreign capital, and on a single occasion – to the undertaking jointly controlled by foreign and Lithuanian capital. In 23 cases the concentration was assessed as horizontal. The latter category included 3 in the industry sector, 9 – in trade sector, including the retail pharmaceuticals market; 6 cases were authorised in the services sector, 2 – in the information technologies sector, and 3 in the construction and energy sector. In 8 cases concentration transactions were bearing the features of horizontal concentration, and in 7 cases the transactions were assessed as vertical concentration, in addition to the 19 cases of conglomerate concentration. On one occasion, the CC authorised the incorporation of new undertakings.



Development of concentration cases

The data presented in the Table below clearly demonstrate that the trend of concentration notifications remains nearly unchanged, although in 2005, the concentration processed have accelerated basically due to enhanced involvement of foreign undertakings.

Assessment of the concentration processes

The analysis of the trends of the concentration processes showed that the number of concentrations directly affecting the concentration of market structures, as compared to the previous years, have remained nearly unchanged, however, the market has witnessed a sharp increase in the number of conglomerate concentrations to the largest extent due to the activity of foreign investment funds.

Intensive concentration processes were observable in the industry, services, and information technologies sectors, also trade (including the retail market in pharmaceuticals). Not a single major trade network operating in the retail market for food products and consumer goods has filed a notification on concentration in 2005, despite tangible



expansion of the networks both in Lithuania, and in foreign markets (Latvia, Estonia, Bulgaria and Rumania). The networks were mostly expanding their operations by building new modern trade centres and attracting foreign investment. The expansion of the Lithuania-registered major trade networks in foreign countries might have been caused, to a certain extent, by a moderate purchasing power of Lithuanian consumers obstructing any more rapid development of the trade networks. This might have also contributed, to the decision to abandon the intention to start operating in the Lithuanian market by the German trade network *Lidl* owned by the German company *CE Beteiligungs GmbH*.

Out of 9 cases of concentration in the trade sector, such transactions were effected in the construction materials, metal items, household electric appliances, wholesale and retail trade in agricultural machinery, also the retail trade in pharmaceuticals.

Concentration of small enterprises

The year 2005, also was distinguished for the concentration of small commercial enterprises that in many cases are exempted from the notification obligation, by virtue of Article 10(1) of the LC. For instance, the *Aibé* trade network, on the contractual basis consolidating small traders mostly operating in regions, small towns and settlements, did not file a single concentration notification in the reporting period. During 2005, another trade network, *UAB AVS prekyba* comparable to the *Aibé* trade network was largely expanding its operations. This trade network represents a combination of independent entities operating on a contractual basis and benefiting from centralised purchases.

The trade networks were producing a tangible leverage effect in respect of entities operating in other

highly concentrated sectors, such as milk processing, beer, and others, preventing the latter from benefiting from their advantageous position and increasing thus prices; eventually the actual beneficiary was the consumer.

In certain commodity markets the number of entities was decreasing due to the requirements arising from the EU membership. For instance, originally some 300 entities were operating in the meat sector, however only a share of them proved compliance with the EU requirements, while others were forced to terminate their operations.

Concentration and changes in the market

The CC with extreme caution and sense of responsibility passed decisions concerning concentration, since such processes determine long lasting and even irreversible consequences that frequently manifest themselves only after some period of time.

Aleksandras Jakiūnas, Head of Concentration Division:

"Coherent decisions passed by the CC in the course of several previous years in the telecommunications and information technologies markets caused intense competition in particular among mobile communications operators, lower rates, improved service to customers and expanded ranges of services offered".

It is also due to the consistent position of the CC in respect of the mergers of major milk processing enterprises the competition in the milk processing and purchasing markets has become increasingly vivid, which eventually contributed to the rise of the average milk purchase price. Nevertheless, the Lithuanian milk purchase price if compared to the average EU price is very low, accounting for mere 54.4% price of EU-25. For instance, in Latvia the average milk purchase price is some 13% higher than in Lithuania, in Poland – by some 9%, and in Estonia – by 30%. Only farmers of major holdings were paid the price comparable to that of the EU average. In respect of smallholdings, especially those not able to deliver milk to the stationary milk purchase stations, the milk purchase price increased only marginally.

The CC has been consistently analysing the effect of its resolutions concerning concentration and its impact upon the market. As an example, in 2003-2004, all alcoholic beverages companies were, upon approval of the CC, privatised although it has been established that the acquisition of *AB Anykščių vynas* by *AB Alita* would leave the latter with a significantly increased share in the strong (spirit) fruit-berry wine sale market. *UAB Mineraliniai vandenys* acquiring *AB Stumbras* would result in a very high-level concentration in the strong alcoholic segment. Only time showed that the motives and considerations underlying the CC's decisions to authorise concentration proved to be well grounded. Prices of strong alcoholic drinks, and strong (spirited) fruit-berry wines moved down; the shares of the respective alcoholic drinks' markets of the respective enterprises decreased, – essentially as a result of liberalisation of the alcoholic drinks' market, the

leverage effect of the strong buyers (retail trade networks), absence of market entry barriers, etc.

Telecommunications and information technologies market

One of the cases where the authorisation for concentration was awarded subject to conditions and obligations, was according to the application by *Elion Ettevõtte AS* for the authorisation to implement concentration by acquiring *MicroLink AS*. *Elion Ettevõtte AS* belongs to the group of enterprises, controlled by *Telia Sonera AB*, and *MicroLink AS* in Lithuania is controlled by *UAB MicroLink*. Should this transaction be effected in Lithuania *AB Lietuvos telekomas* would have acquired the subsidiaries of *MicroLink AS* in Lithuania.

Concentration processes was producing an effect upon the wholesale and the retail broadband communications access markets in Lithuania. In terms of the nature of services rendered these markets are vertically inter-related. The concentration under consideration was qualified as vertical and horizontal concentration in the retail broadband communications access market. While considering the situation due account was also taken of the fact that *AB Lietuvos telekomas* is the sole wholesale broadband access provider in Lithuania operating a well-developed fixed telephone communications network and infrastructure covering the entire territory of Lithuania. The company, furthermore, dominates in the dedicated lines services market, and in cooperation with related entities is developing the alternative internet access and data transmission technologies. Following the acquisition, through the concentration deal, of its competitor which, although operates just a small share of the market, is one of the most significant, *AB Lietuvos telekomas* in conjunction with the related companies would have strengthened its position in the market with a possible outcome of significantly lessened competition in the retail market of the broadband communications access market in Lithuania. The competitors operating networks of much lower penetration, have notably poorer possibilities to increase their share in the relevant market.

Having thoroughly assessed all circumstances the CC passed the decision to allow *Elion Ettevõtte AS* to implement concentration by acquiring a 100% holding of *MicroLink AS* in accordance with the submitted notification having imposed appropriate conditions and obligations upon the applicant. The principal obligation was for *AB Lietuvos telekomas* to sell *UAB MicroLink Lietuva* within an established time limit to an entity not related, within the meaning of the LC, with *Elion Ettevõtte AS*, *AB Lietuvos telekomas*, *MicroLink AS*.

Publications distribution market



In 2005, the CC examined the application filed by *Rautakirja Oy* for the authorisation to implement concentration by acquiring shares of the Vilnius agency of *UAB Lietuvos spauda*.

Having conducted the investigation the competition authority established that intended concentration should be assessed as horizontal and vertical concentration in the relevant retail and wholesale market for distribution of publications. Both the acquiring entity *Rautakirja Oy* and the entity being acquired operate in the retail and in the wholesale markets for distribution of publications. The degree of concentration in the retail market for distribution of publications in the commodity market is affected just to a very slight extent. In the wholesale publications distribution market the degree of concentration increases up to 45–50%, while in selected regions the wholesale publication distribution market is operated exclusively by entities participating in the concentration. About 600 publications are distributed in Lithuania, some dailies generate the major share of their income from subscription.

Seeking to ensure a transparent and non-discriminative publications distribution system in the market and prevent the emergence of a dominant position the CC imposed appropriate obligations upon *Rautakirja Oy*.

Since the entry into the wholesale publications distribution market is restricted, the vertical integration would enable *Rautakirja Oy* to acquire significant advantage in respect of its competitors as well a possibility to cross-subsidise its activities. The cross-subsidising instrument

would have added to the advantage of *Rautakirja Oy* even against the most efficient competitors, and would significantly encumber the entry into the market for distribution of publications.

Having considered that the commitments proposed by *Rautakirja Oy* are meant to establish a transparent and non-discriminative publication distribution system, alleviate the market entry barriers, cross-subsidising possibilities, and would eliminate the exclusive distribution terms in contracts with retailers and publishers, which in its entirety would contribute to the prevention of the emergence of a dominant position and a significant restriction of competition, the CC resolved to authorise *Rautakirja Oy* to implement concentration by acquiring a 100% share of the Vilnius agency of *UAB Lietuvos spauda* in accordance with the submitted notification subject to appropriate conditions and obligations, the most important of which was the arrangement under which the concentrating entities are obligated to organise the publications distribution activity and the retail trade in news stands by channels of two separate and independent companies. The progress of the fulfilment of the obligations provided for in the relevant resolution will be monitored by an independent observer whose candidature, complying with the established criteria, will be submitted for approval to the CC within the established time limit.

4. Actions of public and local authorities restricting competition

Resolutions of the Vilnius City Municipality

The investigations concerning possible restrictions of competition in the market for supervision of construction works was initiated upon receipt of appropriate information from the Public Procurement Office under the Government of the Republic of Lithuania. The information collected in the course of the investigation showed that the Vilnius City Municipality had passed decisions whereby, without undergoing any tender procedures, *UAB Vilniaus kapitalinė statyba* was commissioned to perform the technical supervision and the functions of the construction manager for the buildings and engineering installations funded from the Vilnius municipality resources and other public funds. Such decisions potentially discriminate other undertakings and restrict competition in the relevant market. When carrying out the assigned tasks related to the regulation of economic activity within the Republic of Lithuania, public and local authorities shall ensure freedom of fair competition. The investigation is still in progress.

The investigation was started upon the receipt of the application from *UAB Versenta*, and there being grounds

to assume that decisions of the Council of the Vilnius City Municipality could discriminate certain undertakings operating or intending to operate in the market. By the relevant decisions the Council of the Vilnius Municipality committed itself to purchase certain services from specific undertakings operating in the relevant market – *UAB Marela* and *UAB Rubicon eventus*, without having assessed alternative service providers and having provided the two entities with purchase guarantees. Thus the undertakings awarded the tender did not have to compete in the market neither in terms of quality nor prices for a certain share of income. While the investigation was in progress, on 12 October 2005, the Council of the Vilnius City Municipality revoked the decisions in respect of which the CC has started the investigation. Therefore the investigation was discontinued.

The CC received a request from *UAB ON kompiuteriai* to investigate and assess the actions of the City municipality whereby the authority refused the applicant a permission to install and maintain the external advertising posters on viaducts in the city of Vilnius. In June 2005, the CC initiated an investigation with a view to establishing whether the Vilnius City Municipality, by refusing to issue a permit to *UAB ON kompiuteriai* to install and maintain the advertising posters on viaducts of the city of Vilnius, while authorising such

activities for *UAB JCDecaux Unicom* and *UAB ETN Baltic*, could possibly create different competition conditions for the entities operating in the relevant market. The final decision in the case will be passed in 2006.

Decision of the Kaunas city Municipality

In its application to the CC *UAB Dzūtra* engaged in the management of mixed household waste referred to the relevant decision of the Kaunas City Municipality as contradicting Article 4 of LC. The decision concerned the refusal by the Kaunas City Municipality to conclude the waste management agreement with *UAB Dzūtra* and the Resolution of the Council of the Kaunas Municipality of 2002 on management of mixed household waste passed on the basis of the Regulations of Waste Management of the city of Kaunas. The applicant claimed that the decision *per se* granted exclusive rights to *UAB Kauno švara* to render the mixed household waste management services in Kaunas city, thus creating dissimilar competition conditions for entities operating in the relevant market. The investigation provided sufficient grounds to establish that actions of the Kaunas City Municipality are to be qualified as an infringement of Article 4 of the LC. The CC completed the investigation in 2005, but the final decision in respect of the case will be passed in 2006.

Decisions of the Palanga Municipality

On the basis of the application lodged by *S. Kulikauskienė* enterprise – general medical practitioners' (GMP) centre – the CC conducted an investigation concerning the refusal by the Palanga Municipality to



approve the application of *S. Kulikauskienė* enterprise and the PI Vilnius Psychotherapy and Psychoanalysis centre to provide in the GMP centre the psychic health care services funded from the Territorial patients' fund. The Psychic Health Care centre, a branch of the PI Palanga Primary Health care centre, operates in Palanga on the contractual basis with the Klaipėda Territorial Patients' Fund (KTPF). The specialists of the Vilnius Psychotherapy and Psychoanalysis centre intended to provide the psychic health care services in the GMP centre under the contract with the Klaipėda KTPF, upon the approval of which the services provided would be compensated from the Mandatory Health Insurance Fund. The investigation established that the refusal by the Tourism, Health and Social Protection Committee of the Palanga Municipality to approve the conclusion of the agreement, have created the dissimilar competition conditions for entities operating in the relevant market. The CC concluded the infringement of Article 4 of the LC and obligated the Palanga Municipality to accordingly amend the decisions causing restrictions of competition.



The applicant – the representative of the Government in the Klaipėda County, performing its functions of control

over the legitimacy of activities of local authorities, appealed to the CC by filing the application with a request to investigate possible creation of dissimilar competitive conditions for different entities operating in the same relevant market. The case concerned the decision of the Palanga Municipality whereby, without undergoing any tender procedures, selected entities were authorised to trade (provide services) in certain public places specified by the Palanga Municipality Council. On 28 April 2004, the Palanga local authority passed the decision "On the local duties for the issue of permits to trade and (or) provide services in the sites specified by the Palanga Municipality". The trade sites defined in the annex approved by the same decision "Regulations on the local duties for the issue of permits to trade and (or) provide services in the sites established by the Palanga Municipality" were allocated to certain persons without a tendering procedure. The investigation is in progress.

Decision of the Panevėžys Municipality

The CC examined the claim lodged by *AB Lietuvos dujos* regarding the decision of the Panevėžys Municipality "On the approval of the special municipal heating plan". In the process of the development of the special municipal heating sector plan, the plan approved by the above decision of the Municipality provided for the centralised supply of heat in nearly all areas of Panevėžys thus ensuring an advantageous position for the heat supplier *AB Panevėžio energija* and discriminating other energy suppliers, including the applicant *AB Lietuvos dujos*. The decision of the Council of the Municipality resulted in the differences of competition conditions for individual entities competing in the heat energy source market. Upon the approval of the plan by the municipality *AB Lietuvos dujos* was deprived of its right to supply gas to the company's consumers despite the presence of physical facilities to supply gas in this area of the town. This also was contrary to the preferences of the consumers to opt for gas supply rather than the centrally generated heat energy.

The buildings and residential premises in the town are supplied with heat either from centralised heat generation sources or with heat generated in individual gas boiler-houses using electric energy. For heating purposes consumers may use either heat supplied from centralised sources, or gas, – from the consumer's point of view these are the two intersubstitutable sources of heat energy. This finding has also been confirmed by the practice of the Supreme Administrative Court of Lithuania.

Having considered that by virtue of the decision of the Panevėžys Municipality nearly the entire municipal territory was assigned to the supplier of centrally generated heat, the CC concluded that the said decision of the local authority privileged *AB Panevėžio energija* in respect of other alternative heat energy suppliers.

The information collected in the course of the investigation also showed that none of the Lithuanian laws and regulations pertaining to the Lithuanian energy sector and territorial planning, contain any provisions granting priorities to an individual heat energy source, nor the provisions granting a right to restrict competition in individual energy sectors. One of the objectives of the Law on Heat of the RL is to establish and ensure competition in the heat sector.

The CC resolved that decision to establish the

centrally generated heat as source heat energy in the special municipal plan is ungrounded and illegitimate. The established differences in the conditions for competition have not been caused though the compliance of the requirements of laws. The decision of the Panevėžys Municipality was passed in contradiction to the provisions of the LC, therefore the Council of the Panevėžys Municipality was obligated to amend the decision as ungrounded and illegal.

Actions of the State Animal Breeding Supervision Service

On the basis of the application lodged by *UAB Litgenas* the CC conducted the investigation concerning the compliance with the provisions of Article 4 of the LC of actions of the Commission of the breeding subsidised measures of the State Animal Breeding Supervision Service under the Ministry of Agriculture when distributing the State support for subsidising the animal breeding measures. *UAB Litgenas* had applied for support to subsidise the animal breeding operations and services, the Commission, however, refused to grant the support by explaining that the company is a private entity and the provision of any aid to the company will not result in the increase of the public holding in the company. In the meantime the subsidy was granted to another breeding entity *SE Šiaulių regiono veislininkystė*, actually the competitor of *UAB Litgenas*. The State Animal Breeding Supervision Service did indicate several reasons for its refusal to grant support to *UAB Litgenas*; the investigation evidence, however, showed that none of the reasons was related to the compliance of the legal acts governing the animal breeding activity as provided for in Article 4(2) of the LC. The CC concluded that while granting support the Commission of the breeding subsidised measures of the State Animal Breeding Supervision Service under the Ministry of Agriculture was discriminating individual entities which, as a result of that, were placed in different competitive conditions, whereby the Commission committed an infringement of Article 4 of the LC.

Orders of the Police Commissioner General of Lithuania

In February 2005, the CC commenced an investigation with a view to establishing the compliance with the requirements of Article 4 of the LC of the Order of the Police Commissioner General of Lithuania. The Order of the Police Commissioner General permitted police entities to provide, on contractual basis the security services for the property of natural and legal persons. The investigation was started upon the receipt of a complaint from *UAB Falck security* and there being grounds to believe that the security divisions operating under the Lithuanian Police have been empowered to use the rights specific to the police and to use additional powers, including the right to use the special measures. Such rights could place them into a much advantageous position as compared to other entities operating the security services market, and this contradict the requirements of Article 4 of the LC. The CC completed investigation by concluding the infringement of the LC, however, the final decision will be passed in 2006.

Order of the Minister of the Interior

AB Lietuvos telekomas, *UAB Omnitel* and *UAB Bitė GSM* filed an application indicating that the Order of the Minister of the Interior of 14 May 2004 appointed the State enterprise *SE Infostruktūra* as the administrator of the Secure State Data Communication Network. As claimed by the applicant the Order of the Minister of the Interior granted an exclusive right to *SE Infostruktūra* to provide the secure State data communication services, including the data transmission, telecommunications and other services to all public and municipal authorities of the Republic of Lithuania, also enterprises and institutions which eventually places other entities competing in the relevant market in a position disadvantageous from the competition point of view. The investigation in respect of a possible infringement was started in 2005 will be continued during the year 2006.

5. Harmonisation of legal acts and promotion of competition culture

One of the vitally important areas of activity of the CC is the expert examination of draft laws and other regulations within the competence assigned to the institution, provision of comments and conclusions to the Seimas and the Government of the Republic of Lithuania on competition implications of such legal acts and regulations. During 2005, like in the previous years, the CC was an active participant in the legislation process, having analysed and assessed from the competition point of view 13 draft laws and 29 drafts of other regulations.

The newly drafted legislation should in no way restrict or weaken competition, they should by all possible means to liberalise the market entry possibilities, promote competition among economic entities, intensify competition thus ensuring the maximum possible benefit to consumers.

Comments to draft laws

- The CC issued comments concerning Article 40(3) of the Law on the Amendment of the Law on Public Procurement, by proposing to revise and expand the basis for rejecting a proposal bringing it into line with the wording of the Council Directive 2004/18/EC and specifying that the State aid notification is sufficient in cases of block-exempted State aid, while in other cases the EC authorisation is required.

- Having assessed the draft Law on the Concept of Prohibition of Unfair Actions by Retail Trade enterprises prepared by the Ministry of Economy the CC submitted its opinion concerning possible restrictions of competition and regulation of contractual relations between entities. The CC in this context sought to attach increased significance to the transparency of relations between undertakings.

The CC also pointed out that the proposed draft law neglected any examination of the categories of traders that encounter problems in relations with retail suppliers discussed, with a view to clarifying the scope of suppliers in respect of whom such regulation would be redundant, in particular having in mind that the proposed measures restrict free competition.

Since the Law provides for the instruments designed to limit the possibilities of retailers to groundlessly require the price reduction for the commodities they are supplied, the CC noticed that in case of any dispute it would be extremely difficult to prove the legitimacy of the price reduction, and proposed to establish the criteria for the assessment of the presence or absence of the basis for such price reduction. The CC concluded by expressing a view that any prohibitions to retail trade entities should be worded in extremely precise terms, since the proposed provision seemed somewhat vague and could be easily treated as a restriction in respect of the retailers in their price negotiations with suppliers.

- The CC pointed out that the draft Law on Employment Support and the Law on the Recognition as Invalidated of Article 91 and the Amendment of Article 92 of the Labour Code provides that in certain cases employment support measures may be treated as State aid within the meaning of Article 87(1) of the consolidated EC Treaty. For that reason the compliance of the terms and procedure for the employment support measures provided for by this law and approved by the secondary legislation with the criteria of State aid should be assessed on a case-by-case basis.

- The CC also submitted its comments to the Committee on Health Affairs of the Seimas of the Republic of Lithuania concerning the restrictions of the establishment and operations of pharmacies provided for in the draft Law on Pharmaceutical Activity of the Republic of Lithuania. The CC came up with an opinion that some proposals of the members of the Seimas may result in the monopolisation of the pharmaceutical market in a certain territories, and eliminate price competition as well as restrict the consumers' access to information.

- While submitting comments to the draft Law on the Supplement of Articles 10, 12, 17, 18 and 34 of the Law on Alcohol Control, Article 10(1) whereof provides for an authorisation to produce alcoholic drinks only to farmers providing rural tourism services and registered in the Farmers' Register, the CC concluded that these draft provisions may cause the differences of competition conditions in the rural tourism market in respect of farmers not registered in the Farmers' Register.

- The CC, as an institution in charge of the implementation of the measure under the Government Action Programme 2004-2008 to liberalise the notary services market, – to fix the maximum fees for notaries and implement other necessary measures, submitted its opinion and proposals to the Ministry of Justice concerning the Law on Notary Office. In the opinion of the CC, market regulation by setting fixed prices is extremely harmful for competition. However, in the notary services market, which is sufficiently restricted due to the extensive demand for the notary services, even in the presence of



a price competition possibility, prices lower than the maximum fixed can hardly be expected unless due consideration is taken of other circumstances. The barriers of entry to the notary services market stem from the provisions of the Law on

Notary Office. Notaries are appointed to and removed from the Office by the Minister of Justice who also establishes the number of notaries, venues of the Offices and area of notary operations. The CC, while recognising the necessity to ensure the accessibility of notary services throughout the entire territory of the Republic of Lithuania, has expressed a view that for the purposes of promotion of competition, it is absolutely vital to revise and liberalise the service provision environment, the currently effective rather stringent regulation, as implemented through the Law and other regulations, the regulation of notary services on territorial principles, the procedure for the establishment of notary offices, transfer of notaries between different territories, in addition to the introduction of more liberalised terms of advertising of notary offices as well as alleviating the barriers for the entry into the notary services market.

- Apart from those mentioned above there has been a number of other draft laws and regulations in respect of which the CC expressed its opinion and submitted comments. Those include draft Law on the Amendment of Article 28 of the Energy Law, Law on Fundamentals of the Evaluation of Assets and Business, the draft Law on the Amendment of the Law on Copyrights and Related Rights, draft Law on the Chamber of Architects, and others.

Comments concerning Resolutions of the Government and other legal acts

Apart from submitting comments to draft laws the CC also worked out findings and conclusions regarding draft Resolutions of the Government ("On the participation of the Republic of Lithuania in the European Community programs", "On micro-crediting facilities", "On the submission to the Seimas of the Draft Law on the Amendment of the Law on Small and Medium-Sized Business of the Republic of Lithuania"), and other regulations (Order of the Minister of Agriculture "On the approval of the regulations for the administration of support for milk and dairy products consumed in pre-school and general education establishments", "Order of the Minister of Foreign Affairs and the Minister of Economy "On the procedure of the issue of visas according to the travel packages approved by the State Tourism Department", etc.).

The CC also submitted comments to certain market surveys conducted by the Communications Regulatory Authority.

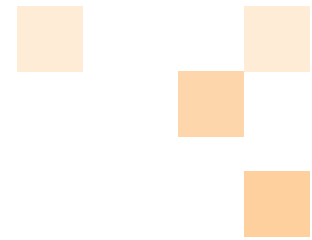
When commenting the draft regulations of the Ministry of Agriculture on the procedure for compensation of expenses incurred in 2005 for the acquisition of modern winter hothouses, the CC drew attention to certain aspects of application of Article 4 of the LC.



Certain findings and conclusions on the impact of legal acts and regulations upon competition were also submitted

to Lithuanian courts. During 2005, the Constitutional Court of the Republic of Lithuania has on several occasions appealed to the CC with a request to submit an opinion and the supporting arguments and motivations regarding considerations submitted by the claimants. Upon a request of the members of the Seimas the CC presented its legally grounded arguments to the Constitutional Court concerning the provisions of the Law on the Lithuanian National Radio and Television. The comments were drawn up having thoroughly assessed the requirements laid down in the Communication from the Commission on the application of State aid rules to public service broadcasting (2001/C 320/04).

6. Market research and other activities



In 2005, the CC examined the situation in the film distribution market and the development of the regional waste management centre. On its own initiative the CC showed interest in the activities and decisions of the Odontology Chamber Commission set up for establishment of minimum odontology services prices, which possibly could restrict competition.

The official of the CC participated in the activity of the Commission on the consumer protection in the area of construction commodities, services and advertising, set up by the National Consumer Rights Protection Board under the Ministry of Justice. Close cooperation was maintained with the Board when drawing up the National Consumers Rights protection strategy for 2007-2010. The Consumer Rights Protection and Social Affairs working group was another group in which officials of the CC were involved discussing the issues related to the introduction of the euro in Lithuania.

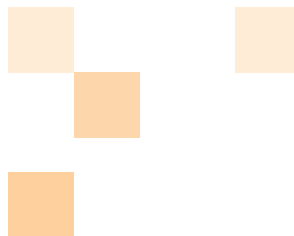


Within the limits of its competence the CC was monitoring the enforcement of the Law on Prices and Resolutions of the

Government on pricing. Particular attention was devoted to ensure the compliance with the procedures of establishment of prices and tariffs for goods and services of monopoly character provided and supplied by State entities established by ministries and Government and state entities attributed to them, and by public institutions. Appropriate information related to these areas was prepared and submitted to the Seimas, the Government and other public authorities.

While fulfilling the monitoring of price establishment the CC approved 208 positions of the prices of services and goods of monopoly character provided by public authorities, state entities and public institutions, and 4 procedures for the price and tariff fixing.

Upon the mandate of the Committee on Audit of the Republic of Lithuania officials of the CC participated in the meetings of the Law on Audit. The meetings of the Committee at length discussed the threats potentially arising in relation to cross subsidising whereby the *SE Register Centre* establishes prices of the provided public services on monopoly basis. The CC in this relation drafted proposals to the Ministry of Justice concerning the differentiation of monopoly and non-monopoly services, and the readjustment of the pricing.



II. Enforcement of the Law on Advertising

During 2005, the CC examined 17 cases related to the use of misleading or comparative advertising. In 9 cases the CC concluded infringements of the Law on Advertising (further – the LA), on 6 occasions refused to initiate an investigation there being no sufficient grounds to assume an infringement of the LA, 2 investigations were closed having failed to collect sufficient proof of an infringement of the LA. Having examined and assessed the advertising texts published in the mass media means in certain instances only preventive measures were applied in the view of the small significance of the possible infringements, – 12 advertising providers were issued written warnings, following which they ceased the use of the misleading advertising. In the view of possible use of misleading or comparative advertising 93 applicants were provided with explanations in writing on the applicable requirements and their application in practice, on the procedure for the provision of the data necessary for the initiation of an investigation and the liability for the failure to comply with the requirements of the Law.

Misleading advertising

On the weigh-loss methods

The CC, on its own initiative, conducted two investigations concerning the compliance of advertising published by *UAB Porektus* with the provisions of Article 5 of the LA. In the first case the company was advertising in dailies the weight-loss method



developed by a French nutrition specialist M. Montignac, ensuring the body weight loss by 3-5 kg per week in the first four weeks and by 2-3 kg during each subsequent following week. In the second case the company was promoting the H.C.A. preparation, which can help lose 6 kg in 8 days, 12 kg in 15 days, and 25 kg in 30 days. Neither in the first, nor in the second case the company was able to substantiate any of the statements. In addition to that, in the advertising statements the company missed part of the information the provision whereof was vital in order to avoid misleading the users of the advertising. The advertising did not indicate exactly the product being advertised, nor its principal characteristics, the advertising providers also failed to indicate that having

ordered the product the consumer would also be submitted a 239 pages booklet, and will have essentially change his eating habits.

In both cases advertising on weight-loss methods published by *UAB Porektus* were recognised misleading. For this infringement of the LA the company was fined in the amount of LTL 30 000 and 40 000 respectively.

On treatment methods

UAB Embriotechnologiju centras was advertising in its website the treatment technologies based on the transplantation of little-differentiated stem cells. The investigation established that certain statements of the treatment method being advertised are incorrect and are capable of affecting the consumers' decisions in respect of the use of the promoted treatment technologies. Having also taken into consideration that the advertising statements concerned targeted persons suffering from hardly curable or incurable diseases who are extremely vulnerable and apt to believe and trust the information they are presented, *UAB Embriotechnologiju centras* was warned and obligated to immediately cease and to refute the misleading advertising in the company's website. The company fulfilled the obligations.

On the computer purchase terms

In March – May 2005, *UAB Euroinvesticijos* in the publication *Eurokompiuteriai* published its advertising statements claiming: "When buying a computer on hire-purchase terms you will be able to refund as much as 33% of the



computer's value, by paying your instalments in 2-3 years". The investigation established that user of the advertising who has acquired computers under a two or three years' duration hire-purchase agreement will not be able to claim a refund of 33% computer value, since part of the instalments will be paid only as late as 2007 or 2008. Meanwhile, according to Article 2 of the Law on the Supplement of the Income Tax of Individuals of 15 June 2004, a resident who in the course of three years acquires one PC with software and (or) having installed the internet access having acquired the necessary equipment, is entitled to the refund of the respective amounts only provided payments for the computer and the equipment

have been made in the period from 1 January 2004 until 31 December 2006. The evidence collected in the course of the investigation proved the presence of customers who have acquired computers from the stores of *UAB Euroinvesticijos* on the hire-purchase agreement terms whereby final instalments will be paid in the course of 2007. It was recognised that the company was using incorrect advertising statement that could mislead the consumers concerning the final price of the computer and affect their decisions and actions related to the acquisition of the computer. For the use of the misleading advertising the company was fined LTL 6 000.

Prohibited comparative advertising

Concerning biased comparison

On the basis of the application of *UAB Topo centras* the CC conducted an investigation concerning the compliance of the advertising statements of *UAB Euroinvesticijos* with the requirements of the LA. The investigation established that *UAB Euroinvesticijos* in its advertising compared in a biased (beneficial to itself) manner prices of computers of a specified configuration marketed by the company and its competitors, – *Topo centras*, *Sonex*, *BMS*. Furthermore, statements of the advertising discredited and downgraded the names of the above companies. Having concluded that *UAB Euroinvesticijos* was using a prohibited comparative advertising, which constituted an infringement of Article 6 of the LA, the company was fined LTL 15 000.

Concerning the presentation of the company's functions

The Association Lithuanian Chamber of Bailiffs submitted a request to investigate the compliance of advertising published in the *UAB Žvilgsnis iš arčiau* website with the requirements of Article 5 of the LA. The advertising stated: “<...> the company performs the supervision of bailiffs engaged in forced debt recovery and bankruptcy administrators” and “<...> in case legal debt recovery procedure is awarded we may offer you to seek the judicial award of the debts and entrust the recovery to the Bailiff Unit of the Legal Department of our company that will, without any additional efforts, place attachment upon the property and funds of the debtor. This way you will recover not only the debts but also all the related expenses”. The investigation established that the advertising claims clearly define the functions performed by *UAB Žvilgsnis iš arčiau* that in accordance with the effective legislation, however, are attributed to other institutions. *UAB Žvilgsnis iš arčiau* advertising represents that the company supervises the operations of bailiffs, instructs the bailiffs to eliminate the infringements of the proceedings, monitors the organisation of the bailiffs' work, places attachment upon the property and funds of the debtors, and assumes certain other functions not assigned to its competence under the effective legislation; furthermore, the advertising statements created an impression of a company rendering complex services. This all in its entirety is likely to mislead the consumers and encourage their economic choice to the benefit of this company. It was established that *UAB Žvilgsnis iš arčiau* advertising infringed Article 5 of the LA. The company was fined LTL 13 500.

III. Coordination of State aid

Drafting legislation

The material changes in the area of monitoring of State aid upon the accession of Lithuania to the EU introduced certain basic changes in the functions performed by the CC in this respect. According to Article 48 of the LC, the CC shall coordinate issues of State aid to which EU State aid rules apply, perform the expert examination of State aid projects, submit conclusions and recommendations to State aid providers, participate in submitting notifications on State aid to EC. Furthermore, the CC manages the Register of State aid and accumulates information on State aid provided to undertakings, as well

as forwards this information to the EC and other interested institutions.

Implementing the LC and the provisions of Resolution No. 1136 of 6 September 2004 of the Government of the Republic of Lithuania, the CC prepared the draft Resolution of the Government “On the establishment of the Register of granted State aid, approval of the Regulations and the date of the beginning of operations of the Register”. On 19 January 2005 the Government approved the Resolution, and appointed the CC the managing institution in respect of the management of the Register of granted State aid and the register management institution. The Resolution of the Government also approved the Regulations of the Register that govern the purpose, objects, management procedure,

reorganisation and liquidation of the Register, also the rights and duties of the Register's management institution.

When performing the Register management functions as defined by the above Resolution of the Government, in 2005 the CC passed the decision approving "The Rules on the registration of the granted State aid", and by the Order of the Chairman of the CC approved "The Regulations of the Register data security". The Rules define the procedure for the submission and registration in the Register the data on the existing State aid and the *de minimis* aid, also the *de minimis* aid in the agricultural and fisheries sectors.



In an attempt to ensure the proper implementation of the EC Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings and its subsequent

amendments, the CC in cooperation with the Ministries of Finance, Economy and Communications, as well as other institutions, screened the relevant legal acts of the Republic of Lithuania and concluded that the provisions of the Directive have not been fully transposed into the national legislation. In this backdrop, the CC prepared the draft Resolution of the Government "On the approval of the rules on the accumulation of information about financial relations between public authorities and entities upon which the public authorities may exercise influence, and the information on certain enterprises" which was passed in July 2005. The Resolution of the Government approved the Rules on the accumulation of information about financial relations between public authorities and entities upon which the public authorities may exercise influence, and the information on certain enterprises and established the obligations upon Ministries and other public authorities concerning the implementation of provisions of the Directive.

Submission of notifications to the EC

Within the framework of its functions as an institution coordinating the issues of State aid the CC closely cooperated with State aid providers in the process of drafting State aid notifications to the EC, and providing other information about the State aid. Within the accounting period, State aid providers submitted total 21 notification on State aid, including 4 notifications on State aid under exemptions, 4 ad hoc, i.e. individual aid to undertakings, and 13 – on State aid granted under aid schemes. Leading in this respect was the Ministry of Agriculture (9 notifications), and in the category of individual aid, the largest number of notifications was submitted by the Ministry of Finance (2). In respect of 6 notifications the EC passed favourable decisions. In respect of notifications on exempted aid no formal approval of the EC was required. Another 14 State aid notifications are currently undergoing examination by the EC. The Table below contains the data on the notifications on State aid submitted to the EC in 2005.

Total State aid notifications submitted to the EC	21
Of which:	
Notifications on State aid under schemes	13
Notifications on State aid under exemptions	4
Notifications on ad hoc, i.e. individual State aid	4
Notifications on State aid approved by the EC decisions (including 3 notifications submitted in 2004)	6
Of which:	
State aid under State aid schemes	4
Ad hoc, i.e. individual State aid to undertakings	2
Notifications on State aid to the EC under examination	14

EC decisions on State aid notifications in 2005:

- ☒ N 448/2004 – aid to compensate farmers for losses caused by adverse weather conditions (aid provider – the Ministry of Agriculture);
- ☒ N 425/2004 – Kaunas free economic zone (aid provider – the Ministry of Economy);
- ☒ N 584/2004 – aid to *AB Vingriai* debt waiver (aid providers – the Ministry of Finance and the Board of the State Social Insurance Fund);
- ☒ N 44/2005 – excise tax reduction on biofuels (aid provider – the Ministry of Economy);
- ☒ N 337/2005 – Ignalina nuclear power plant tax exemptions (aid provider – the Ministry of Economy);
- ☒ N 292/2005 – aid for the reimbursement of insurance premiums (aid provider – the Ministry of Agriculture).

Performance of other functions

The CC verbally and in writing provided consultations to State aid providers, submitted comments on the draft legislation drafted by the Ministries of Economy, Finance, Agriculture, Social Security and Labour and the Ministry of Environment. In total, the CC examined 38 draft legal acts, and submitted, in respect of them, comments and proposals.

The CC sought as comprehensively as possible to present to State aid providers the new State aid monitoring system in Lithuania and its practical application. In 2005, the CC organised workshops in the Vilnius, Klaipėda ir Tauragė Counties, as well as Vilnius (for the staff of the Customs Department), the subject matter whereof was the new State aid monitoring system in Lithuania. The workshop participants were acquainted with the material changes in the State aid monitoring system in Lithuania, upon the entry to the EU, the procedure of the submission of State aid notification to the EC was properly explained, answers were given to the questions of state aid providers.

In order to more comprehensively introduce the State aid providers and recipients with the EU regulations governing State aid, the CC worked out the "State aid Manual" and

published it in the CC website section "State aid".

Pending the start of the operation of the State aid Register, and performing its function of the State aid Register managing and management institution in September 2005 the CC arranged training sessions for the Register users, during which instructions were given to specialists of ministries, local authorities and other institutions responsible for the provisions of State aid data to the Register.

Further work continued in the area of accumulation and systemising the State aid data base, the departmental State aid Register, and starting from 1 October 2005 the CC started operating the Register of the granted State aid. The departmental State aid Register contains the data on the State aid granted to the Lithuanian undertakings in 1996-2004 and in January-September 2005. The Register of the granted State aid will ensure the proper monitoring of *de minimis* State aid in accordance with the requirements of the EC regulations.

Volumes of the granted State aid

On the basis of the data of the departmental State aid Register the annual report to the EC was drawn up. According to the data available the total State aid provided in Lithuania during the year amounted to LTL 446.43 million (EUR 129.29 million).

In 2005, the national State aid accounted for 0.71% of

the national GDP (at current prices), i.e., LTL 310.82 (EUR 90.02) per one working person, on average. In 2004, the Lithuanian GDP, as compared to the level of 2003, increased by 7.0 % (at comparative prices of 2000), while the inflation level grew by 2.9 %. The data presented in the Tables and the diagrams of the Annex clearly evidence that the level of State aid provided in 2004 was by far higher than in 2003. To an extent this increase was caused by the inclusion into the report of 2004, of all State aid provided in the agricultural and fisheries sectors, while the State aid reports of 2000-2003 accounted only for the aid granted from funds of the Rural support and special programs. Therefore, excluding State aid to agriculture and fisheries sectors, the overall volumes of State aid in 2004 was lower than in 2003 m. Having regard to the peculiarities of the State aid accounting the presented data show that the total State aid granted during the period under consideration decreased from LTL 254.03 million (EUR 68.27 million) in 2000 to LTL 105.18 million (EUR 30.46m) in 2004.

The State aid to the manufacturing and service sectors during the accounting period was developing saltatorily. In 2004, State aid to manufacturing and services sector accounted for a larger share of the national State aid, i.e., – 82.24 % (excluding aid to agricultural and fisheries sectors). In 2004, within the manufacturing and service sectors aid was granted SMEs, R&D, and innovations, trade and aid for the rescue and restructuring of enterprises. Over 55% of the aid to the manufacturing and service sectors was granted as the rescue and restructuring aid. The data on the breakdown of State aid by principal sectors are presented in the Annex to this Report.

IV. Judicial practice

During 2005, representatives of the CC participated in 17 court proceedings, of which in 9 cases the case examination was completed, 5 cases pending in the Supreme Administrative Court of Lithuania, and 3 cases pending in the Vilnius Regional Administrative Court.

Further is presented a description of several court cases judged under the provisions of the LC and LA, as rulings passed in the judicial proceedings are important from the competition point of view.

★ By its Resolution No. 1S-53 of 1 April 2004, the CC acknowledged that the "Rules on granting support to maintain the milk purchase prices to milk processing enterprises" approved by Order of the Minister of Agriculture does not contradict Art. 4(2) of the LC, and closed the case. In disagreement with the decision of the CC *UAB Žalmargėspienas*



appealed the decision to the Vilnius Regional Administrative Court requiring to overrule the decision of the CC and to acknowledge that the Order of the Minister of Agriculture contradicts both Art. 4 of the LC and Resolution No. 725 of 4 June 2003 of the Government of the Republic of Lithuania „On the milk purchase prices in June – December 2003“, and adjudge the compensation for damage.

In support to the doubts of the applicant concerning the

compliance of the Order of the Minister of Agriculture to the superior legal acts, the Vilnius Regional Administrative Court appealed to the Supreme Administrative Court of Lithuania with a request to place the case under deliberation. The decision of 8 October 2004 of the Supreme Administrative Court of Lithuania in the administrative case No. 11-08/04 ruled that because of the criteria applied in the contested decision whereby the amount of support granted to milk processing enterprises is based on the market shares held by each enterprise in 2002, the enterprises are placed in different positions, each having to cover from own resources a different share of the price payable to milk producers. In the opinion of the court this criterion has not been determined by the requirements of Lithuanian laws, therefore it cannot objectively determine the different share of the support for each ton of purchased milk, and acknowledged that the regulation of granting the support contradicts Article 4 of the LC. The Supreme Administrative Court of Lithuania also emphasised that in order to establish an infringement of Article 4 of the LC, it is sufficient to establish actions of discriminative nature potentially able to restrict competition in the relevant market regardless of whether competition was actually restricted. Having applied this rule in the case under investigation the Court ruled that section "Other enterprises" of Annex 1 to the Rules could obstruct the entry into the milk purchase/processing market of new enterprises, entitled to the fixed share of the support allocated to the "Other enterprises" group that depends upon joint performance of the enterprises attributed to "Other enterprises" category. Such circumstances can possibly facilitate the emergence of differences of competition conditions with the enterprises entitled to a pre-established share of the support. Another provision established in the Order of the Minister of Agriculture under consideration whereby enterprises that have started their operations in 2002 and 2003 are entitled to support under different terms, was assessed by the Court as caused by objective factors and not contradicting the competition conditions.

Based on the ruling of the Supreme Administrative Court of Lithuania the ruling of 6 June 2005 of the Vilnius Regional Administrative Court partly met the applicant's complaint – reversed the decision of the CC, and declined the remaining part of the complaint of *UAB Žalmargės pienas*. In its appeal the applicant was requesting to be awarded the damage in the amount of LTL 2.997.063 from the State of Lithuania, represented by the Ministry of Agriculture.

The Supreme Administrative Court of Lithuania passed a ruling on 25 November 2005, whereby the Court partly met the appeal of *UAB Žalmargės pienas* and adjudged the damage amounting LTL 109.950,96 from the State of Lithuania represented by the Ministry of Agriculture. The Court motivated its ruling by stating that by the ruling of 8 October 2004 the Rules approved by the Minister of Agriculture were recognised contradicting Article 2.76 of the Civil Code of the Republic of Lithuania, Article 4 of the LC, the Resolution of the Government, therefore the Court concluded that the applicant had been deprived of a possibility to be granted support for the milk purchased by virtue of the illegitimate act of the public authority, therefore the applicant incurred damage which must be compensated by the State.

★ By the Resolution No. 2S-3 of 3 February 2005 "On the compliance of actions of the taxi services providers

Association and the entities providing taxi services in Vilnius with the requirements of the LC the CC concluded that a group of entities providing taxi services in the city of Vilnius and the Association of the taxi services providers had concluded a prohibited cartel agreement, whereby the companies simultaneously raised the tariffs for their services. For this infringement the companies and the Association were subjected to fines. The Vilnius Regional Administrative Court upheld the resolution of the CC, stating that identical and increased tariffs for taxi services were established as a result of meetings and contacts between the companies providing services, what is assessed as concerted practice restricting competition. In its ruling the Court also noted that the agreements not only incurred damage to the consumers, furthermore, it deprived the consumers of a possibility to opt for better service quality for a higher tariff. In the assessment of the Vilnius Regional Administrative Court, the fines to the infringing companies were imposed without having regard to the market shares of the companies and their gross annual income in 2003. Having assessed the latter factors the Court reduced the fine imposed upon *UAB Martono taksi* from LTL 50 000 to LTL 25 000, the fines in respect of other companies in the amount of LTL 5 000 were not reduced, or reduced just to a negligent degree, and two companies were exempted from the fines, since they have just started their operations and did not have any income (or very small income) for the year following the one in which the infringement was committed (2003).

Several taxi companies appealed the ruling of the Vilnius Regional Administrative Court to the Supreme Administrative Court of Lithuania. The case is still pending in the court.

★ By the decision No. 2S-16 of 2 December 2004 "On the compliance of actions of *UAB Tele2* with the requirements of Art. 5 of the LA" the CC acknowledged that certain advertising claims used in the advertising campaign constituted misleading advertising. The advertising statements regarded as misleading were as follows:

- "Users of Tele2 are enjoying the lowest rates. They may call at lowest free-time rate to all mobile networks in Lithuania, – just for 0.25 LTL/min";
- "Users of Tele2 are enjoying the lowest rates. Twenty four hours a day they may send the SMS to all mobile networks in Lithuania for the lowest rate, – just 0.10 LTL/SMS";
- "Users of Tele2 are enjoying the lowest rates. To more than one third users of mobile communications network in Lithuania they may call twenty-four hours a day at lowest rate, – only 0.20 LTL/min".



Having examined the appeal of *UAB Tele2* the Supreme Administrative Court of Lithuania in its ruling of 17 November 2005 concluded that the advertising used by the appellant was incomplete and therefore could mislead the user. The Court concluded that "the above incomplete information in connection to the emphasis upon low service rates without providing complete information on groups of service users to whom the low rates are applied,

without providing actual possibilities for an average user to decide regarding additional terms on which the user should seek the information, and often there being no possibilities to obtain any additional information when acquiring the service, could form an erroneous opinion of an average user about the service and thus affect his decision. It has been established that the advertising statements had been correctly qualified as misleading under the completeness criteria provided for in Article 5(2)(2) of the LA. Furthermore, it was noted that the behaviour of the advertising provider was contradicting the specified provisions of the legal acts governing the consumer rights."

Furthermore, the Court concluded that the obligation to refute advertising recognized as misleading does not comply with the requirements applicable to the administrative decisions passed by public administration entities. The contested obligation of abstract content does not enable the entity in respect of which such obligation is imposed to fulfil the obligation properly. Thus, the Court reversed this part of the CC resolution, and the appeal was satisfied partly.

The above ruling is of extreme significance to the CC practice of application of the contested provisions of the LA, – the ruling provided an explanation of the concept of "ordinary advertising consumer" used in the LA.

The Court concluded that the LA does not provide for the definition of the "ordinary consumer". In an attempt to clarify the content of the concept "ordinary consumer" the Court referred to certain law interpretation methods. The consumer rights protection being governed also by the EU law, the practice of the European Court of Justice has a great relevance in this respect: when examining cases related to the consumer rights protection and competition the European Court of Justice has defined the concept of an average consumer as the reasonably well informed, and reasonably observant and circumspect consumer (decisions in cases No. C-99/2001 Linhart; C-486/2001 Procter & Gamble vs OHM; C-220/1998 Estee Lauder Cosmetics GmbH; etc.).

The Court established that although the LA uses the concept of an "ordinary consumer", and the practice of the European Court of Justice prefers the term "average consumer", in the opinion of the collegium of judges, the two terms do not differ. Such conclusion was arrived at having considered the definition of the average consumer concept through expressions such as "reasonably well-informed", "reasonably observant and circumspect" that are normally used to define socially active, sufficiently educated persons without, however, special knowledge in the specific area. The concept of "ordinary consumer" also clearly defines the said category of consumers.

The ruling of the Court also explained the issues of the application of liability for the use of misleading advertising and the issues of proving. The Court concluded that according to Art. 21(1) of the LA the advertising provider is liable for the use of misleading advertising, unless the advertising provider can prove that the law was infringed through no fault of his.

In respect of the application of aggravating circumstances in this particular case the Court concluded that Art. 22(12) of the LA relates the presence of the aggregating circumstance with the commitment of an infringement for which the entity concerned was sanctioned according to the LA in the course of one year, regardless of whether the legal norm was violated. The Law does not contain any references to the different assessment of the nature and harmfulness of the infringement when addressing the issue of the repeated

nature of the infringement. To establish the repeated nature of the infringement as an aggravating circumstance within the meaning of the LA, it is sufficient to establish that the entity concerned has been subject to a fine in the course of one year for an infringement of the LA of any type. Therefore the collegium of judges resolved the statement of the appellant to the effect that the repeated nature of the infringement should be related to nature and severity of the infringement and the type of sanction imposed for the infringement concerned to be unsubstantiated.

★ Decision No. 2S-5 of 10 March 2005 of the CC "On the compliance of actions of *UAB Euroinvesticijos* with the requirements of Article 6 of the LA.

The CC through the investigation conducted thereby established that *UAB Euroinvesticijos* distributed 100 000 copies of an advertising publication *Eurokompiuteriai* (September – October, 2004) the first page whereof contained, using graphic means, the comparison of prices of computers in the trade networks *Topo centras*, *Sonex*, *BMS* and *Eurokompiuteriai*, that were respectively indicated as LTL 2199, LTL 2026, LTL 1968, and LTL 1759. The text next to the comparison stated: "Most companies trading in IT products generate surplus profits by selling computer hardware to residents. The profits generated from retail consumers are then used to build the luxurious trade centres (even unseen to foreigners), or commission very tendentious, rather costly advertising campaigns misleading the buyers. But *UAB Euroinvesticijos* (owner of the computer network *Eurokompiuteriai*) <...> has decided to start selling computers to retail buyers at a much lower margin <...>".

These incorrect statements due to their misleading character could affect the decisions of the advertising consumers as to the acquisition of computer hardware items and for that reason could prejudice the possibilities of the companies *Topo centras*, *Sonex kompiuteriai*, *BMS* to compete in the computer hardware sale market. By indicating the incorrect computer prices in the trade networks of the competitors, showing the prices as much higher than those offered in the computer trade network *Eurokompiuteriai* owned by *UAB Euroinvesticijos*, the company was comparing the computer prices in a biased manner, beneficial to itself.



Furthermore, a conclusion was drawn up that such incorrect statements discredit and downgrade the proprietary names of other companies trading in computers, such as *Topo centras*, *BMS* and *Sonex kompiuteriai*.

For the use of the prohibited comparative advertising *UAB Euroinvesticijos* was fined LTL 15 000.

The Vilnius Regional Administrative Court in its ruling of 4 July 2005 established that the CC had justly acknowledged that *UAB Euroinvesticijos* was using the prohibited comparative advertising, as it contained the statements discrediting other companies trading in the same type of commodities. Furthermore, the Court concluded that the advertising was of misleading character and therefore could affect the decisions of the consumers.

The Court also established that *UAB „Euroinvesticijos* is not a large trader in computer hardware, therefore the

imposition of the economic sanctions need to take into consideration the character of the company itself. On that basis the Vilnius Regional Court partly amended the decision of the CC and reduced the amount of the fine imposed to LTL 5 000. This ruling of the Court was not appealed.

Claims for damage incurred through the violation of competition law

Persons who have incurred damage through the agreements prohibited by the LC or actions of a dominant undertaking abusing its dominant position may appeal to court for the award of the damage from the infringing entity. Regrettably, as of today, such claims in Lithuanian courts are extremely rare.

By its Resolution of 30 May 2002, the CC established that *SPAB Stumbras* dominating in the market for strong alcoholic drinks was abusing its dominant position and thus committed an infringement of Article 9 of the LC. The company was abusing its dominance by establishing, in respect of similar agreements with individual entities, different settlement terms, i.e., selected wholesalers were granted additional rebates expressed in benefits for marketing or similar services, others were offered with the very insignificant or no rebates whatsoever. One of the wholesalers, *UAB Šiaulių tara* that has been discriminated by *SPAB Stumbras*, based on the CC conclusions appealed to court for the award of damage. The Kaunas Regional court examined the claim for damage. By its ruling (not effected) of 17 March 2005 the court acknowledged that the above actions of *SPAB Stumbras* incurred damage to *UAB Šiaulių tara*, and adjudged the damage amounting LTL 500 000 plus the interest.

By the Resolution of 7 July 2000 the CC recognised *AB Mažeikių nafta* to have abused its dominant position, – fixed the dissimilar (discriminative) rebates and other purchasing terms in identical contracts which constituted an infringement of Article 9 of the LC. *UAB Klevo lapas* was one of the companies discriminated by *AB Mažeikių nafta*. Based on the conclusion of the CC *UAB Klevo lapas* appealed to court concerning the award of damage. The case is still pending.

Application of the EU competition rules

Lithuania's membership in the EU obligates both the CC and the national courts, while applying the provisions of the LC in cases related to prohibited agreements or abuse of dominant position where the agreements or abuse of dominance may affect trade between Member States, in conjunction to the national law, also apply Articles 81 (prohibited agreements) and 82 (abuse of a dominant position) of the EC Treaty. This obligation is imposed upon the CC and the national courts by 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.

When conducting the investigation concerning the actions of *AB Mažeikių nafta* the CC for the first time ever, in addition to the national competition rules, applied the EU competition provisions. In its Resolution of 22 December 2005, the CC concluded that *AB Mažeikių nafta*, by applying the annual loyalty rebates, non-compete obligations, and territorial price discrimination, was restricting the buyers' possibilities to import fuels to Lithuania. Furthermore, the same measures were applied in respect of other buyers operating in the Latvian and Estonian markets, which eventually could restrict imports of gasoline and diesel fuels into the Baltic States and trade in gasoline and diesel fuels among the said States, which imply that the behaviour of *AB Mažeikių nafta* could effect trade between EU Member States. Having regard to the fact that the actions of *AB Mažeikių nafta* continued also after 1 May 2004, the CC concluded that such actions constituted an infringement not only of Article 9 of the LC, but also Article 82 and Article 82(c) of the EC Treaty.

The national courts received first claims in respect of which the claimants requested the EU competition rules to be applied. *UAB Tew Baltija* appealed to the Vilnius Regional Court concerning the violation of the terms of the public tender on granting of concession launched by Kaunas municipality. The claimant referred to the provisions of the EC Treaty consolidating the fundamentals of free and undistorted competition, and stated that the concession grants exclusive rights to operate in the market for the waste management services by enabling the concessionaire to abuse its position in the breach of the said Article 82 of the EC Treaty. The case is still pending in the Court.



V. FOREIGN RELATIONS

1. European competition work

During 2005, like in previous years, the CC has been an active participant in the legislation drafting process. While performing this function, the CC was submitting, following the approval by other interested ministries and other institutions, its positions on the most important legal acts in the area of competition, and, within the limits of its competence, the CC's opinion on the positions drafted by other ministries. During the year the CC drafted and submitted to the Government its position in respect of four EU documents: "Proposal for a Council Decision on the fulfilment of the conditions laid down in Article 3 of the additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, with regard to an extension of the period foreseen in Article 9(4) of Protocol 2 to the Europe Agreement"; "State Aid Action Plan - Less and better targeted state aid: a roadmap for state aid reform 2005-2009"; the document "Competition Policy: sectoral enquiries" and "White Paper on the review of Regulation 4056/86, applying the EC competition rules to maritime transport". Two of the positions were submitted to the sessions of COREPER. The CC also expressed its opinion in respect of seventeen positions prepared by other ministries.

The CC was submitting, on a regular basis, information to the Chancellery of the Government of the RL, concerning the relevant national implementing measures in respect of Chapter "Competition policy" where such measures are necessary for the implementation of any legal act published in the EU Official Journal. In addition, the CC was preparing and submitting reports on the implementation of such measures.

Within the limits of the relevant competence the CC commented on the text of Bulgaria and Romania EU accession Treaties and the translation thereof into the Lithuanian language.

A representative of the CC was participating in the Working group set up by the National Consumer Protection Board under the Ministry of Justice concerning the transposition into the national law of the Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market, amending other Directives.

With a view to ensuring the direct application of Articles 81 and 82 of the EC Treaty and implementing the provisions of 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, representatives of the CC were active participants of the working groups established by the EC for the purpose of the implementation of the said regulation.

Further, specialists of the CC participated in five plenary sessions hosted by the European Competition Network (ECN) where, in addition to other issues discussions were held in respect of the following draft documents prepared by the EC:

- Discussion Paper regarding Written Procedure Consultation of the Advisory Committee on Restrictive Practices and Dominant Positions;

- Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of the Council Regulation (EC) No. 1/2003;

- Block exemption regulation No. 1617/93.

A representative of the CC active participant of the ECN working group on the abuse of the dominant position, where he attended six meetings of the working group and presented the material on the abuse of the dominant position in the fuel supply market in Lithuania (discrimination).



Significant attention was devoted to the work in the ECN Leniency Working Group, where the specialists of the CC participated in four meetings of the working group.

Representatives of the CC also participated in the work of the ECN subgroups: "Energy", "Railways", "Telecom", "Media", and "IT, Information and Communication".

Upon the setting up, by the Heads of the EU Member States competition authorities, of the Air Transport working group, officers of the CC were invited to the meetings of this unit in Vienna and Madrid, the agenda of such meetings included issues of the improvement of competition environment in the air transport market. The meetings served as a venue for the States with the major experience, such as Nordic countries, Germany, the United Kingdom to share their experience with the Member States with less experience.

Furthermore, the CC was represented in the EC advisory committees. This included three meetings of the Advisory committee on restrictive practices and dominant positions,

devoted to examine specific competition cases and draft legal acts, and two meetings of the Advisory committee on concentrations, one meeting of the Advisory committee on agreements and dominance in the maritime transport area and four meetings of the Advisory committee on State aid.

Within the framework of the ECN the CC was providing information to other competition institutions on the national competition law and participated in the exchange of other important information.

At the request of ECA (European Competition Authorities) to prepare a comparative market survey in the retail banking sector, the CC conducted a retail banking market enquiry. In cooperation with the Bank of Lithuania and one of commercial banks the CC drafted a comparative survey of the sector and on 5 December 2005 submitted to ECA an official opinion concerning the competitive environment and its development in the Lithuanian retail banking market.

The CC contributed to the drafting of the EC annual

competition policy report by furnishing the description of the competition rules application in Lithuania.

Following the tradition of the previous years, the Chairman of the CC participated in the annual ECN meeting of General Directors for competition, held on 29 September in Brussels, where comprehensive discussions were held on competition policy and the transparency of its enforcement, shared the one-year experience in the area of implementation of the new concentration regulation and application of Articles 81 and 82 of the EC Treaty, and discussed other issues of competition policy.

A representative of the CC, being a member of the "Chief Competition Economists" working group set up by the EC, participated in the conference held by the group in Brussels.

Within the framework of the EC competition authorities officials exchange program, on 7-18 November 2005 one specialist of the CC was on traineeship in the Financial services unit (banks and insurance) of the Services Department of the EC Directorate-General for Competition.

2. International cooperation

OECD

In 2005, representatives of the CC were active participants of the activities of the OECD. In the observers' function the specialists of the CC were invited to the meetings of the OECD Competition Committee and its working groups, as well as the OECD Global Forum on Competition in February 2005.

The CC prepared the following presentations:

- ★ for the discussion in the Competition Committee meeting – "Competition on the merits";
- ★ for the Global Forum on Competition – information on the cartel price agreement among companies providing taxi services in Vilnius.

Viktorija Aleksienė, head of the Competition Policy and Foreign Relations Division:

"Having considered the contribution of Lithuania to the activities of the OECD, the OECD Council renewed the observer's status of Lithuania in the OECD Competition Committee for another two years' period (until the end of 2007)".

ICN

Within the framework of the participation in the operation of the International Competition Network (ICN), the CC submitted to the Technical assistance sub-group of the Network the assessment of selected technical assistance projects.

Technical assistance

While fulfilling its cooperation arrangements with the USA Federal Trade Commission in 2005, the CC participated in the technical assistance training program, under which the assistance was provided to the Azerbaidzhan public authorities in charge of the supervision of competition regulations. The program, funded by the United States Agency for International Development (USAID) was launched in 2005, and will be continued in 2006. Within this program, a representative of the CC was participating in one week workshop cycle on "Enterprise dominance and abuse of the dominant position".

Seminars and conferences

As every year, for the purpose of the development of cooperation with other competition authorities and other foreign and international organisations, representatives of the CC were regular participants in various workshops,

seminars, training sessions and conferences on competition law and policy issues. The entire list of events attended by the CC representatives contained 15 items:

The Fourth Annual ICN and the Twelfth International Competition conference in Bonn;

Meeting of the representatives of the European Competition Authorities (ECA) in London;

International conference in Brussels "Anti-trust reform in Europe: a year in practice";

Baltic States conference in Tallinn;

Conference on competition issues in Riga;

EU Competition policy training course hosted by the Public Administration Institute in Dublin and Brussels;

Workshops in Vienna hosted by OECD;

Seminar on electronic communications organised by Stockholm Scholl of Economics in Riga;

AJIA seminar "EU competition rules in practice" in Warsaw;

EC and IBA seminar on modernisation issues in Brussels;

The European Competition Day in Luxemburg;

The European Competition and Consumer day in London;

Training session organised by the EC "Electronic Notifications" in Brussels;

Seminar hosted by the Swedish competition authority "The Pros and Cons of Price Discrimination" in Stockholm;

Workshop in Vilnius "State aid" organised by TAIEX in conjunction with the European Law Department.



Competition Councils' representatives at the conference in Jūrmala.

Provision of information to various sources

The CC in the course of the year reviewed has been providing information, comments and proposals for the publications prepared by various international organisations, also executive summaries, reports and Internet pages on implementation of competition law and policy. The most important recipients included the Office of the Chief Economist of the European Bank for Reconstruction and Development, the German Institute for Economic Research, the international organisation "CUTS international" (*Consumer Unity & Trust Society*), the International Bar Association (IBA) and the publication "Global Competition Review".

VI. PUBLIC RELATIONS

Seeking to as wide as possible inform the public about the authority's activity and strengthen the public relations, in 2005, the CC placed a particular emphasis upon the efficient development and enhancement of public relations. Certain forms of this activity proved to yield very satisfactory results, namely, the prior publication of the meetings' agenda, the expedient transmission of press releases on the most important decisions to news media, fine-tuning of contacts with the information and public relations agencies. The most important attainment is most probably the maintained positive attitude towards the CC that is perceived as transparent and open public authority successfully addressing competition problems of all types. In its activity the CC also applied the guidelines and recommendations obtained while participating in the ECN working group on information and communications. While strengthening public relations, the CC did not limit itself to the development of relations with the news media, efforts were made to implement internal communications solutions, and much was done to further improve the image of the institution and for the purpose of the image and strategic

activity planning improvement.

Part of the public relations activity dedicated to the enhancement of public awareness and consultations performed not only through the presentation of issues of general nature, but also explanations of specific competition issues: peculiarities of cartel agreements, commodity price and production cost ratio, etc. The analysis of such specific issues in the news media shows a significant improvement of public awareness and knowledgeableness on individual competition issues, and the economic entities and consumers are more actively referring to legal instruments for the protection of their interests from unfair competition. The targeted dissemination of information about the activities of the CC facilitates the enhancement of awareness of all market participants of the importance of the efficient competition.

Provision of information

The activity of the CC, the investigations conducted by the authority and the decisions passed thereby have traditionally

been within the focus of attention of the national and regional press publications, television and radio journalists. The course of the most important investigations has been thoroughly followed, keeping the actions of the entities under investigation within the public attention. No surprise, that such attention on the part of the news media has not always been welcome, since in certain cases the presented assessments on occasions were premature and not sufficiently objective. A particular pressure from the part of the news media was tangible in the course of the investigation of actions of *AB Mažeikių nafta*. In a number of instances the journalists sought explanations on certain actions related to the investigation, the unusually large scope of the investigation was triggering numerous questions, especially in relation to its duration. However, upon the completion of the investigation, the results thereof essentially met the public expectations and provided answers to all previous questions. Upon the adoption of the Resolution concerning actions of *AB „Mažeikių nafta*, on 22 December 2005 a press conference was convened, at which exhaustive explanations of the contents of the passed Resolution were offered to all interested participants in addition to response to the questions of the journalists.

Apart from the above press conference, in February 2005, the CC called the press conference on the Resolution of the CC concerning the conclusion of the prohibited agreement among the Vilnius taxi companies in contradiction to the provisions of the LC. The investigation of the cartel agreement by the taxi companies aroused great interest and attention, since the taxi fares is an important issue for a large share of residents. After the investigation was launched, also in the course of the investigation and the completion thereof, major national dailies published in excess of 30 articles analysing the situation in the market related to the subject matter of the investigation.

On 10 May 2005, following the meeting between Valdas Adamkus President of the Republic of Lithuania with the Chairman of the CC Rimantas Stanikūnas, a briefing was held in the conference room of the President's Office wherein the content of the meetings was presented at length to the journalists.

The year 2005 was also marked for an intensive cooperation with all kinds of news agencies. Among those notable are BNS and ELTA, Latvian LETA, that would expediently disseminate information about the resolutions and decisions of the CC, the investigations launched thereby, also notifications for concentration authorisation filed by entities, etc. Business news journalists used the TV programs for releases about the investigations performed by the CC, the conducted investigations and decisions passed. The Lithuanian Radio I channel and the "News" program were broadcasting commentaries of specialists of the CC. The analytical program of the National TV channel *Pinigų karta* has created several stories, on the basis of the investigations performed, about the harm of cartel agreements situation in the trade sector, situation following the concentration of cinema houses, etc. The investigative journalistic show on the LK channel *Pagalba SOS* has created a three part cycle on the conclusions of investigations concerning misleading advertising.

For the purpose of the provision of information on certain issues, the CC has been closely cooperating with the Government Press Service, and the public relations divisions of the Ministry of Economy and the National Consumer Rights Protection Board.

Press releases and publications

During 2005, the CC prepared and published 77 press releases on the passed decisions, initiated investigations, and the course of the investigations, all kinds of events. The volume of the prepared press releases remained nearly identical to that in 2004. The volumes and number of publications in the news media is steadily increasing basically due to larger numbers of articles and information releases on competition issues published in regional press.

	NEWS RELEASES	PUBLICATIONS
2005	77	483
2004	75	466
2003	64	420

Specialists of the CC have prepared 8 analytical articles on a number of subjects specifically adapted to the needs of specialised publications (magazines *Juristas*, *Verslo labirintas*), special enclosures to the publications (*Investicijos*, *Mano karjera*), and the magazine published in Germany *European State aid Law*. On more than 50 occasions the CC specialists were invited to live interviews in the radio and TV programs to discuss the topicalities of competition and advertising issues.

The institution's website – part of the image

The institution has been steadily improving its website, with a view to uploading a more comprehensive and variable information. The "News" section of the website was used as a site for most recent information normally needed by undertakings intending to apply to the CC. The "State aid" section was essentially updated, now containing the list of most important legal acts governing the provision of State aid in Lithuania, also the draft documents prepared in this area by the EC. The website is now being managed in accordance with the general requirements defined by the Government to the Internet websites of public authorities. Special efforts are taken to expediently publish the press releases, received notifications for the authorisation of concentration, so that the interested entities could timely familiarise themselves with the information and express their views within the established time limit to the CC on the intended concentration. Visitors of the CC website now can readily familiarise themselves with the texts of the resolutions passed in the meetings of the CC and the resolutions on concentration. On quite frequent occasions the CC has been receiving favourable comments both in respect of the scope of the information presented, the contents and the structure of the information uploaded in the website.

In the context of more active cooperation with the competition authorities of the European countries, the improvement of the publication of information in the English language has made its favourable contribution. In 2005, the press releases published on behalf of the CC were promptly translated into English and published in the website.

VII. Administrative capacities

Planning of the activity

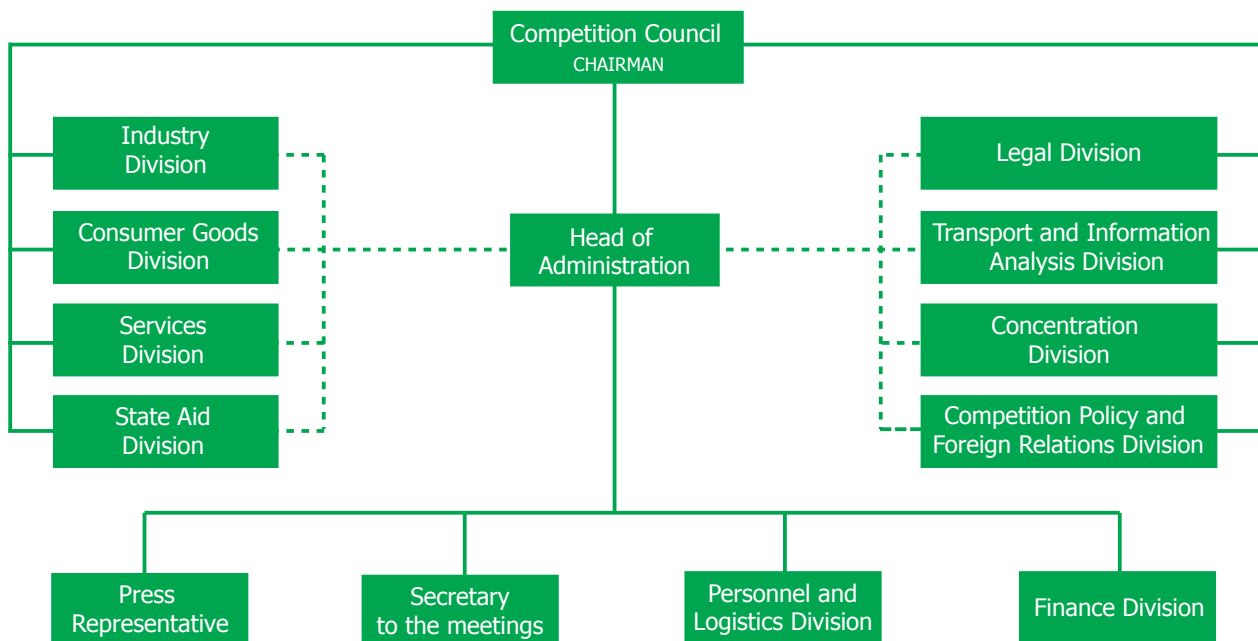
The Competition Council is an independent public authority implementing the public and within its competence the EU competition policy, accountable to the Seimas of the Republic of Lithuania and funded from the State Budget of the Republic of Lithuania. In 2005, the total allocations from the State budget resources for the operations and needs of the CC amounted to LTL 3.6 million.

The CC is operating in accordance with the strategic activity plan for 2005-2007 that was approved by the Government. In accordance with this plan the strengthening of the institution and enhancement of administrative

capacities are being attained by creating new positions, professional development and improvement of qualifications of the specialists, arranging training sessions and provision of the staff members with new working tools and equipment. The Activity Plan contains the description of the strategic objectives, provides for the measures and appropriations necessary to ensure that the tasks assigned to the institution are successfully fulfilled.

In performing the functions assigned to the CC, the institution derives significant advantage from the legal base that is well arranged and aligned with the EU requirements, the autonomy of the institution enabling the authority to ensure the independent and unbiased nature of the decisions, also the facilitating organisational structure of the CC administration (see the Scheme).

Organisational structure of the Competition Council



Professional improvement and development

As of end of 2005, the administration of the CC had 60 employees. During the year the staff movement in the institution was quite insignificant, 4 specialists resigned from the office, and the same number of specialists were admitted by way of competition. Most staff members are University graduates in law or economics. However, the issues of remuneration for highly-qualified specialists remain to be resolved, as this is very important in order to maintain them in the institution and ensure the most appropriate working conditions.

Seeking to ensure appropriate conditions for the

professional improvement and development the CC made convenient arrangements for the improvement of foreign language skills. Mastering of foreign languages has become of vital importance to the specialists of the CC, both in the view of the expanding geography of investigations and the increasingly intense cooperation and communication with the competition authorities of the EU and other countries. Furthermore, a number of the CC experts on a regular basis participate in the activity of the working groups of the DG Competition, represent the national competition authority in various international events. In 2005, nearly half of the total employees, – 29, have been improving their foreign language skills in courses of different levels. 24 staff members attended the English course, one was enrolled as an attendee of the German language courses, and 4 attended French classes.

VIII. Annexes

Enforcement of the Law on Competition (2005)

	Decisions reached	New cases opened
Total number of cases	81	79
Prohibited agreements	7	3
Abuse of a dominant position	6	2
Concentration	59	64
Restrictive actions of public and local authorities	7	10
Unfair competition	2	

ABUSE OF DOMINANT POSITION	
New cases opened	2
New investigations <i>ex officio</i>	
New complaints	2
Decisions reached	6
Complaints rejected	5
Prohibitions with fines	1

PROHIBITED AGREEMENTS		
	Horizontal agreements	Vertical agreements
New cases opened	2	1
New investigations <i>ex officio</i>	1	
New complaints	1	1
Decisions reached	3	4
Complaints rejected	2	4
Prohibitions with fines	1	

CONCENTRATION	
Decisions reached	59
Approvals	57
Conditional approvals	2

Decisions reached and fines imposed by the Competition Council in 2005

ENFORCEMENT OF THE LAW ON COMPETITION		
☒ Concerning regulations passed by public and local authorities (7)		
Established infringements (4)		
06-01-2005 No. 2S-1	Concerning the compliance of actions of the Alytus regional municipality with the provisions of Art. 4(2) of the LC	
30-06-2005 No. 2S-10	Concerning the compliance of actions of the Commission of subsidised breeding measures of the State Animal Breeding Supervision Service under the Ministry of Agriculture with the provisions of Art. 4(2) of the LC	
22-09-2005 No. 2S-12	Concerning the compliance of the resolution of the Panevėžys Municipality Council "On the approval of the special plan of the urban heating economy" with the provisions of Art. 4 of the LC	
10-11-2005 No. 2S-13	Concerning the compliance of actions of the Palanga Municipality in refusing to approve the application of S.Kulikauskienė enterprise and the PE Vilnius psychotherapy and psychoanalysis centre for permission to provide the psychic health care and psychoanalytic services funded from the territorial patients' fund with the provisions of Art. 4(2) of the LC	
Refusals to initiate investigations (2)		
Cases closed (1)		
☒ Concerning prohibited agreements (7)		
Established infringements (1):		
03-02-2005 No. 2S-3	Concerning the compliance of actions of the Taxi Services Association and taxi companies in Vilnius with the provisions of Art. 5 of LC: <i>UAB Martono taksi</i> <i>UAB Autovisatos taksi</i> <i>UAB Fiakras ir Ko</i> <i>UAB Greitvila</i> <i>UAB Kablasta</i>	LTL50000 LTL 5000 LTL 5000 LTL 5000 LTL 5000

	UAB Kobla UAB Merseros autotransportas UAB Romerta UAB Taksvija UAB Tanagros taksi UAB Transmoderna	LTL 5000 LTL 5000 LTL 5000 LTL 5000 LTL 5000 LTL 5000
Refusals to initiate investigations (2)		
Cases closed(4)		
<input checked="" type="checkbox"/> Concerning abuse of a dominant position (6)		
Established infringements (1):		
22-12-2005 No. 2S-16	Concerning the compliance of actions of <i>AB Mažeikių nafta</i> with Art. 5 and 9 of the LC and Art. 82 of the EC Treaty	LTL32000000
Refusals to initiate investigations (3)		
Cases closed (2)		
<input checked="" type="checkbox"/> Concerning concentration control (66)		
Permission to implement concentration (59):		
20-01-2005 No. 1S-6	A.Pažemeckas, R.Jarulaitis, R.Jarulaitienė, D.Gecienė, I.Baltrušaitienė, Z.Baltrušaitis, A.Kiguolienė, G.Norkevičienė to implement concentration by acquiring up to 100 % shares of <i>AB Žemaitijos pieno investicija</i> and acquiring a joint control	
20-01-2005 No. 1S-7	<i>UAB Baltic Property Trust Secura</i> and <i>UAB Hanner</i> to implement concentration by acquiring a joint control over <i>UAB BPTS Europa</i>	
27-01-2005 No. 1S-9	<i>UAB Domeina</i> , <i>UAB Šiaulių banko investicijų valdymas</i> , G.Rukša, A.Pranckietis and E.Šimonienė to implement concentration by acquiring up to 100% shares of <i>AB Kietaviškių gausa</i> and acquiring a joint control	
03-02-2005 No. 1S-11	<i>UAB Libros holdingas</i> to implement concentration by acquiring 100 % shares of <i>UAB Nabukas</i>	
03-02-2005 No. 1S-13	<i>The Investment Fund for Central and Eastern Europe</i> , <i>Bodilsen Invest ApS</i> , <i>Protoras A/S</i> and <i>HBPB Invest ApS</i> to implement concentration by acquiring up to 100 % shares of <i>AB Ažuolas</i>	
10-02-2005 No. 1S-16	<i>AB Empower</i> to implement concentration by acquiring up to 100 % shares of <i>AB Elektros tinklų statyba</i>	
17-02-2005 No. 1S-18	<i>UAB City Plaza</i> and <i>Klasmann-Deilmann GmbH</i> to implement concentration by acquiring 100% shares of <i>UAB Naujasodžio energijos paslaugos</i> and a part of assets of <i>AB Kauno energija</i>	
17-02-2005 No. 1S-19	<i>LKAB Klaipėdos Smeltė</i> to implement concentration by acquiring 50% of shares of <i>UAB Birių krovinių terminalas</i>	
03-03-2005 No. 1S-23	Vladimiras Romanovas to implement concentration by acquiring up to 33% of shares of <i>AB Ūkio bankas</i> and up to 100% of shares in <i>UAB Ūkio banko investicinė grupė</i>	
03-03-2005 No. 1S-24	<i>Kaukomarkkinat Oy</i> to implement concentration by acquiring 100% of shares of <i>UAB Naujųjų maisto technologijų prekyba</i>	
31-03-2005 No. 1S-29	<i>BLRT Grupp AS</i> to implement concentration by acquiring up to 100% of shares of <i>AB Vilniaus metalas</i>	
31-03-2005 No. 1S-36	<i>AB VITI</i> to implement concentration by acquiring up to 100% of shares of <i>AB Spauda</i>	
31-03-2005 No. 1S-38	<i>Evlí Bank Plc</i> to implement concentration by acquiring up to 40% of shares in <i>AB Panevėžio statybos trestas</i>	
07-04-2005 No. 1S-39	<i>UAB Hronas</i> , <i>UAB Labradoras ir Ko</i> and <i>UAB Baltaura</i> to implement concentration by acquiring 100% shares of <i>AB Pagirių šiltnamiai</i> and acquiring a joint control	
21-04-2005 No. 1S-43	<i>Amber Trust II S.C.A.</i> to implement concentration by acquiring up to 28.9% shares of <i>AB Malsena</i> and jointly with D.Tvarijonavičius, R.Kriūnas, <i>UAB Liprama Vilnius</i> , <i>Liprama ApS</i> acquiring a joint control over <i>AB Malsena</i>	
21-04-2005 No.1S-44	<i>Rautaruukki Oyj</i> to implement concentration by acquiring up to 100% of shares of <i>Metalplast-Oborniki Holding Sp.z.o.o.</i>	
28-04-2005 No. 1S-48	<i>UAB Baltvestica</i> to implement concentration by acquiring 100% of shares of <i>UAB Vilniaus duona plius</i>	
28-04-2005 No. 1S-49	<i>Fortum Power and Heat Oy</i> to implement concentration by acquiring 90% of shares of <i>UAB Suomijos energija</i> and <i>UAB Suomijos energija</i> by acquiring 100% of shares of <i>UAB Ekošiluma</i>	
05-05-2005 No. 1S-51	V.Barakauskas to implement concentration to acquiring 100% of shares of <i>UAB Eismas</i>	
05-05-2005 No. 1S-52	A.Trumpa and <i>UAB Pieno pramonės investicijų valdymas</i> to implement concentration by acquiring up to 100% of shares of <i>AB Rokiškio sūris</i> and acquiring a joint control	
05-05-2005 No. 1S-53	<i>Amber Trust II S.C.A.</i> to implement concentration by acquiring up to 32% of shares of <i>UAB Litagros chemija</i> and jointly with G.Kateiva, D.Grigaliūnas, A.Grigaitis acquiring the joint control over <i>UAB Litagros chemija</i>	
12-05-2005 No. 1S-55	<i>UAB Ikoda</i> to implement concentration by acquiring 100% of shares of <i>UAB Diduva</i>	
12-05-2005 No. 1S-56	<i>UAB Betoneta</i> to implement concentration by acquiring up to 100% of shares of <i>AB Vilniaus aidai</i>	
19-05-2005 No. 1S-57	European Bank for Reconstruction and Development to implement concentration by acquiring up to 30% of shares of <i>Wool AB Drobė</i>	
26-05-2005 No. 1S-58	<i>UAB Armedikos vaistinė</i> to implement concentration by acquiring 100% of shares of <i>UAB Šilutės vaistinės</i>	
26-05-2005 No. 1S-59	<i>Litagros chemija</i> to implement concentration by acquiring up to 26% of all shares of <i>Padovinis</i> agricultural company	
16-06-2005 No. 1S-68	<i>Interinfo Baltic Oū</i> to implement concentration by acquiring 100% of shares of <i>UAB Eniro Lietuva</i>	

23-06-2005 No. 1S-69	<i>AB Mažeikių nafta</i> to implement concentration by acquiring 100% of shares of <i>AB Mažeikių elektrinė</i>	
23-06-2005 No. 1S-70	<i>Air Express International USA Inc.</i> and <i>LCAG USA Inc.</i> establish the joint venture <i>LifeConEx LLC</i> in equal shares	
23-06-2005 No. 1S-71	<i>UAB SBA Furniture Group</i> to implement concentration by acquiring 100% of shares of <i>UAB Vakarų medienos grupė</i>	
30-06-2005 No. 1S-81	European Bank for Reconstruction and Development to implement concentration by acquiring 16.1% of shares of <i>AB Šiaulių bankas</i> and acquiring a joint control	
07-07-2005 No. 1S-82	<i>Askembla Growth Fund KB</i> and <i>A.Bartusevičius</i> to implement concentration by acquiring, via a newly established company, 100% of shares of <i>UAB Sonex Holding</i>	
14-07-2005 No. 1S-86	<i>UAB Vesiga</i> to implement concentration by acquiring 100% of shares of <i>UAB VMGH</i>	
18-08-2005 No. 1S-93	<i>Mecro AS</i> to implement concentration by acquiring 100% of shares of <i>UAB Technikonas</i>	
18-08-2005 No. 1S-94	<i>UAB Tamro</i> to implement concentration by acquiring 100% of shares of <i>UAB Saurimeda</i>	
18-08-2005 No. 1S-95	<i>UAB Hermis Capital</i> to implement concentration by acquiring up to 100% of shares of <i>Kitron ASA</i>	
18-08-2005 No. 1S-96	<i>UAB Eika</i> and <i>UAB Hanner development</i> to implement concentration by establishing a joint venture <i>UAB Santariškių dominija</i> , each acquiring 50% of shares and acquiring joint control	
25-08-2005 No. 1S-99	<i>UAB Hanner</i> to implement concentration by acquiring 100% of shares of <i>UAB Aukštuminė statyba</i>	
01-09-2005 No. 1S-100	<i>UAB LAL investicijų valdymas</i> to implement concentration by acquiring 100% of shares of <i>AB aviakompanijos Lietuvos avialinijos</i>	
22-09-2005 No. 1S-106	<i>UAB SBA Furniture Group</i> to implement concentration by acquiring up to 100% of shares of <i>AB Klaipėdos mediena</i>	
29-09-2005 No. 1S-110	<i>UAB Respublikos investicija</i> to implement concentration by acquiring 39.51% of shares of <i>AB Lietuvos telegramų agentūros ELTA</i> and <i>UAB Žinių partneriai</i> acquiring 60.49% of shares of <i>AB Lietuvos telegramų agentūros ELTA</i>	
06-10-2005 No. 1S-115	<i>UAB E energija</i> to implement concentration by leasing the assets of <i>UAB Trakų šilumos tinklai</i> and <i>UAB Trakų šiluma</i>	
06-10-2005 No. 1S-116	<i>UAB Agrekas</i> to implement concentration by acquiring 100% of shares of <i>AB Kauno keliai</i>	
25-10-2005 No. 1S-119	<i>UAB Avestis</i> and the joint Lithuanian-American company <i>UAB Sanitex</i> to implement concentration by acquiring, via a jointly established company <i>UAB Avesko</i> up to 100% of shares of <i>AB Klaipėdos kartonas</i>	
25-10-2005 No. 1S-120	<i>UAB Tamro</i> to implement concentration by acquiring 100% of shares of <i>UAB Ramučių vaistinė</i>	
27-10-2005 No. 1S-121	<i>Rautakirja Oy</i> to implement concentration by acquiring 100% of shares of the Vilnius agency of <i>UAB Lietuvos spauda</i>	
27-10-2005 No. 1S-122	<i>Elion Ettevöttd AS</i> to implement concentration by acquiring 100% of shares of <i>Microlink AS</i>	
10-11-2005 No. 1S-127	<i>Amber Trust II S.C.A.</i> and <i>East Capital Asset Management AB</i> to implement concentration by acquiring and jointly controlling 25.5 % of shares of <i>AS Elko Grupa</i>	
10-11-2005 No. 1S-128	<i>UAB Agriveta</i> to implement concentration by acquiring 100% of shares of the agrobusiness centre <i>UAB Linas ir viza</i>	
10-11-2005 No. 1S-129	<i>AB Vilniaus baldai</i> to implement concentration by acquiring 25% of shares of <i>UAB Girių bizonas</i>	
10-11-2005 No. 1S-130	<i>AB Rokiškio sūris</i> to implement concentration by acquiring up to 100% of shares of agricultural cooperative <i>Europieanas</i> and up to 50% of shares of <i>UAB Pieno upės</i>	
17-11-2005 No. 1S-132	<i>Mittal Steel Company N.V.</i> to implement concentration by acquiring 93.02% of shares of the iron ore mining and metallurgical plant <i>Krivorizhstal</i>	
17-11-2005 No. 1S-133	<i>SEB VB rizikos kapitalo valdymas</i> to implement concentration by acquiring 42,5% shares of <i>UAB Mestilla</i> and acquiring a joint control together with <i>D.Zubas</i> , <i>A.Zubas</i> , <i>V.Šidlauskas</i> and <i>D.Pilkauskas</i>	
24-11-2005 No. 1S-136	<i>Baltic SME Fund C.V.</i> to implement concentration by acquiring 34% of shares of <i>UAB Voira</i>	
24-11-2005 No. 1S-137	<i>Amber Trust II S.C.A.</i> to implement concentration by acquiring up to 100% of shares of <i>AB Kauno pieno centras</i>	
22-12-2005 No. 1S-140	<i>UAB Baltijos alkoholiniai produktai</i> to implement concentration by acquiring 100% of shares of the Lithuanian-American company <i>UAB Bennet Distributors</i>	
22-12-2005 No. 1S-141	<i>UAB BT Lietuva</i> to implement concentration by acquiring a share of the assets of <i>UAB Kesko Agro Lietuva</i>	
29-12-2005 No. 1S-146	<i>UAB Klaipėdos terminalo grupė</i> to implement concentration by acquiring a share of <i>AB Klaipėdos jūrų krovinių kompanija</i> (container terminal)	
29-12-2005 No. 1S-147	<i>AB Invalda</i> to implement concentration by acquiring up to 100% of shares of <i>AB Minija</i>	
Permissions to perform individual actions of concentration (7):		
20-01-2005 No. 1S-8	The stevedoring company <i>AB Klaipėdos Smeltė</i> by acquiring 50% of shares of <i>UAB Birių krovinių terminalas</i>	
03-03-2005 No. 1S-25	<i>Evlī Bank Plc</i> by acquiring up to 40% of shares of <i>AB Panevėžio statybos trestas</i>	
22-07-2005 No. 1S-90	<i>UAB LAL investicijų valdymas</i> by acquiring 100% of shares of <i>AB aviakompanijos Lietuvos avialinijos</i>	

06-10-2005 No. 1S-114	<i>UAB Tamro</i> by acquiring 100% of shares of <i>UAB Ramučių vaistinė</i>	
22-12-2005 No. 1S-142	<i>UAB Kelesta</i> by acquiring up to 100% of shares of <i>AB Kauno tiltai</i>	
22-12-2005 No. 1S-143	<i>AB Invalda</i> by acquiring up to 100% of shares of <i>AB Minija</i>	
29-12-2005 No. 1S-148	V.Tomkus by acquiring 43.89% of shares of <i>AB Gubernija</i>	
☒ Concerning actions of unfair competition (2)		
Refusals to initiate investigations (2)		
ENFORCEMENT OF THE LAW ON ADVERTISING		
☒ Concerning misleading and comparative advertising(16)		
Established infringements (9):		
20-01-2005 No. 2S-2	<i>UAB Naujasis aitvaras</i> for prohibited comparative advertising	
03-03-2005 No. 2S-4	<i>UAB Embriotechnologijų centras</i> for misleading advertising	
10-03-2005 No. 2S-5	<i>UAB Euroinvesticijos</i> for prohibited comparative advertising	LTL 15000
17-03-2005 No. 2S-6	<i>UAB Porektus</i> for misleading advertising of the weight-loss method	LTL 45000
31-03-2005 No. 2S-7	<i>UAB Eniro Lietuva</i> for misleading advertising	LTL 1000
26-05-2005 No. 2S-9	<i>AB Lietuvos telekomas</i> for misleading advertising	
22-09-2005 No. 2S-11	<i>UAB Euroinvesticijos</i> for misleading advertising	LTL 6000
10-11-2005 No. 2S-14	<i>UAB Porektus</i> for misleading advertising	LTL 30000
29-11-2005 No. 2S-15	<i>UAB Žvilgsnis iš arčiau</i> for misleading advertising	LTL 13500
Refusals to initiate investigations (5)		
Cases closed (2)		
Total fines imposed in 2005		LTL 32 210 500

Total national State aid in Lithuania in 2000-2004 (MEUR)

Indicators	Year				
	2000	2001	2002	2003	2004
Total national State aid	68.70	39.73	74.96	40.67	129.29
Of which:					
- manufacturing and services	42.07	17.26	44.03	25.56	25.05
- agriculture and fishery	0.43	0.82	1.43	0.74	98.83
- transport	26.20	21.65	29.50	14.37	5.41

Total national State aid in Lithuania in 2000-2004

Indicators	Year				
	2000	2001	2002	2003	2004
MEUR	68.70	39.73	74.96	40.67	129.29
EUR per one employee	43.32	26.11	53.31	28.28	90.02
% of GDP (at current prices)	0.57	0.29	0.51	0.25	0.71
% of national budget expenditures	2.81	1.36	2.22	1.12	3.07
% of national budget deficit	66.50	13.21	23.50	12.42	59.86
Population (m)	3.70	3.48	3.47	3.46	3.44

Total national State aid in Lithuania in 2004

Sector	Aid forms						Total (LTL m)	Total (MEUR)
	A1	A2	B1	C1	C2	D1		
1.1. Agriculture	141.84	196.88	0.20				338.92	98.16
1.2. Fisheries	2.33						2.33	0.67
2. Industry/services	57.62	18.24	13.20	0.03	15.69	0.40	105.18	30.46
2.1. Horizontal aid	29.14	2.06	13.20		15.35		59.75	17.30
2.1.1. R&D, and innovations	1.80						1.80	0.52
2.1.2. Environmental protection								
2.1.3. SMEs	9.55						9.55	2.77
2.1.4. Trade	0.50						0.50	0.14
2.1.5. Energy efficiency								
2.1.6. Investment								
2.1.7. Employment programs								
2.1.8. Professional development								
2.1.9. Privatisation								
2.1.10. Rescue/restructuring	17.29	2.06	13.20		15.35		47.90	13.87
2.2. Sectoral aid	16.63	1.28		0.03	0.34	0.40	18.68	5.41
2.2.1. Steel industry								
2.2.2. Ship-building								
2.2.3. Transport	16.63	1.28		0.03	0.34	0.40	18.68	5.41
2.2.4. Coal industry								
2.2.5. Synthetic fibre								
2.2.6. Other sectors								
2.3. Regional aid	11.85	14.90					26.75	7.75
Total:	201.79	215.12	13.40	0.03	15.69	0.40	446.43	129.29
Manufacturing and services:	40.99	16.96	13.20		15.35		86.50	25.05

EXPLANATIONS OF SYMBOLIC MARKINGS:

- A1** – not recovered aid: grants, subsidies
- A2** – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions
- B1** – different types of increase of the state-owned equity of enterprise or increase of its value
- C1** – soft loans
- C2** – tax deferrals
- D1** – State guarantees

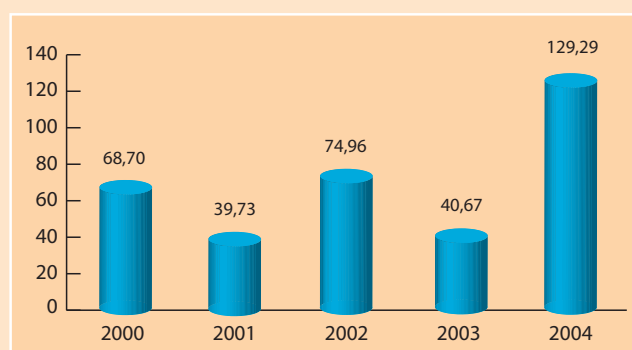
Methods of national State aid in 2000–2004

	A1	A2	B1	C1	C2	D1	Total (LTL m)	Total (MEUR)
State aid 2000	225.55	7.45	0.06	0.01	0.07	22.48	255.62	68.70
State aid 2001	87.99	24.50	0.00	0.07	27.54	0.00	140.10	39.73
State aid 2002	93.09	127.19			38.45	0.07	258.8	74.96
State aid 2003	50.03	46.22	11.62	0.34	32.13	0.00	140.34	40.67
State aid 2004	201.79	215.12	13.40	0.03	15.69	0.40	446.43	129.29

EXPLANATIONS OF SYMBOLIC MARKINGS:

- A1** – not recovered aid: grants, subsidies
- A2** – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions
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- C1** – soft loans
- C2** – tax deferrals
- D1** – State guarantees

Total national State aid in Lithuania in 2000–2004 (MEUR)



State aid assessed by resolutions of the European Commission in 2005

State aid notification registration in the EC	Name of the aid	Beneficiary sector	Purpose of the aid	Duration of the aid scheme	Decision date
08-10-2004	N 425/2004 Kaunas free economic zone	All sectors	Regional aid	-	01-06-2005
13-10-2004	N 448/2004 Aid to compensate farmers for damages caused by unfavourable weather conditions	Agricultural	Other – to compensate losses caused by adverse weather conditions	By 01-02-2006	27-01-2005
17-12-2004	N 584/2004 Aid to AB <i>Vingriai</i> , debt waiver	Machine industry	Restructuring	-	01-06-2005
19-01-2005	N 44/2005 Excise tax reduction on biofuels	Industry	Environment protection	-	27-07-2005
10-06-2005	N 292/2005 Aid for the reimbursement of insurance premiums	Agricultural	Compensate agricultural production losses	31-12-2011	10-08-2005
30-06-2005	N 337/2005 Ignalina nuclear power plant tax exemptions	-	Sectoral	From 01-01-2006 to 31-12-2009	07-12-2005

In 2005 the following four notifications on state aid provided under block exemptions were registered in the EC:

State aid scheme No. XT 14/05, State aid for training pursuant to the measure 2.2 of the Lithuanian Single Programming Document 2004-2006 (aid provider – the Ministry of Social Security and Labour), registered on 07/04/2005;

State aid scheme No. XT 24/05, State aid for social enterprises (aid provider – Lithuanian Labour Exchange at the Ministry of Social Security and Labour), registered on 22/04/2005;

State aid scheme No. XE 8/5, State aid for social enterprises (aid provider – Lithuanian Labour Exchange at the Ministry of Social Security and Labour), registered on 22/04/2005;

State aid scheme No. XS 132/05, Financing for projects for SMEs (aid provider – the Ministry of Economy), registered on 19/07/2005.

Litigation proceedings in 2005

	Cases in the Vilnius Regional Administrative Court	Cases in the Supreme Administrative Court of Lithuania	Completed cases	Total number of representations
Infringements of Art. 4 of LC	-	1. <i>UAB Mabilta v CC</i>	1. <i>UAB Žalmargės pienas v CC</i>	2
Infringements of Art. 5 of LC	-	1. Taxi services providers in Vilnius, v CC	-	1
Infringements of Art. 9 of LC	1. <i>AB Mažeikių nafta v. CC</i>	1. <i>AB Gubernija v. CC</i> 2. <i>AB Akmenės energija v CC</i>	-	3
Unfair competition	-	-	-	-
Infringements of Art. 5 and 6 of the LA	1. <i>UAB Euroinvesticijos v. CC</i>	1. <i>UAB Vilniaus energija v. CC</i>	1. <i>UAB Eurocom v. CC</i> 2. <i>UAB Tele2 v. CC</i> 3. <i>UAB Tele2 v. CC</i> 4. <i>UAB Omnitel v. CC</i> 5. <i>UAB Euroinvesticijos v. CC</i> 6. <i>UAB Baltijos mineralinių vandenų kompanija v. CC</i>	8
Concentration	1. <i>UAB Medipresa v. CC</i>	-	1. <i>UAB Suslavičius-Felix v. CC</i> 2. <i>Igor Udovickij v. CC</i>	3
Total:	3	5	9	17

Cases in which resolutions of the CC were upheld - 3

Cases in which resolutions of the CC were partly amended, - 4

Cases in which resolutions of the CC were overruled, - 1

Cases in which the appellant of the CC resolution withdrew its appeal, - 1

