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- 13 March 2008 [shall come into force from 16 April 2008];
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If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*¹ has adopted and
the President has proclaimed the following Law:

Competition Law

Chapter I General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

1) **dominant position** - an economic (commercial) position in a relevant market of a market participant or several market participants if such participant or such participants have the capacity to significantly hinder, restrict or distort competition in any relevant market for a sufficient period of time by acting with full or partial independence from competitors, clients, suppliers or consumers;

2) **decisive influence** - the capability, directly or indirectly, to:

a) control (regularly or irregularly) the taking of decisions in market participant supervisory bodies, with or without active participation thereof,

b) appoint such number of members in the market participant supervisory or executive body, which ensures for the wielder of the decisive influence a majority of votes in the respective body;

2¹) **cartel agreement** - an agreement between competitors aimed at hindering, restricting or distorting competition [fixing or coordination of purchase or selling prices or other trading conditions, including in relation to intellectual property rights, the allocation of production or sales quotas, the sharing of markets and customers, including participation or non-participation in competitions or auctions or an agreement on the provisions for such actions (inactions), the restrictions of import or export or anticompetitive activities against other competitors];

3) **relevant geographical market** - a geographical territory in which competition conditions in a relevant market of a product are sufficiently the same for all participants in such market and therefore this territory can be separated from other territories;

4) **relevant market** - a market of a relevant product which is evaluated in connection with a relevant geographical market;

5) **relevant product market** - a particular product market which also includes all those products which may be substituted for this particular product in a relevant geographical market, taking into consideration the factor of

substitution of demand and supply, the specific features of the product and its utilisation characteristics;

6) **competition** - the existing or potential economic (commercial) rivalry between two or more market participants in a relevant market;

7) **competitors** - two or more market participants who compete;

7¹) **indirect purchaser** - a natural or legal person who has acquired, not directly from an infringer, but from a direct purchaser or a subsequent purchaser, goods that are the object of an infringement of competition law, or goods containing them or derived therefrom;

7²) **infringer** - a market participant or an association of market participants which has committed an infringement of competition law;

7³) **overcharge** - difference between the price actually paid and the price that would otherwise have prevailed in the absence of an infringement of competition law;

8) **product** - tangible or intangible property or service which satisfies some need and for which a price may be specified when purchasing or selling such product on the market;

8¹) **direct purchaser** - a natural or legal person who has acquired, directly from an infringer, goods that are the object of an infringement of competition law;

9) **market participant** - any person (also foreign persons), who performs or is preparing to perform economic activity in the territory of Latvia or whose activity shall influence competition in the territory of Latvia. If a market participant or several market participants jointly have a decisive influence over one market participant or several other market participants, then all market participants may be considered as one market participant;

10) **market share** - that share of products which a market participant offers in a relevant market in relation to the total amount of products offered in such market;

11) **agreement** - a contract between two or more market participants or concerted practices in which market participants participate, as well as a decision taken by a registered or unregistered association (association, union and the like) of market participants or by an official of such association.

[22 April 2004; 13 March 2008; 5 October 2017]

Section 2. Purpose of this Law

The purpose of this Law is to protect, maintain and develop free, fair and equal competition in the interests of the public in all economic sectors by restricting market concentration, imposing as a duty the termination of activities prohibited by the laws and regulations governing competition, and by calling to account persons at fault in accordance with procedures laid down in laws and regulations.

Section 3. Application of this Law

This Law applies to market participants and to any registered or unregistered associations of market participants.

Chapter II Competition Council

Section 4. Legal Status of the Competition Council

(1) The Competition Council is an institution of direct administration, which shall act in accordance with this Law and other laws and regulations. The Cabinet shall establish the Competition Council and it shall be subordinate of the Ministry of Economics, which shall be realised in the form of supervision.

(2) *[22 April 2004]*

(3) The operation of the Competition Council shall be financed from the State budget.

[22 April 2004]

Section 5. Composition and Operation of the Competition Council

(1) The council shall be the decision-making body of the Competition Council which takes decisions on behalf of the Competition Council and enters into administrative contracts on competition matters. The Competition Council shall consist of units that ensure its operation through performing the functions of the secretariat and experts, by

preparing case materials, documents, and draft decisions to be reviewed at the meetings of the council, and by representing the Competition Council in a court and when enforcing the decisions taken by the Competition Council. The council shall consist of three council members, one of whom being the chairperson of the council.

(2) The chairperson of the council and members of the council shall be appointed by the Cabinet following the recommendation of the Minister for Economics.

(3) The term of office of the chairperson of the council and members of the council shall be five years. The chairperson of the council and members of the council may be re-appointed to the office one time in succession.

(4) The chairperson of the council and members of the council shall be civil servants whose professional qualifications enable them to take decisions on competition matters.

(5) The Competition Council shall sit at closed meetings unless decided otherwise. The meetings shall be convened upon request of the chairperson of the council or all council members. The Competition Council is entitled to take a decision or enter into an administrative contract if at least two council members have voted for it.

(6) Minutes shall be taken at meetings of the Competition Council. All council members who participated in the meeting shall sign the minutes of the meeting. When signing the minutes of a meeting, a council member may record his or her views regarding the issues under examination or make a note regarding appending of a written substantiation of his or her views to the minutes.

(7) The decision of the Competition Council and administrative contract shall be signed by the chairperson of the council.

(8) The chairperson of the council:

1) shall lead and organise the work of the Competition Council and be responsible for it;

2) shall manage the financial resources of the Competition Council and be responsible for their utilisation;

3) shall chair and organise the meetings of the Competition Council;

4) shall represent the Competition Council without any special authorisation;

5) is entitled to give direct orders to any staff member of the Competition Council;

6) is entitled to give direct orders to members of the Competition Council only in relation to organisational issues related to the fulfilment of the duties of office.

(9) During the illness or absence of the chairperson of the council his or her duties shall be carried out by a member of the council who has been authorised by the chairperson of the council.

(10) After expiry of the term of office, the former chairperson of the council or a council member shall continue carrying out his or her duties until taking office after re-appointment or when the newly appointed chairperson of the council or council member takes office.

[12 May 2016]

Section 6. Duties of the Competition Council

(1) The Competition Council shall:

1) monitor the observance of the prohibition against the abuse of dominant position and prohibited agreements by market participants, prescribed in this Law, other laws and regulations and international contracts;

2) monitor the observance of the Advertising Law within the scope of its competence;

3) examine submitted notifications regarding agreements between market participants and take decisions in respect of them;

4) restrict market concentration by taking decisions in relation to mergers of market participants;

5) co-operate, within the scope of its competence, with relevant foreign institutions.

(2) The Competition Council shall inform the public regarding the fulfilment of the tasks of the Competition Council and regarding other issues related to the protection, maintenance, and development of competition. The Competition Council shall publish its decisions taken in accordance with Section 8, Paragraph one, Clauses 3, 5, and 6 of this Law on its website and in the gazette *Latvijas Vēstnesis*.

(3) The Competition Council, as an institution which is subordinate to the Ministry of Economics, shall:

1) in accordance with its competence, draft legislative proposals and duly submit them to the Ministry of Economics;

2) prepare draft opinions on draft laws and regulations to be examined in the Cabinet which, directly or indirectly, may refer to the protection, maintenance, or development of competition;

3) where necessary, in cases of privatisation, reorganisation, and demonopolization of State or local government undertakings (companies) supply the institution concerned with written proposals or opinions on compliance with competition protection, maintenance, or development principles.

[22 April 2004; 13 March 2008; 14 November 2008; 12 May 2016]

Section 7. Rights of the Competition Council

(1) The Competition Council is entitled to:

1) carry out market supervision and conduct investigations of infringements of this Law and the Advertising Law;

2) provide opinions regarding conformity of the activities of market participants with the laws and regulations governing competition;

3) submit pleadings, applications and complaints to a court in the cases provided for in this Law and other laws and regulations;

4) publish the views and recommendations of the Competition Council;

5) apply European Union competition law;

6) perform the duties imposed upon a Member State competition authority by 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 (Text with EEA relevance) (hereinafter also called - Council Regulation No 1/2003), and to exercise the rights provided for in this Regulation;

7) engage experts, counsellors or specialists to carry out tasks provided for in this Law;

8) perform the duties imposed by Regulation of the European Parliament and of the Council (EC) No 2006/2004 of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws and to utilise the rights provided for in the Regulation;

9) prioritise the tasks referred to in Section 6, Paragraph one of this Law.

(2) The Competition Council is entitled to evaluate draft legislation and other documents prepared by other institutions and to provide opinions in respect of them, if they include provisions influencing the market mechanism, the implementation of which may directly or indirectly restrict competition.

(3) The Competition Council, when deciding on the initiating of a case or when taking a decision in the case that has been initiated, is entitled to determine whether the actions taken by the market participant have caused or have the capacity of causing detrimental effect to competition.

(4) The mandate of an official of the Competition Council shall be attested by a service identification document.

[22 April 2004; 13 March 2008; 14 November 2008; 12 May 2016; 5 October 2017]

Section 8. Decisions of the Competition Council

(1) The Competition Council shall take decisions:

1) to initiate a case;

2) to extend the time period for taking of a decision;

3) to determine infringement, impose legal obligations and fines;

4) to terminate the investigation of a case;

5) on mergers of market participants;

6) on notified agreements;

7) infringements of the Advertising Law.

(2) The decisions of the Competition Council referred to in Paragraph one of this Section, except for decisions to

initiate a case and to extend the time period for the taking of a decision, may be appealed by a market participant to a regional administrative court within one month from the day when such decision came into effect. The court shall examine a case as the court of first instance. The case shall be examined in the composition of three judges. A judgement of the Administrative Regional Court may be appealed upon submission of a cassation complaint.

(3) [12 May 2016]

(4) [12 May 2016]

(5) The Competition Council is exempt from court costs, if it submits an application, submission or lodges a complaint in court in connection with infringements of this Law or other laws and regulations adopted in this field.

(6) Directions regarding the commencement of an investigation of a case in a particular case, as well as regarding the manner in which the investigation shall be conducted or a decision taken, may not be given to the Chair and members of the Competition Council by the Cabinet, the Minister for Economics or other persons. The Competition Council shall not co-ordinate the ascertainment with a higher institution.

(7) The decisions of the Competition Council are binding on market participants, and associations of market participants.

(8) The decisions of the Competition Council shall be implemented voluntarily. Compulsory execution of a decision not executed voluntarily shall be carried out by a bailiff. The Competition Council is exempt from the payment of State fees regarding the submission of a decision for implementation.

[22 April 2004; 13 March 2008; 14 November 2008; 12 May 2016]

Section 8.¹ Forced Execution of Legal Obligation

(1) In case of a failure to comply with a legal obligation, the Competition Council may carry out forced execution of the legal obligation by imposing pecuniary penalty in accordance with the procedures laid down in the Administrative Procedure Law, insofar as other procedures are not laid down in this Law.

(2) The addressee shall get a written warning on forced execution of the legal obligation. The warning is not subject to appeal.

(3) The Competition Council shall impose a pecuniary penalty with an executive order which may be issued repeatedly until the market participant has fulfilled its legal obligation.

(4) Prior to issuing the executive order, the Competition Council shall notify the market participant in writing that information required for the issuance of the executive order has been obtained. The market participant may become acquainted with the case, express own opinion, and provide additional information within seven days after receipt of the abovementioned notification.

(5) The amount of pecuniary penalty shall be determined up to five percent of the average net daily turnover in the last financial year per day, but not less than 250 euros per day until the legal obligation has been fulfilled.

(6) A complaint on the executive order may be submitted with the Administrative Regional Court within seven days after its receipt. The complaint shall be examined within a reasonable time period, but not later than within one month from the day of its receipt.

(7) Appeal of the executive order shall not suspend its enforcement. The executive order on pecuniary penalty shall be enforced in accordance with the procedures laid down in Section 8, Paragraph eight of this Law.

(8) The Cabinet shall, in accordance with Section 12, Paragraph five of this Law, issue regulations regarding the procedures for determining net turnover in a financial year based on which the pecuniary penalty is calculated.

(9) If a private individual has incurred damages as a result of unlawful forced execution of a legal obligation, it is entitled to indemnification in accordance with the provisions of the Administrative Procedure Law and the Law On Indemnification of Damages Caused by State Administration Institutions.

[12 May 2016]

Section 9. Powers of the Competition Council

(1) [12 May 2016]

(2) [12 May 2016]

(3) [12 May 2016]

(4) [12 May 2016]

(5) The Competition Council, when carrying out market supervision or investigating the infringements of this Law or of the Advertising Law and ensuring the enforcement of its decisions, is entitled to:

1) request and receive from any person and association of persons in the manner stipulated by the Competition Council for provision of information and within the time period laid down in Section 26, Paragraphs two and three of this Law, any information necessary for the performance of the tasks specified in this Law and the Advertising Law (also information containing commercial secret), as well as written or oral explanations;

2) request any person who is related to an infringement of this Law or the Advertising Law and whose explanations may be of importance in the case to appear at the Competition Council to give an explanation;

3) pay a visit to any market participant or an association of market participants (including without prior notice). During the visit, upon presenting a written authorisation issued by the institution where the subject and purpose of the inspection is specified, the officials of the Competition Council have the right to:

a) request documents (including documents prepared electronically and containing commercial secret), become acquainted on site therewith and receive such documents or the derivative documents thereof certified in accordance with the procedures laid down in laws and regulations;

b) request and receive written or oral explanations from the employees of a market participant;

c) withdraw property and documents of a market participant or an association of market participants which may be of importance in the case;

4) on the basis of a judicial warrant, without prior notice and in the presence of police, to enter the non-residential premises, means of transport, flats, structures and other immovable and movable objects that are in the ownership, possession or use by a market participant or by an association of market participants, to open them and the storage facilities existing therein, carry out a forcible search of the objects and the storage facilities therein and perform an inspection of the existing property and documents therein including the information (data) stored on computers, floppy disks and other information media in an electronic information system. If a person whose property or documents undergo a search refuses to open the objects or storage facilities existing therein, the officials of the Competition Council are entitled to open them without causing substantial damage. During the search and inspection the officials of the Competition Council are entitled to:

a) prohibit the persons who are present at the site under inspection from leaving the site without permission, from moving and from conversing among themselves until the end of the search and inspection;

b) become acquainted with the information included in the documents and in the electronic information system (including information containing commercial secret);

c) withdraw property items and documents which have been found and which may be of importance to the case;

d) request and receive derivative documents certified in accordance with the procedures laid down in laws and regulations;

e) print out or record the information (data) stored in the electronic information system to electronic information media;

f) request and receive written or oral explanations from the employees of the market participant;

g) temporarily, but not longer than for 72 hours, seal the non-residential premises, means of transport, structures and other objects and the storage facilities therein, in order to ensure the preservation of evidence;

5) on the basis of a judicial warrant, if there are justifiable grounds for suspicion that documents or property items that might serve as evidence of an infringement of this Law are being stored in non-residential premises, means of transport, flats, structures and other immovable and movable objects in the ownership, possession or use of other persons, perform, in relation to such persons, the activities referred to in Clause 4 of this Paragraph in the presence of police;

6) on the basis of a judicial warrant or with a consent of the data subject, when investigating an infringement of competition law which manifests itself as a prohibited agreement, request that the electronic communications merchant disclose and release the data to be stored in accordance with the Electronic Communications Law;

7) in accordance with the Credit Institution Law and on the basis of a judicial warrant, when investigating an infringement of competition law, request that the credit institution provide the undisclosed information at its disposal. Disclosure of information to the Competition Council in accordance with the procedures laid down in this Section shall not be considered as disclosure of undisclosed information and shall not result in legal liability to a credit institution, including civil legal liability.

(6) During the procedural actions referred to in Paragraph five, Clauses 4 and 5 of this Section the market

participant or an association of market participants, the employees of such market participant or an association of market participants, and other persons connected with the infringement under investigation, upon lawful request from the officials of the Competition Council, have the duty to:

- 1) ensure access to any of the non-residential premises, means of transport, flats, structures and other immovable and movable objects owned by them, in the possession thereof, or used by them, by opening them and the storage facilities therein;
- 2) ensure access to documents compiled or stored in any way or form, as well as to information (data) stored in the electronic information system;
- 3) provide full and truthful requested information within a specified period of time;
- 4) present the requested documents, true copies (copies) or extracts thereof, and certify the accuracy thereof in accordance with the procedures laid down in laws and regulations;
- 5) attest to the authenticity of print-outs of the information (data) stored in the electronic information system and the authenticity of the records made in electronic information media;
- 6) execute other lawful requests made by officials of the Competition Council.
- (7) [12 May 2016]
- (8) [12 May 2016]
- (9) The State Police shall provide assistance to the officials of the Competition Council in the performance of the procedural actions referred to in Paragraph five of this Section.

[22 April 2004; 13 March 2008; 14 November 2008; 12 May 2016]

Section 9.¹ Judicial Warrant

[12 May 2016]

Section 9.² Procedural Action Report

(1) The procedural actions related to market supervision and investigation of infringements referred to in Section 9, Paragraph five of this Law shall be recorded by the officials of the Competition Council in a procedural action report.

(2) The following information shall be included in the procedural action report:

- 1) the venue and the date of occurrence of the action;
- 2) the legal basis for the performance of the action;
- 3) the time when the action was initiated and completed;
- 4) the position, name and surname of persons who performed the procedural action;
- 5) the position, name and surname of the person who compiled the report;
- 6) the positions, names and surnames of the persons - participants in the action;
- 7) the state of progress of the action and the established facts;
- 8) the property and documents obtained during the procedural action.

(3) The property and documents obtained during the procedural action shall be attached to the report.

(4) The person who performed the procedural action shall acquaint the persons who participated in the relevant action with the contents of the procedural action report and the attachments thereof. The corrections and additions made by the persons shall be recorded in the report.

(5) The person who performed the procedural action, the person who compiled the report and all persons who participated in the relevant action shall sign the report as a whole and each page thereof separately. If a person refuses to sign, it shall be recorded in the report, indicating the cause of and the reasons for the refusal.

[13 March 2008; 12 May 2016]

Section 9.³ Rights of a Market Participant and of Other Persons

(1) When commencing the procedural actions referred to in Section 9, Paragraph five, Clauses 3, 4, and 5 of this

Law, an official of the Competition Council shall notify a market participant or other person in relation to whom such actions are performed of his or her rights.

(2) The market participant or other person in relation to whom the procedural actions referred to in Section 9, Paragraph five, Clauses 3, 4, and 5 of this Law are performed have the right:

- 1) to be present during all procedural actions, to express his or her comments and requests;
- 2) when providing explanations, to use the assistance of counsel or use another type of legal aid. The commencement of provision of explanations shall be postponed temporarily for not longer than one hour if it is necessary to wait for the arrival of a counsel or other provider of legal aid;
- 3) to propose that the information to be provided or a part thereof be assigned the status of restricted access information;
- 4) to become acquainted with the procedural action report and the documents attached thereto, to submit corrections and additions;
- 5) to submit a complaint regarding the acts of an official of the Competition Council to the chairperson of the Competition Council.

[13 March 2008; 12 May 2016]

Section 9.4 Liability for a Failure to Provide Information, Provision of False Information, Failure to Fulfil Lawful Requests Made by the Competition Council and Breaking of a Seal

(1) The Competition Council is entitled to impose a fine for:

- 1) a failure to provide information regarding the case within the required time period and amount upon request of the Competition Council or in the cases specified in laws and regulations;
- 2) a failure to correct incomplete information regarding the case within the required time period;
- 3) a failure to provide information regarding market supervision within the required time period and amount upon repeated request of the Competition Council;
- 4) provision of false or misleading information;
- 5) a refusal to fulfil lawful requests made by officials of the Competition Council;
- 6) breaking a seal that has been affixed in accordance with the procedures laid down in Section 9, Paragraph five, Clause 4, Sub-clause "g" of this Law.

(2) The Competition Council is entitled to impose a fine for the infringements referred to in Paragraph one of this Section in an amount up to one per cent of the annual net turnover of a market participant or an association of market participants in the last financial year for each, but not less than 50 euros for each. Persons other than market participants or associations of market participants shall be imposed a fine from 50 to 1400 euros.

(3) Net turnover in a financial year based on which the fine is calculated shall be determined according to the Cabinet regulations issued in accordance with Section 12, Paragraph five of this Law.

(4) The decision of the Competition Council on imposing a fine referred to in Paragraph two of this Section may be appealed by the addressee in accordance with the procedures laid down in Section 8, Paragraph two of this Law.

[12 May 2016]

Section 10. Liability of Officials and Employees of the Competition Council

(1) Officials and employees of the Competition Council, as well as other persons engaged in execution of the tasks specified in this Law are prohibited from disclosing or using information coming to their knowledge in the performance of their service or work duties or entrusted tasks, tasks for purposes other than performance of their work (service) duties or execution of specific work tasks. The prohibition to disclose or use information coming to their knowledge in the performance of their service or work duties or entrusted tasks shall continue to be binding on officials and employees of the Competition Council, as well as other persons engaged in execution of the tasks laid down in this Law also after termination of legal relationship with the Competition Council.

(2) Within two years after drafting or taking of decisions or performing supervision, monitoring, investigation, sanctioning or any other activities laid down in this Law, an official of the Competition Council is prohibited from, directly or indirectly, becoming a representative of a private individual in respect of whom the official has performed the abovementioned activities. This restriction shall be binding in addition to the provisions of the Law On Prevention of Conflict of Interest in Activities of Public Officials.

(3) In accordance with the procedures laid down in laws and regulations, the liability of the officials and employees of the Competition Council in respect of violations of the confidentiality clause and other provisions of this Law and any damages caused by their unlawful action shall extend beyond their legal relationship with the Competition Council.

(4) If an official or employee of the Competition Council, also after termination of the legal relationship with the Competition Council, has infringed any of the restrictions specified in this Section and has gained any material benefits from this, it shall be presumed that the abovementioned activities have caused damage that can be measured in economic terms and is proportional to the unlawfully earned income or increase in value of economic benefits. If the respective official or employee of the Competition Council, also after termination of the legal relationship with the Competition Council, fails to indemnify the damages incurred to the State, the Competition Council shall take the necessary actions in order to claim indemnification in accordance with the procedures laid down in law.

(5) The Competition Council shall claim indemnification in accordance with the Administrative Procedure Law, by issuing an administrative act on indemnification of the damages, as well as shall perform the actions specified in laws and regulations for enforcement of the administrative act.

[12 May 2016]

Chapter II.¹ **Permission to Perform Procedural Actions**

[12 May 2016]

Section 10.¹ Jurisdiction for Issuing a Permission

(1) A judge of a district (city) court on the basis of the legal address of the Competition Council shall take a decision on permission to perform the procedural actions referred to in Section 9, Paragraph five, Clauses 4, 5, 6, and 7 of this Law.

Section 10.² Submission Regarding Issuance of a Permission

(1) In a submission regarding a permission to perform the actions referred to in Section 9, Paragraph five, Clauses 4 and 5 of this Law, the Competition Council shall specify in respect of which market participants or association of market participants or persons the procedural actions need to be performed, the subject and purposes of these actions, and, to the best of its knowledge, what assets, information or documents are going to be searched for.

(2) In a submission regarding a permission to perform the acts referred to in Section 9, Paragraph five, Clauses 6 and 7 of this Law, the Competition Council shall specify the legal grounds and the scope of the data to be stored or not to be disclosed.

Section 10.³ Procedures for Taking a Decision

(1) The judge shall, within 72 hours after having received a submission from the Competition Council, examine this submission which substantiates the necessity to perform procedural actions, become acquainted with the case materials of the Competition Council, hear out the representative of the Competition Council and take a decision either to issue a permission to perform procedural actions or to refuse it.

(2) A true copy of the judicial warrant shall be sent to the Competition Council within 24 hours from the moment of taking of the decision.

Section 10.⁴ Warrant on Procedural Actions

(1) In its warrant permitting to perform the actions referred to in Section 9, Paragraph five, Clauses 4 and 5 of this Law, the judge shall specify in respect of which market participants or association of market participants or persons the procedural actions need to be performed, the subject and purposes of these actions, and, to the best of his or her knowledge, what assets, information or documents are going to be searched for, as well as the time period for performing procedural actions.

(2) In its warrant permitting to perform the procedural actions referred to in Section 9, Paragraph five, Clauses 6 and 7 of this Law, the judge shall specify the market participant or association of market participants or person in respect of which information should be requested, and the scope of this information.

(3) The warrant shall not include information not to be disclosed in accordance with Section 26, Paragraph six of this Law.

Section 10.⁵ Warrant on Procedural Actions Issued as a Matter of Urgency

(1) If under the procedural actions referred to Section 9, Paragraph five, Clause 4 or 5 of this Law justified information has been obtained that assets, information or documents which could serve as a proof to infringement of competition law are being stored in non-residential premises, vehicles, flats, structures, and other immovable and movable objects in the ownership, possession or use of other persons, and if the assets, information or documents that are being searched for could get destroyed, hidden or damaged due to delay, the Competition Council shall submit to the court an application requesting issuing the permission to perform the procedural actions referred to Section 9, Paragraph five, Clause 4 or 5 of this Law as a matter of urgency.

(2) The judge shall, without delay and within two hours after having received an application from the Competition Council, examine this application which substantiates the necessity to perform procedural actions and its urgency, become acquainted with the case materials of the Competition Council, hear out the representative of the Competition Council and take a decision either to issue a permission to perform procedural actions or to refuse it.

(3) The warrant shall contain the introductory part and the operative part. The warrant shall be issued to the representative of the Competition Council and shall be sent to the Competition Council to its electronic mail address. A motivated warrant shall be drawn up and sent to the Competition Council and the market participant, association of market participants or the person in respect of which the warrant has been issued, within three working days.

(4) The warrant shall not include information not to be disclosed in accordance with Section 26, Paragraph six of this Law.

Section 10.⁶ Acquainting Oneself with the Case Materials and Appeal of the Warrant

(1) The market participant, association of market participants and the person in respect of which a warrant has been issued in accordance with Section 10.4 or 10.5 of this Law, has the right to become acquainted with the case materials after performance of procedural actions.

(2) A complaint may be submitted to the Chief Judge in respect of the judicial warrant within 10 days from the date of receipt of the warrant. Submission of a complaint shall not suspend the performance of the procedural actions by the Competition Council.

Section 10.⁷ Examination of the Complaint

(1) The Chief Judge shall examine the complaint within 10 days and, if necessary, hear out the submitter of the complaint. Where the complaint has been submitted by a market participant, association of market participants or a person, if necessary, both the submitter of the complaint and the representative of the Competition Council may be heard out.

(2) A decision taken by the Chief Judge shall be final and not subject to appeal.

(3) A complaint may be satisfied or rejected by the Chief Judge. When satisfying a complaint, the appealed warrant may be revoked or amended in full or in part.

(4) Evidence obtained on the basis of the appealed decision that has been revoked or changed in full or in part shall not be used in the case to the extent to which the decision has been found unlawful.

Chapter III Actions which Restrict Competition

Section 11. Prohibited Agreements and Agreements which are Considered to be in Effect

(1) Agreements between market participants, which have as their object or effect the hindrance, restriction or distortion of competition in the territory of Latvia, are prohibited and null and void from the moment of being entered into, including agreements regarding:

1) the direct or indirect fixing of prices and tariffs in any manner, or provisions for their formation, as well as regarding such exchange of information as relates to prices or conditions of sale;

2) restriction or control of the volume of production or sales, markets, technical development, or investment;

3) the allocation of markets, taking into account territory, customers, suppliers, or other conditions;

4) provisions in accordance with which the conclusion, amendment or termination of a transaction with a third person is made dependent on whether such third person accepts obligations which, according to commercial usage, are not relevant to the particular transaction;

5) the participation or non-participation in competitions or auctions or regarding the provisions for such actions (inactions), except for cases when the competitors have publicly announced their joint tender and the purpose of such

a tender is not to hinder, restrict or distort competition;

6) the application of unequal provisions in equivalent transactions with third persons, creating for them disadvantageous conditions in terms of competition;

7) action (inaction), due to which another market participant is forced to leave a relevant market or the entry of a potential market participant into a relevant market is made difficult.

(2) Agreements that promote improvements in the production or sale of products or economic progress and thereby benefit consumers are considered to be in force and are exempt from the prohibition referred to in Paragraph one of this Section and, furthermore, such agreements:

1) do not impose on the market participants concerned restrictions which are not necessary for the achievement of these objectives;

2) do not afford the possibility of eliminating competition in a substantial part of the relevant market.

(2¹) The market participant who indicates that the agreement conforms to the requirements of Paragraph two of this Section has an obligation to prove this.

(3) The market participants prior to entering into an agreement, as well as prior to the entry into effect thereof, if a case has not been initiated in respect of it, are entitled to submit to the Competition Council a notification regarding the relevant agreement. The Competition Council is entitled to permit, or permit with conditions for a specified time period the agreement thus notified, if the agreement conforms to Paragraph two of this Section or to the criteria in accordance with which specific agreements between market participants are exempted from the prohibitions referred to in Paragraph one of this Section. The procedures for the submission and examination of the notification regarding an agreement between market participants shall be prescribed by the Cabinet.

(4) The Cabinet shall determine the following:

1) separate agreements between market participants, which do not significantly affect competition;

2) the criteria according to which separate agreements between market participants are exempted from the prohibitions referred to in Paragraph one of this Section.

[22 April 2004; 13 March 2008; 12 May 2016]

Section 12. Liability for Infringement of Prohibited Agreements

(1) If the Competition Council determines that there is an infringement of Section 11, Paragraph one of this Law in the activities of market participants, it shall take a decision to determine an infringement, imposition of legal obligations and a fine.

(2) The Competition Council is entitled to impose on market participants fines of up to 5 per cent of their net turnover for the previous financial year each, but not less than 350 euros each.

(3) The Competition Council is entitled to impose on market participants fines of up to 10 per cent of their net turnover for the previous financial year each, but not less than 700 euros each.

(4) *[12 May 2016]*

(5) The Cabinet shall issue regulations regarding the procedures for determining fines, which provide for special features of the financial year net turnover calculation in separate cases, criteria for the specification of the amount of fines, as well as mitigating and aggravating circumstances.

(6) Fines calculated in accordance with the procedures laid down in this Section shall be paid into the State basic budget.

[22 April 2004; 13 March 2008; 12 September 2013; 12 May 2016]

Section 12.¹ Leniency Programme

(1) A leniency programme allows a market participant to receive immunity from, or a reduction in, fines for its involvement in the cartel for disclosing a secret cartel agreement independently of the other market participants involved in the cartel and in co-operation with the competition authority during investigation thereof and also for voluntarily providing information on the cartel and its role in the cartel.

(2) The Competition Council shall give immunity from a fine for a cartel infringement, if:

1) the market participant was the first one to provide evidence and other information related to a cartel infringement supplying facts and circumstances that are sufficient for initiating a case or detecting a cartel infringement;

2) the market participant has not performed any actions to force other market participants to join the cartel or continue participating in it;

3) at the moment of receiving an application the Competition Council does not possess sufficient evidence that could be the basis for initiating a case or detecting a cartel infringement.

(3) The Competition Council shall reduce a fine for a cartel infringement if the market participant:

1) provides evidence and other information related to a cartel infringement that substantially supplements the evidence and data possessed by the Competition Council;

2) provides evidence on another cartel infringement and the Competition Council gives immunity from a fine for this cartel infringement.

(4) The Competition Council shall either approve the application requesting immunity from the fine or reduction of the fine under the leniency programme or reject it with the same decision which establishes the infringement referred to in Section 11, Paragraph one of this Law or in Article 101(1) of the Treaty on the Functioning of the European Union, and imposes legal obligation and a fine.

(5) The information in the leniency application shall be a restricted access information that may be disclosed only to the participants of proceedings in the case initiated by the Competition Council, in order to protect their rights and legal interests.

(6) The decision of the Competition Council shall not include information regarding the identity of those market participants who have collaborated with the Competition Council under the leniency programme.

(7) The Cabinet shall determine the procedures according to which the Competition Council shall give immunity from a fine and reduce the fine under the leniency programme, as well as the requirements for the participants of the leniency programme.

[12 May 2016; 5 October 2017]

Section 13. Prohibition of the Abuse of Dominant Position

(1) Any market participant who is in a dominant position is prohibited from abusing such dominant position in any manner in the territory of Latvia. Abuse of dominant position may also occur as:

1) refusal to enter into transactions with other market participants or to amend the provisions of a transaction without an objectively justifiable reason, including unfair and unjustified refusal to supply products or deliver services;

2) restriction of the amount of the production or sale of products, the market or technical development without an objectively justifiable reason to the detriment of consumers;

3) imposition of provisions according to which entering into, amendment or termination of a transaction with another market participant is made dependent on whether this market participant undertakes additional obligations which, by their nature and commercial use, do not pertain to the particular transaction;

4) direct or indirect imposition or application of unfair purchase or selling prices or other unfair trading provisions;

5) application of unequal provisions in equivalent contracts with other market participants, by way of creating for them, in terms of competition, disadvantageous conditions.

(2) [21 May 2015]

(3) [21 May 2015]

[13 March 2008; 18 June 2009; 21 May 2015]

Section 14. Liability for the Abuse of Dominant Position

(1) If the Competition Council determines that there is an infringement of Section 13 of this Law in the activities of market participants, the Council shall take a decision to determine an infringement, to impose a legal obligation and to apply a fine.

(2) The Competition Council is entitled to apply a fine to a market participant for the infringement referred to in Section 13, Paragraph one of this Law up to 5 per cent of the net turnover for the previous financial year each, but not less than 350 euros each.

(3) [12 May 2016]

(4) The Cabinet shall issue regulations regarding the procedures by which fines are specified, which provide for

special features of the financial year net turnover calculation and procedure for the calculation of the amount of fine, taking into account the gravity and the duration of the infringement, mitigating and aggravating circumstances, as well as specifying the cases where there is the right to a reduction of the fine.

(5) Fines calculated in accordance with the procedures laid down in this Section shall be paid into the State basic budget.

[13 March 2008; 12 September 2013; 21 May 2015; 12 May 2016]

Chapter IV Market Participant Merger Control

Section 15. Market Participant Merger Provisions

(1) A merger of market participants is:

1) the merging of two or more independent market participants in order to become one market participant (consolidation);

2) the joining of one market participant to another market participant (acquisition);

3) such a situation where one or more natural persons who already have a decisive influence over another market participant or other market participants, or one or more market participants acquire part or all of the fixed assets of another market participant or other market participants or the right to use such, or a direct or indirect decisive influence over another market participant or other market participants. An acquisition of assets or of the right to use such assets is considered to be a merger if the acquisition of the assets or of the right to use such assets increases the market share of the acquirer of the aforementioned assets and the usage rights in any relevant market;

4) such a situation where two or several natural persons jointly or a single natural person simultaneously acquire a part or all of the assets of two or several market participants or obtain the right to use such assets, or a direct or indirect decisive influence over two or several market participants.

(2) The market participants who have decided to merge in any of the manners referred to in Paragraph one of this Section, prior to merger shall submit a notification to the Competition Council on the merger if the aggregate turnover in Latvia of the participants in the merger in the last financial year has been not less than 30 million euros, and the turnover in Latvia of at least two participants in the merger in the last financial year has been not less than 1.5 million euros for each.

(2¹) The Competition Council has the right, within 12 months following the implementation of the merger, to request that the participants in the merger submit a notification on a merger that does not conform to the notification provisions referred to Paragraph two of this Section if both of the following conditions exist:

1) the merger is taking place in the relevant market where the participants in the merger operate, and their aggregate market share in the particular market exceeds 40 per cent;

2) there is a cause for suspicion that the merger might result in or strengthen a dominant position, or the competition in the relevant market might be notably reduced.

(2²) The market participants referred to in Paragraph two of this Section are entitled to submit to the Competition Council a short-form merger notification instead of the full one if one of the following conditions exists:

1) none of the participants in the merger operates in a single relevant market or in a market that is vertically related thereto;

2) participants in the merger operate in a single relevant market, and their aggregate market share does not exceed 20 per cent;

3) participants in the merger operate in vertically related markets, and the market share of each individual participant in the relevant market does not exceed 30 per cent;

4) participants in the merger get a joint decisive influence within the meaning of Paragraph one, Clause 3 of this Section over another market participant who does not generate and does not intend to generate turnover from selling goods or providing services in the territory of Latvia;

5) a participant in the merger gets a decisive influence over another market participant in a market where the participant in the merger already has a joint decisive influence within the meaning of Paragraph one, Clause 3 of this Section.

(2³) If the Competition Council decides that such merger of market participants of which a short-form merger notification has been submitted requires additional investigation, it may require the market participants to submit a full-form merger notification.

(2⁴) If the merger does not conform to the conditions for submitting a notification referred to Paragraph two of this Section, the market participants are entitled to:

1) request a written confirmation that the Competition Council will not exercise the rights laid down in Paragraph 2.¹ of this Section to request that the participants in the merger submit a merger notification;

2) upon own initiative, submit to the Competition Council a full-form or short-form merger notification.

(2⁵) The Competition Council may exempt the market participant from the obligation to submit a part of the information in the full-form or short-form merger notification or documents appended thereto, if such information or documents are not necessary for examination of the notification.

(3) A merger of market participants, regarding which a notification had to be given, but was not given, is illegal.

(4) Notifications need not be submitted to the Competition Council in the following cases:

1) credit institutions or insurance companies the activities of which include transactions with securities for own or other funds, have time-limited ownership rights to market participant securities, which they have acquired for further sale, if such credit institutions or insurance companies do not utilise voting rights created by the referred to securities in order to influence the competitive activities of the relevant market participant, or utilise the voting rights created by the referred to securities in order to prepare the investment of fixed assets or relevant securities only of the market participant, or a part thereof, and such investments occur within one year after the creation of voting rights. The Competition Council may extend the referred to time period on the basis of a submission from the relevant credit institution or insurance company, if it proves that the relevant investment within one year was not possible;

2) a liquidator or administrator acquires a decisive influence in the case of the insolvency or liquidation of a market participant.

(5) The Cabinet shall issue regulations regarding the procedures according to which full-form and short-form merger notifications are to be submitted and examined. Such regulations may include additional conditions regarding the calculation of the turnover, including special requirements in respect of credit institutions and insurance companies.

(6) Market participants shall pay a State fee for the evaluation of a merger. The Cabinet shall determine the procedures for paying the State fee for the evaluation of a merger, the amount of the State fee, as well as the cases when the State fee shall not be reimbursed.

[22 April 2004; 13 March 2008; 14 November 2008; 18 June 2009; 12 September 2013; 12 May 2016]

Section 16. Procedures for Examination of Notifications regarding Mergers of Market Participants

(1) The Competition Council shall, within one month from the receipt of a full-form merger notification report or a short-form merger notification report in accordance with procedures specified by the Cabinet, examine the notification and take one of the decisions referred to in Paragraph three or four of this Section, or a decision to commence additional investigation.

(1¹) If, within 45 days from the date of submission of a full-form or short-form merger notification report, a market participant does not receive from the Competition Council a decision referred to in Paragraph three or four of this Section or a decision to commence of additional investigation, the relevant merger shall be deemed to be permitted.

(2) If the Competition Council has taken a decision to commence additional investigation, the Competition Council, within four months from the date of receipt of the full-form merger notification report or within three months from the date of receipt of the short-form merger notification report, shall take one of the decisions referred to in Paragraph three or four of this Section. The Competition Council is entitled to, upon request of the participants in the merger or upon own initiative, extend by 15 working days the term for taking the decision referred to in Paragraph three of this Section with a purpose to evaluate the binding provisions.

(3) The Competition Council by its decision shall prohibit mergers as a result of which a dominant position is created or strengthened, or which may significantly reduce competition in any relevant market. The Competition Council is entitled to permit such mergers, determining binding provisions for the relevant market participants, which prevents the negative consequences of the merger in relation to competition.

(4) If the merger of market participants of which a notification report has been given does not cause the consequences referred to in Paragraph three of this Section, the Competition Council shall take a decision to permit the merger.

(5) If the Competition Council after the commencement of additional investigation, within four months from the date of receipt of the full-form merger notification report, or within three months from the date of receipt of the short-form merger notification report has not taken one of the decisions referred to in Paragraph three or four of this Section, the relevant merger of market participants shall be deemed to be permitted.

(6) The Competition Council is entitled to take the decisions referred to in Paragraph three of this Section also in respect of such mergers of market participants on which notification should have been given in accordance with Section 15, Paragraph two or 2.1 of this Law, but such notification was not given.

[22 April 2004; 13 March 2008; 12 May 2016]

Section 17. Liability for Illegal Mergers of Market Participants

(1) If a notification was not given in the cases specified in this Law or an unlawful merger of market participants has occurred, which is contrary to a decision of the Competition Council taken in accordance with the procedures laid down in Section 16, Paragraph three of this Law, the Competition Council is entitled to take a decision to impose a fine on the new market participant or on the acquirer of a decisive influence of up to three per cent of its net turnover in the last financial year.

(2) The payment of a fine does not release the market participants concerned from the obligation to fulfil the provisions of this Law and the decisions of the Competition Council. The forced execution of the binding provisions imposed by the decision of the Competition Council shall be performed in accordance with the procedures for forced execution of legal obligations laid down in Section 8.¹ of this Law.

(3) Fines calculated in accordance with the procedures laid down in this Section shall be paid into the State basic budget.

[12 May 2016]

Chapter V Unfair Competition

Section 18. Prohibition of Unfair Competition

(1) Unfair competition is prohibited.

(2) Actions, as the result of which laws and regulations or fair commercial practices are infringed and which have created or could create a hindrance, restriction or distortion of competition, shall be deemed to be unfair competition.

(3) Unfair competition may also occur in the form of the following activities if as a result of such activities a hindrance, restriction or distortion of competition has been created or could have been created:

1) the utilisation or imitation of a legally used name, distinguishing marks or other features of another market participant (whether existing, having ceased its activities or reorganised) if such use may be misleading as regards the identity of the market participant;

2) the imitation of the name, external appearance, labelling, or packaging of products produced or sold by another market participant, or the use of trademarks, if such imitation or use may be misleading as regards the origin of the products;

3) the dissemination of false, incomplete or distorted information regarding other market participants or their employees, as well as, in respect of the products produced or sold by such a market participant, the economic significance, quality, form of production, characteristics, quantity, usefulness, prices, their formation and other provisions, which may cause losses to this market participant;

4) the acquisition, utilisation or distribution of information, which includes the commercial secrets of another market participant, without the consent of such participant;

5) the coercion of employees of another market participant with threats or bribery in order to create advantages for one's own economic activity, thereby causing losses to this market participant.

Section 18.¹ Competence of the Court when Examining Cases of Violating the Prohibition of Unfair Competition

The infringements laid down in Section 18 of this Law shall be examined by a court.

[14 November 2008]

Section 19. Liability for Unfair Competition

[14 November 2008]

Chapter VI

Application of Competition Law in Civil Actions

Section 20. Competence of the Courts

(1) Concurrently with the Competition Council, a court may also determine an infringement of this Law. Cases on infringement of competition law under this Law or European Union law and compensation for losses shall be examined by the Latgale Suburb Court of Riga City.

(2) The court in its judgement concerning an infringement of this Law and European Union competition law may impose one or several of the following obligations:

- 1) to terminate and prohibit actions which infringe this Law and European Union competition law;
- 2) to perform actions that prevent the infringements of this Law and European Union competition law;
- 3) to duly compensate for the infringement.

[12 May 2016; 5 October 2017]

Section 20.¹ Examination of the Cases of Infringing this Law and European Union Competition Law

(1) The court which has accepted an application and initiated the case regarding an infringement of this Law and European Union competition law, shall, within seven days from the date of initiation of the case, send a true copy (copy) of the application and the decision to initiate the case to the Competition Council.

(2) The Competition Council may, upon its own initiative or upon initiative of the court, provide an opinion in the case concerning the aspects for the application of the European Union competition law. The Competition Council has the right to become acquainted with the case materials prior to providing its opinion.

(3) A court shall, within seven days after drawing up of a full judgement in a case regarding an infringement of European Union competition law, send a true copy (copy) of the judgement to the Competition Council and the European Commission, whereas in a case regarding an infringement of this Law - to the Competition Council.

[12 May 2016]

Section 21. Compensation for Losses

(1) A person who has suffered losses due to an infringement of competition law is entitled to request and receive compensation for losses from the infringer, including the lost profit and interest, from the day such losses have incurred until the day the compensation for losses has been paid in order to ensure such condition as the person would have had if the infringement of competition law would not have been committed. If it is practically impossible to determine the amount of losses caused as the result of an infringement of competition law or it is excessively difficult to determine it precisely, the court shall determine the amount of losses on the basis of the evidence included in the case.

(2) Upon bringing actions for damages, an infringement of competition law within the meaning of this Chapter shall be an infringement of the Competition Law or Article 101 or 102 of the Treaty on the Functioning of the European Union or an infringement of competition law of the respective Member State. Competition law of a Member State shall be law with the same main objective as defined in Articles 101 and 102 of the Treaty on the Functioning of the European Union and that is applied in one and the same case alongside with the European Union competition law in accordance with Article 3(1) of 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 (Text with EEA relevance), excluding law by which criminal sentences are imposed on natural persons, except for cases when such criminal sentences serve as means by which competition rules applying to a market participant are exercised.

(3) If the infringement is a cartel agreement, it is presumed that the infringement has caused a damage, as a result of which the price has been raised by 10 per cent, unless proved otherwise.

(4) Infringers shall be jointly liable for losses which have incurred due to a jointly committed infringement of competition law, except for the cases referred to in Paragraphs five and seven of this Section.

(5) A small or medium-sized enterprise shall be liable for the caused losses only in respect of its direct and indirect purchasers or suppliers, if it complies with the following conditions:

- 1) its market share in the respective market throughout the entire period of the infringement of competition law has

been less than five per cent;

2) the application of joint liability referred to in Paragraph four of this Section would irretrievably jeopardise its economic viability and would cause complete loss of the value of the assets of such enterprise.

(6) The exception referred to in Paragraph five of this Section shall not apply to an infringer who has previously committed an infringement of competition law or who has organised or has led an infringement of competition law, or who has forced other market participants to commit an infringement of competition law.

(7) An infringer who within the scope of the leniency programme has received immunity from fines shall be jointly liable for the caused losses:

1) only in respect of its direct or indirect purchasers or suppliers;

2) in respect of other persons who are not its direct or indirect purchasers or suppliers only if it is impossible to claim full compensation for losses from the other market participants who participated in committing an infringement of competition law.

(8) An infringer who within the scope of the joint liability has compensated losses caused to the person who suffered losses is entitled to claim the respective compensation from any other infringer. The referred to compensation shall be determined by taking into account the degree of liability of the relevant infringer concerning the losses caused as the result of the infringement of competition law.

(9) The amount of the respective compensation which the infringer, who has received immunity from fines within the scope of the leniency programme, provides to other infringers must not exceed the amount of losses caused to its direct or indirect purchasers or suppliers. If the amount of the respective compensation, which is provided by the referred to infringer to other infringers, applies to compensation for losses to other persons who are not the direct or indirect purchasers or suppliers of the infringer, the amount of the respective compensation to be provided shall be determined by taking into account the degree of liability of the referred to infringer concerning the losses caused as the result of the infringement of competition law.

[13 March 2008; 12 May 2016; 5 October 2017]

Section 21.¹ Passing-on of Overcharges

(1) The rights referred to in Section 21, Paragraph one of this Law shall apply also to the rights to receive compensation for lost profit in relation to full or partial passing-on of overcharges. The court is entitled to determine the share of the passed-on overcharges in the form of an estimate. The rights to compensation for losses as the result of passing-on of overcharges shall be applicable also to supplies made to the infringer.

(2) If the defendant, in defending an action, indicates that the claimant has passed-on the entire or part of the overcharges incurred as the result of the infringement of competition law to other persons, it shall have the obligation to prove it.

(3) Where the existence of an action for damages or the amount of damages to be awarded depends on whether or to what degree an overcharge is passed on to the claimant, the claimant down the level of the supply chain shall prove the occurrence and amount of such passing-on of the overcharges. The claimant has the right to request the court to order disclosure of evidence from the defendant or from a third party according to the procedures specified in the Civil Procedure Law.

(4) It shall be considered that the indirect purchaser has proven the passing-on of the overcharges on to him or her, if the indirect purchaser proves that:

1) the defendant has committed an infringement of competition law;

2) the infringement of competition law has resulted in an overcharge to the direct purchaser of the defendant, and

3) the indirect purchaser has purchased goods subject to the infringement of competition law or goods which have derived therefrom or which contain such goods.

(5) Paragraph four of this Section shall not apply to cases where the defendant may prove that the overcharge was not passed on to the indirect purchaser or was not fully passed on.

[5 October 2017]

Section 21.² Actions for Damages by Claimants from Different Levels in the Supply Chain

In order to avoid that actions for damages by claimants from different levels in the supply chain lead to a multiple liability or to an absence of liability of the infringer, the courts where actions for damages are brought in assessing whether the burden of proof resulting from the application of Section 21.¹, Paragraphs two, three, four, and five of this

Law is satisfied, shall take into account:

- 1) actions for damages that are related to the same infringement of competition law, but that are brought by claimants from other levels in the supply chain;
- 2) rulings resulting from actions for damages as referred to in Clause 1 of this Section;
- 3) relevant information in the public domain regarding the infringement of competition law.

[5 October 2017]

Section 21.³ Dispute Resolution with Settlement and Impact of Settlement on Subsequent Actions for Damages

(1) As long as a dispute deriving from an infringement of competition law is resolved through agreement to reach a settlement, the limitation period for bringing an action for damages shall be suspended. Suspension of the limitation period shall apply only to the parties currently or previously involved or represented in the dispute resolution in order to reach a settlement.

(2) If a dispute deriving from an infringement of competition law is resolved with a settlement, the scope of action for damages shall be reduced by the share of the infringer who has reached the settlement.

(3) The person who has suffered harm caused by an infringement of competition law and has reached the settlement may direct the remaining part of the claim for damages only against the infringers who have not reached the settlement. The infringers who have not reached the settlement are not entitled to claim contribution for the remaining share from the infringer who has reached the settlement.

(4) Unless the contrary has been explicitly stated in the settlement, the person who has suffered harm caused by an infringement of competition law and has reached the settlement may direct the remaining part of the action for damages against the infringer who has reached the settlement, if recovery of losses from the infringers who have not reached the settlement is not possible.

(5) Any losses which have been compensated in compliance with the previous settlement reached by the respective infringer shall be taken into account upon determining the sum of contribution which may be retrieved by one of the infringers from any other infringer in accordance with the degree of liability thereof concerning the losses incurred as the result of the infringement of competition law.

[5 October 2017]

Section 21.⁴ Start of Limitation Period and Suspension of Limitation Period

(1) The limitation period for an action for damages shall be counted from the day on which the infringement of competition law has ceased to exist and the claimant is aware of or whether there was basis to consider that he or she was aware of:

- 1) the conduct of the infringer and that the infringement is an infringement of competition law;
- 2) losses caused as a result of an infringement of competition law;
- 3) the identity of the infringer.

(2) The limitation period shall be suspended for a period until the competition authority assesses the infringement of competition law subject to action for damages. The suspension of limitation period shall end one year after the decision on the infringement has become effective and has become non-appealable or the referred to actions have been ceased otherwise.

[5 October 2017]

Section 21.⁵ Disclosure of Evidence in Cases on Compensation for Losses Regarding Infringements of Competition Law

(1) A competition authority shall submit to a court, which hears an action for damages regarding infringements of competition law, the specified evidence only after the competition authority has completed the investigation of a case:

- 1) information which has been prepared by a person especially for the needs of a competition authority;
- 2) information which a competition authority has prepared and sent to the parties;
- 3) withdrawn settlement applications.

(2) If in the cases on compensation for losses regarding infringements of competition law the court orders

disclosure of evidence from the case records of the Competition Council, the Competition Council at its own or court's initiative is entitled to provide an opinion on the proportionality of a claim and impact on the effective application of competition law.

[5 October 2017]

Chapter VII Procedures for the Investigation of a Case

[22 April 2004]

Section 22. Initiation of a Case

(1) The Competition Council shall initiate a case on an infringement of this Law upon its own initiative, considering the priorities, the impact of the potential infringement on competition and important public interests.

(2) The market participants and entities are entitled to provide information to the Competition Council regarding the facts on the basis of which the infringement of this Law may be established.

[12 May 2016]

Section 23. Initiation of a Case on the basis of a Submission

[12 May 2016]

Section 24. Initiation of a Case on the basis of an Initiative of the Competition Council

[12 May 2016]

Section 25. Initiation of a Case on the basis of a Report from another Institution

[12 May 2016]

Section 26. Investigation of a Case

(1) After the initiation of a case, the Competition Council shall acquire information that is necessary to take a decision. The information that refers to the relevant case and is acquired during market supervision shall be attached to such case and may be of importance to the case as evidence.

(2) A person shall provide the requested information not later than within seven days from receipt of the request. The person shall, without delay, provide such information that has been requested while carrying out the market supervision activities and procedural actions on infringements laid down in Section 9, Paragraph five, Clauses 3, 4, and 5 of this Law, and in the preparation of which a special compilation or analytical work is not necessary.

(3) If information is requested, in the preparation of which special compilation or analysis activities are necessary, and the submitter of the information due to objective reasons cannot prepare the requested information within the specified time period, he or she shall notify the Competition Council in writing, indicating such reasons and the date when the information shall be submitted. The competition Council, taking into account the referred to notification may specify another time period for submission of the information.

(4) If the information is requested from a possible infringer of the Competition Law, the Competition Council shall inform the submitter thereof of the Section of the Competition Law, which has been possibly infringed.

(5) The Competition Council may combine in one record several cases regarding one and the same infringement of law in the operations of one and the same possible infringer if the combination of the cases facilitates the quicker and more objective examination thereof.

(6) While information necessary for the taking of a decision is being acquired, the Competition Council does not have the duty to make materials of the case accessible if this may have a negative effect on the performance of the tasks specified in the Law at an adequate level. The Competition Council shall inform the participants in the process in writing that information necessary for the taking of a decision has been acquired.

(7) The participants in the process may become acquainted the case, express their own point of view and submit additional information within 20 days from the moment of receipt of the notification specified in Paragraph six of this Section. The Competition Council need not take into account information, which has been received after the end of such time period. Upon request of the addressee, the Competition Council shall hear out its oral explanations prior to taking a decision that may not be in its favour.

(8) The information in the case shall be regarded as internal use information until the decision is taken, and it may

be examined only by the persons to whom the officials of the Competition Council present the relevant materials.

[13 March 2008; 12 May 2016]

Section 26.¹ Assignment of the Status of Restricted Access Information to Information to be Submitted

(1) In order for the information or a part thereof to be submitted to be assigned the status of restricted access information, the submitter of information shall clearly indicate the relevant documents and a justification for the assignment of such status.

(2) If the submitter of information has not fulfilled the requirements specified in Paragraph one of this Section or the proposal to assign the status of restricted access information to the specific information is unjustified, the Competition Council shall notify the submitter of information regarding this.

(3) If the deficiencies referred to in Paragraph two of this Section have not been rectified within seven days from the date of receipt of a notification from the Competition Council, the submitted information may be protected, in accordance with the procedures laid down in the Law On the Freedom of Information, only as information for in-house use. The Competition Council shall notify the submitter of information regarding this.

(4) The Competition Council may request that the person, the information submitted by whom needs to be assigned the status of restricted access information, append a copy of generally accessible information to the abovementioned information which does not contain restricted access information.

[13 March 2008; 12 May 2016]

Section 27. Time Period for the Taking of a Decision

(1) The Competition Council shall take a decision within six months from the day of the initiation of a case.

(2) If due to objective reasons it is not possible to observe the six month time period, the Competition Council may extend it for a period up to one year counting the time period from the day of the initiation of a case.

(3) If prolonged fact-establishing is required in the case, the Competition Council with a justified decision may extend the time period for taking a decision to a period not exceeding two years from the day of the initiation of a case.

Section 27.¹ Validity of Competition Council Decisions

Competition Council decisions shall enter into effect upon notification thereof. An appeal against a decision shall not suspend the execution of the decision, except in the part thereof regarding the imposition of a fine.

[13 March 2008]

Section 27.² Termination of Investigating a Case with a Written Commitment

(1) If a market participant commits itself in writing to fulfil certain legal obligations that prevent hindrance, restriction or distortion of competition, the Competition Council, having evaluated the actual and legal circumstances of the case and due to rationality considerations, may take a decision to terminate the investigation in the case and to impose legal obligations.

(2) If the market participant fails to fulfil the legal obligations to which it has committed itself in writing, forced execution shall be performed in accordance with the procedures laid down in Section 8.¹ of this Law.

(3) The Competition Council may resume a case terminated in accordance with Paragraph one of this Section.

(4) When resuming the investigation of a case, the time period for the taking of a decision commences on the date of the resumption of investigation of the case.

[13 March 2008; 12 May 2016]

Section 27.³ Entering into an Administrative Contract

(1) The Competition Council shall enter into an administrative contract without a consent of a superior authority.

(2) An application regarding the compliance of the administrative contract with legal norms, the validity thereof, the entry into or the correctness of the fulfilment shall be examined in accordance with the procedures laid down in Section 8, Paragraph two of this Law.

(3) Appealing of an administrative contract with which legal proceedings have been terminated shall not suspend its enforcement.

[12 May 2016]

Chapter VIII Application of European Union Competition Law

[22 April 2004]

Section 28. Legislation to be applied in a Case regarding the Possible Infringement of European Union Competition Law

(1) The Competition Council shall investigate and examine a case regarding the possible infringement of European Union competition law in accordance with the procedures for investigation and examination of possible infringements of this Law provided for in this Law and other laws and regulations.

(2) For the infringement of European Union competition law, the Competition Council shall impose a penalty in accordance with Sections 12 and 14 of this Law and Cabinet regulations regarding the procedures for the imposition of fines, which are issued in accordance with Section 12, Paragraph five and Section 14, Paragraph four of this Law.

(3) When applying European Union competition law, the term "market participant" shall be understood as the term "undertaking" in European Commission decisions and in European Court of Justice judgements.

(4) When examining a case regarding an infringement of European Union competition law this Law may also be applied.

[13 March 2008; 12 May 2016]

Section 29. Reduction of a Fine for Individual Infringements of European Union Competition Law

(1) The Competition Council shall give immunity from a fine for a market participant or reduce the imposed fine if the market participant, upon own initiative, reports a cartel agreement to the Competition Council, which is an infringement of Article 101(1) of the Treaty on the Functioning of the European Union.

(2) The fine referred to in Paragraph one of this Section shall be reduced or an immunity from a fine shall be given for a market participant in accordance with Section 12.¹ of this Law.

[12 May 2016]

Section 30. Interim measures

(1) If the Competition Council has evidence at its disposal, which testifies to the possible infringement of European Union competition law, and non-termination of this infringement may cause significant and irreversible harm to competition, the Competition Council may take a decision on interim measures.

(2) The means of interim measures is a decision, which imposes a duty upon market participants within a specified time period to perform specific activities or prohibits specific activities.

(3) The decision on an interim measure may be appealed by the participant of the proceedings, in respect of which the interim measure has been issued, to the District Administrative Court within 10 days after the date of entering into effect thereof.

(4) A decision on interim measures shall be in effect until the moment when a final decision in a case by the Competition Council becomes indisputable.

(5) Forced execution of the binding provisions imposed by the interim measure shall be performed in accordance with the procedures for forced execution of legal obligations laid down in Section 8.¹ of this Law.

[12 May 2016]

Section 31. Decisions on Appeal of Interim Measures

(1) A court shall examine an application regarding a decision on interim measures within 14 days.

(2) An appeal of a decision on interim measures shall not suspend the effect of the decision on interim measures and the implementation thereof.

(3) A court decision in relation to an application regarding a decision on interim measures cannot be appealed and it shall come into force from the moment the decision is taken.

Section 32. Performance of European Commission Procedural Actions in the Territory of Latvia

(1) A district (city) judge according to the legal address of the Competition Council shall take a decision on permission for the European Commission to perform the procedural actions provided for in Article 21(1) of Council Regulation No 1/2003. The procedures for taking of a judicial decision and the validity thereof are laid down in Chapter II.¹ of this Law.

(2) Both the European Commission and the Competition Council on behalf of the European Commission are entitled to submit an application for the receipt of the permission provided for in Paragraph one of this Section.

[13 March 2008; 12 May 2016]

Section 33. Assistance for the Preparation and Performance of European Commission Procedural Actions

(1) The Competition Council shall provide the necessary assistance to the European Commission for the preparation and performance of the activities provided for in Articles 20 and 21 of Council Regulation No 1/2003.

(2) The State police shall ensure the necessary assistance to the European Commission if a market participant resists to the procedural actions provided for in Article 20(2) and Article 21(1) of Council Regulation No. 1/2003.

(3) Upon request of the European Commission, the Competition Council, on the basis of a judicial decision, shall perform the activities referred to in Section 9, Paragraph five, Clause 4 of this Law. The procedures for taking of a judicial decision and the validity thereof are laid down in Chapter II.¹ of this Law.

[13 March 2008; 12 May 2016]

Section 34. Co-operation with Competition Authorities of other Member States

(1) Upon a request of a competition authority of another Member State in a case regarding a possible infringement of European Union competition law, the Competition Council may perform the activities referred to in Section 9, Paragraph five of this Law in relation to market participants existing in the territory of Latvia in accordance with the procedures laid down in this Law and other laws and regulations.

(2) Representatives of the competition authority of another Member State are entitled to participate in the performance of the activities referred to in Section 9, Paragraph five of this Law.

[13 March 2008; 12 May 2016; 5 October 2017]

Section 35. Duty of a Court

[12 May 2016]

Transitional Provisions

1. With the coming into force of this Law, the Competition Law (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, No. 16, 1997; No. 2, 2000) is repealed.

2. Until the adoption of the relevant Cabinet regulations referred to in this Law, but not later than six months after the adoption of this Law, the following Cabinet regulations issued in accordance with the Competition Law are in force insofar as they are not in contradiction to this Law:

1) Cabinet Regulation No. 444 of 30 December 1997, Procedures for the Examination of Infringements of the Competition Law;

2) Cabinet Regulation No. 37 of 3 February 1998, Procedures by which Agreements between Market Participants are Acknowledged as in Effect;

3) Cabinet Regulation No. 73 of 3 March 1998, Procedures for the Submission and Examination of Notifications on the Merger of Undertakings (Companies);

4) Cabinet Regulation No. 74 of 3 March 1998, Regulations on Exclusive Distribution Agreements and Exclusive Purchasing Agreements Exempt from Prohibited Agreements Prescribed by the Competition Law;

5) Cabinet Regulation No. 341 of 8 September 1998, Regulations on Agreements on Specialisation in Production Exempt from Prohibited Agreements Prescribed by the Competition Law;

6) Cabinet Regulation No. 52 of 16 February 1999, Regulations on Franchise Agreements Exempt from Prohibited Agreements Prescribed by the Competition Law;

7) Cabinet Regulation No. 53 of 16 February 1999, Regulations on the Exemption of Agreements on Joint Research and Development from Prohibited Agreements Prescribed by the Competition Law;

8) Cabinet Regulation No. 122 of 23 March 1999, Regulations on Agreements on Patents and Know-how Licenses Exempt from Prohibited Agreements Prescribed by the Competition Law;

9) Cabinet Regulation No. 147 of 20 April 1999, Regulations on the Exemption of Automobile Distribution and Servicing Agreements from the Prohibition of Agreements by the Competition Law;

10) Cabinet Regulation No. 260 of 20 July 1999, Regulations on the Exemption of Agreements in the Field of Insurance from the Prohibition of Agreements Prescribed by the Competition Law;

11) Cabinet Regulation No. 284 of 22 August 2000, Regulations on the Exemption of Agreements of Carriers Engaged in Air Transport from the Prohibition of Agreements Prescribed by the Competition Law;

12) Cabinet Regulation No. 50 of 6 February 2001, Regulations on the Exemption of Agreements of Liner Shipping Companies from the Prohibition of Agreements Prescribed by the Competition Law.

3. The Competition Council referred to in this Law is the successor in law and interest of the Competition Council, which was established and operated in accordance with the Competition Law of 18 June 1997.

4. Until the day when new Cabinet Regulations come into force, but not longer than 1 November 2004, the following Cabinet Regulations shall be applicable insofar as they are not in conflict with this Law:

1) Cabinet Regulation No. 22 of 20 January 2003, Procedures for Submission and Examination of Notification Regarding Market Participant Mergers;

2) Cabinet Regulation No. 468 of 19 August 2003, Procedures for Calculation of Fines for Violations referred to in Section 11, Paragraph one and Section 13 of the Competition Law.

[22 April 2004]

5. The new wording of Section 1, Clause 1 (explanation of the term dominant position), as well as the new wording of Section 13 (prohibition of the abuse of dominant position) and the new wording of Section 14 (liability for the abuse of dominant position) shall enter into force 1 October 2008.

[13 March 2008]

6. The Cabinet shall, by 1 October 2008, issue the regulations referred to in Section 14, Paragraph four of this Law regarding the procedures for determining the fines in cases where dominant position has been abused, which provide for the specific features of the calculation of net turnover for the financial year, and set out the procedures for the calculation of fines, as well as specify the cases where there is title to a reduction in the fine. Until the day of entry into force of the relevant regulations, Cabinet Regulation No. 862 of 19 October 2004, the Procedures for the Calculation of Fines for the Violations Referred to in Section 11, Paragraph one and Section 13 of the Competition Law, shall be applicable insofar as it is not in contradiction to this Law.

[13 March 2008]

7. The Cabinet shall, by 1 October 2008, issue the following regulations:

1) the regulation referred to in Section 11, Paragraph three of this Law setting out the procedures for the submission and examination of notification reports regarding the agreements of market participants;

2) the regulation referred to in Section 11, Paragraph four, Clause 1 of this Law that specify those agreements of separate market participants that do not have a significant influence on competition;

3) the regulation referred to in Section 11, Paragraph four, Clause 2 of this Law which specifies the criteria in accordance with which individual agreements between market participants are exempted from the prohibition of agreements referred to in Section 11, Paragraph one of this Law.

[13 March 2008]

8. Until the day of entry into force of the Cabinet regulations referred to in Clause 7 of these transitional provisions, but not later than 1 October 2008, the following regulations shall be applicable insofar as they are not in contradiction to this Law:

1) Cabinet Regulation No. 699 of 16 December 2003, the Procedures by which the Competition Council Permits the Agreements Referred to in Section 11, Paragraph one of the Competition Law;

2) Cabinet Regulation No. 259 of 25 June 2002, Regulations regarding the Exemption of Agreements that have been Entered into in the Carriage by Rail and Carriage by Road Sector from the Prohibition of Agreements Specified in the Competition Law;

3) Cabinet Regulation No. 434 of 27 April 2004, Regulations regarding the Exemption of Vertical Agreements from

the Prohibition of Agreements Specified in Section 11, Paragraph one of the Competition Law;

4) Cabinet Regulation No. 317 of 25 April 2006, Regulations regarding the Exemption of Horizontal Co-operation Agreements from the Prohibition of Agreement Specified in Section 11, Paragraph one of the Competition Law.

[13 March 2008]

9. The Cabinet shall, by 1 October 2008, issue the Regulations referred to in Section 15, Paragraph five of this Law, which specify the procedures for the submission and examination of the full-form notification report and the short-form notification report in the event of a merger of market participants. Until the day of entry into force of the relevant regulations, but not later than until 1 October 2008, Cabinet Regulation No. 897 of 26 October 2004, Procedures for the Submission and Examination of a Notification Report regarding a Merger of Market Participants, shall be applicable.

[13 March 2008]

10. The Competition Council shall complete to examine the cases of possible infringement of prohibition of unfair competition in accordance with the procedures of administrative proceedings.

[14 November 2008]

11. Amendments to Section 5, Paragraphs one and six of this Law (regarding the reduction in the number of members of the Competition Council) shall come into force on 1 March 2010.

[1 December 2009]

12. The Cabinet, observing the requirements of the State Civil Service Law and other laws and regulations, shall perform the necessary activities in order to ensure that, from 1 March 2010, the Competition Council shall be composed of its Chair and two members of the Competition Council.

[1 December 2009]

13. Infringements committed up to 31 December 2015 that are an abuse of the dominant position in retail trade shall be examined in accordance with the procedures laid down in this Law and in accordance with the provisions of laws and regulations in respect of imposing fines that were in force until 31 December 2015.

[21 May 2015]

14. Until 31 December 2016 the Cabinet shall issue the regulations referred to in Section 12.¹, Paragraph seven of this Law.

[12 May 2016]

15. If a member of the Competition Council has started fulfilling the duties of office by 15 June 2016 and continues to fulfil them thereafter, his or her term of office shall be counted from the day when the Cabinet Order on his or her appointment as a member of the Competition Council takes effect. The restriction laid down in this Law which prevents a member of the council to be appointed to the office more than two times in succession shall be counted from the beginning of the term of office of a council member.

[12 May 2016]

Informative Reference to the Council Regulation

[13 March 2008]

Informative Reference to European Union Directive

[5 October 2017]

This Law contains legal norms arising from Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union.

This Law shall come into force on 1 January 2002.

This Law has been adopted by the *Saeima* on 4 October 2001.

President V. Vīķe-Freiberga

Riga, 23 October 2001

¹ The Parliament of the Republic of Latvia

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