

ACT
of 15 December 2000
ON COMPETITION AND CONSUMER PROTECTION

Title I
General Provisions

Article 1

1. The Act determines conditions for the development and protection of competition as well as the rules of undertaken in the public interest protection of entrepreneurs' and consumers' interests.
2. The Act governs the rules and measures of counteracting competition restricting practices and anticompetitive concentrations of entrepreneurs and associations thereof, where such practices or concentrations cause or may cause effects on the territory of the Republic of Poland.
3. The Act also defines the authorities competent in competition and consumer protection issues.

Article 2

1. The Act is without prejudice to the rights vested based on provisions concerning protection of intellectual and industrial property rights, in particular provisions on the protection of inventions, decorative and industrial patterns, topography of integrated circuits, trade marks, geographic designations, copyright and neighbouring rights.
2. The Act shall apply to the concluded between entrepreneurs:
 - 1) agreements, in particular licensing agreements, as well as to other than agreements practices of exercising rights referred to in section 1,
 - 2) agreements concerning information undisclosed to the general public related to:
 - a) technical and technological information,
 - b) rules of organisation and management -

in relation to which steps were taken in order to prevent their disclosure, where such agreements result in the unjustified limitation of freedom of business activity of the parties or in significant restriction of competition on the market.

Article 3

Provisions of the Act shall not apply to:

- 1) restrictions of competition exempted by virtue of separate legal acts,
- 2) collective labour agreements.

Article 4

For the purpose of this Act the following shall mean:

- 1) entrepreneur – entrepreneur in the meaning of provisions of the act of 19 November 1999 – Law on business activity (O.J.L. of 1999, No 101, item 1178 and of 2000, No 86, item 958) as well as:
 - a) natural and legal person as well as organisational unit without legal status, organising or rendering services of public utility nature, which are not business activity in the meaning of provisions on business activity,
 - b) natural person exercising profession on its own behalf and account or performing activity in the frame of exercising such profession,
 - c) natural person being in a possession of stocks or shares ensuring at least 25% of votes in organs of at least one entrepreneur or having control, in the meaning of item 13, over at least one entrepreneur, even if not conducting business activity in the meaning of provisions on business activity, provided that this person is undertaking further activities subject to control of concentrations referred to in Article 12,
- 2) associations of entrepreneurs - chambers, associations and other organisations associating entrepreneurs referred to under item 1 as well as associations thereof.
- 3) dominant entrepreneur – shall mean the entrepreneur which:
 - a) disposes, directly or indirectly, of the majority of votes at the assembly of partners or at the general assembly, also in the capacity of a depositary or user, or in the managing organ of the other (dependent) entrepreneur, also on the basis of agreements concluded with other persons, or
 - b) is empowered to appoint or recall the majority of members of the management or of the supervisory board of another entrepreneur (dependent) also on the basis of agreements concluded with other persons, or
 - c) more than a half of the members of management of a capital company are at the same time members of management of another entrepreneur (dependent entrepreneur), or
 - d) disposes directly or indirectly of the majority of votes in dependent personal company or at the general assembly of dependent co-operative, also on the basis of agreements concluded with other persons, or
 - e) has a decisive impact on the activities of another (dependent) entrepreneur, in particular pursuant to agreement stipulating managing another (dependent) entrepreneur or remitting by him profit.
- 4) agreements:
 - a) agreements concluded between entrepreneurs, between associations thereof and between entrepreneurs and their associations or certain provisions of such agreements,
 - b) concerted practices undertaken in any form by two or more entrepreneurs or associations thereof,

- c) resolutions or other acts of the associations of entrepreneurs or their statutory organs,
- 5) distribution agreements – agreements concluded between entrepreneurs acting at the different stages of the economic process aimed at purchase of products for further resale,
- 6) products – things as well as all forms of energy, securities and other property rights, services as well as construction works,
- 7) prices – prices including also charges in the nature of prices, profit margins, commissions and mark-ups,
- 8) relevant market - market of products, which by reason of their intended use, price and characteristics, including quality, are regarded by the buyers as substitutes, and are offered on the area in which, by reason of their nature and characteristics, existence of market access barriers, consumer preferences, significant differences in prices and transport costs, the conditions of competition are sufficiently homogeneous,
- 9) dominant position – position of the entrepreneur which allows him to prevent the efficient competition on the relevant market thus enabling him to act in a significant degree independently from competitors, contracting parties and consumers; it is assumed that entrepreneur holds a dominant position where his market share exceeds 40%,
- 10) competitors – entrepreneurs which at the same time release or may release for free circulation, purchase or may purchase products on the relevant market,
- 11) consumer – person who concludes a contract with entrepreneur for the purpose directly unrelated to the business activity,
- 12) consumer organisations – independent of entrepreneurs and associations thereof social organisations which statutory tasks include protection of consumer interests, provided their tasks do not consist in conducting business activity,
- 13) taking over the control – any form of direct or indirect acquisition of powers which, individually or jointly, taking into account all legal or factual circumstances, enable to exercise decisive influence upon given entrepreneur or entrepreneurs; in particular, such powers are created by:
 - a) ownership of entirety or part of the property of the entrepreneur,
 - b) rights or agreements according decisive influence upon composition, voting or decisions of the entrepreneur's organs,
- 14) capital group – all entrepreneurs which are directly or indirectly controlled by one entrepreneur,
- 15) income – income attained in the taxation year preceding the day of initiating the proceedings by virtue of the present Act, in the meaning of income tax provisions binding the entrepreneur,
- 16) average salary – average monthly wages within the industry sector in the last month of a quarter preceding the day of issuance of a decision of the President of the Office for

Competition and Consumer Protection, published by the President of the Central Bureau for Statistics pursuant to separate provisions.

Title II
Prohibition of competition restricting practices
Chapter I
Prohibition of competition restricting agreements

Article 5

1. The agreements which have as their object or effect elimination, restriction or any other infringement of competition on the relevant market shall be prohibited, in particular those consisting in:

- 1) fixing, directly or indirectly, prices and other conditions of purchase or sales of products,
- 2) limiting or controlling production or supply as well as technical development or investments,
- 3) sharing markets of supply or purchase,
- 4) application in similar transactions with third parties onerous or not homogenous contract terms, thus creating for these parties diversified conditions of competition,
- 5) making conclusion of an agreement subject to acceptance or fulfilment by the other party of another performance, having neither substantial nor customary relation with the subject of the agreement,
- 6) limiting access to the market or eliminating from the market entrepreneurs which are not party to the agreement,
- 7) fixing conditions of a bid made by entrepreneurs participating in a tender, in particular in relation to the scope of works or price.

2. The agreements referred to in section 1 shall be in their entirety or in the respective part null and void, with the reservation of Articles 6 and 7.

Article 6

1. The prohibition of agreements referred to in Article 5 shall not apply to:

- 1) agreements concluded between competitors which combined market share in the year preceding calendar year in which such agreement is concluded does not exceed 5%,
- 2) agreements concluded between entrepreneurs acting at different stages of the economic process which combined market share in the year preceding calendar year in which such agreement is concluded does not exceed 10%.

2. In relation to distribution agreements concluded by the entrepreneur with at least two other entrepreneurs, combined market share of these entrepreneurs referred to in section 1 shall be aggregated.

Article 7

1. The Council of Ministers may, by way of a regulation, exempt from the prohibition stipulated in Article 5 agreements which contribute to improvement of the production, distribution of products or to technical or economic progress and ensure to the buyer or user fair share of benefits resulting thereof, and which:

- 1) do not impose upon the entrepreneurs concerned restrictions which are not indispensable to the achievement of these objectives,
- 2) do not afford these entrepreneurs the possibility to eliminate competition on the relevant market in respect of a substantial part of the products in question.

2. In the regulation referred to in section 1, the Council of Ministers shall define:

- 1) conditions which are to be satisfied for the agreement to be considered exempted from the prohibition,
- 2) clauses which existence is not considered to infringe Article 5,
- 3) clauses which existence constitute the infringement of Article 5,
- 4) period during which the exemption shall apply.

Chapter II Prohibition of abuse of a dominant position

Article 8

1. The abuse of a dominant position on the relevant market by one or more entrepreneurs shall be prohibited.

2. The abuse of a dominant position may, in particular consist in:

- 1) direct or indirect imposition of unfair prices, including predatory prices or prices glaringly low, significantly delayed payment terms or other conditions of purchase or sale of products,
- 2) limiting production, supply or technical development to the detriment of contractors or consumers,
- 3) application in similar transactions with third parties onerous or not homogenous contract terms, thus creating for these parties diversified conditions of competition,
- 4) making conclusion of the agreement subject to acceptance or fulfilment by the other party of another performance having neither substantial nor customary relation with the subject of agreement,
- 5) counteracting formation of conditions necessary for emergence or development of the competition,
- 6) imposition by the entrepreneur of onerous contract conditions, yielding to this entrepreneur unjustified profits,
- 7) creating for consumers onerous conditions of redress.

3. Legal actions which constitute abuse of a dominant position shall be in their entirety or in the respective part null and void.

Chapter III

Decisions in cases of competition restricting practices

Article 9

The President of the Office for Competition and Consumer Protection, hereinafter referred to as "the President of the Office", shall issue the decision assessing the practice as restricting the competition and ordering to refrain from it where he finds the infringement of the prohibition defined in Article 5 in the scope not exempted pursuant to Articles 6 and 7, or infringement of Article 8.

Article 10

1. The decision referred to in Article 9 shall not be issued if the market behaviour of the entrepreneur or association thereof does no longer infringe the provisions of Article 5 or Article 8, in particular by reason of the permanent decrease of their market share.

2. In the case referred to in section 1, the President of the Office shall issue a decision assessing the practice as restricting competition and shall declare it discontinued.

3. The burden of proof in relation to the circumstances referred to in section 1 shall rest on the entrepreneur or association thereof.

Article 11

1. Where the President of the Office shall not find the infringement of Article 5 or Article 8, he shall issue a decision stating that the practice restricting competition have not been applied.

2. The decision referred to in section 1 shall be issued by the President of the Office also in the case where the agreement meets the conditions referred to in Article 7 section 1 but is not covered by the Regulation of the Council of Ministers referred to in Article 7.

Title III

Concentration of entrepreneurs

Chapter I

Control of concentration

Article 12

1. The intention of concentration is subject to the notification to the President of the Office in the case where combined turnover of the entrepreneurs participating in the concentration in the marketing year preceding the year of the notification exceeds 50 million EURO.

2. The obligation referred to in section 1 concerns the intention of:

1) merger of two or more independent entrepreneurs,

- 2) taking over – by way of acquisition or entering into a possession of stocks, other securities, shares, of the entirety or a part of the property or in any other way obtaining direct or indirect control over one or several entrepreneurs,
- 3) creation by entrepreneurs of one joint entrepreneur.

3. The obligation to notify the intention of concentration referred to in section 1 shall also apply to:

- 1) taking over or acquisition of stocks or shares of another entrepreneur resulting in achieving at least 25% of votes at a general assembly or assembly of partners,
- 2) assuming by the same person the function of a member of the managing or controlling body of the competing entrepreneurs,
- 3) initiating to exercise the rights arising from stocks or shares taken over or acquired without prior notification in accordance with Article 13, items 3 and 4.

Article 13

The obligation to notify the intention of concentration shall not apply where:

- 1) the turnover of the entrepreneur:
 - a) over which the control is to be taken in accordance to Article 12, section 2, item 2,
 - b) whose stocks or shares are to be taken over or acquired as defined in Article 12, section 3, item 1,
 - c) whose rights to stocks or shares are to be exercised in accordance with Article 12, section 3, item 3
- did not exceed, on the territory of the Republic of Poland, during any of two marketing years preceding the notification the equivalent of 10 million EURO,
- 2) combined market share of entrepreneurs intending to concentrate does not exceed 20%,
- 3) the financial institution, the normal activities of which include investing in stocks and shares of other entrepreneurs, for its own account or for the account of others, acquires on a temporary basis stocks and shares with a view to reselling them provided that such resale takes place within one year of the date of acquisition and that:
 - a) this institution does not exercise the rights arising from these stocks or shares, except from the right to dividend, or
 - b) exercises these rights solely in order to prepare the resale of the entirety or a part of the entrepreneurs, its property, or these stocks and shares,
- 4) the entrepreneur acquires on a temporary basis stocks and shares with a view to securing debts, provided that such entrepreneur does not exercise the rights arising from these stocks or shares, except from the right to sell,
- 5) such concentration arises as an effect of bankruptcy or composition proceedings, except from the operations where the control is to be taken over by the competitor or participant of the capital group to which belong competitors of the to-be-taken over entrepreneur,
- 6) concentration of the entrepreneurs participating in the same capital group.

Article 14

The concentration performed by a dependent entrepreneur is considered as performed by a dominant entrepreneur.

Article 15

The turnover referred to in Article 12, section 1 and Article 13, item 1 shall include the turnover of entrepreneurs directly participating in the concentration as well as of the remaining entrepreneurs participating in the capital groups in which entrepreneurs directly taking part in the concentration participate.

Article 16

The Council of Ministers shall define, by way of a regulation, the method of calculating turnover referred to in Article 12, section 1 and Article 13, item 1 taking into account specificity of the activity conducted by entrepreneurs, in particular accountancy rules applicable to individual entrepreneurs, including banks, insurers and investment funds.

Chapter II

Decisions in cases of concentration

Article 17

The President of the Office, by way of a decision, shall issue a permission to perform the concentration which will not result in creation or strengthening of a dominant position, thus will not significantly restrict competition on the market.

Article 18

1. The President of the Office, by way of a decision, shall issue a permission to perform the concentration, provided that after fulfilment by the entrepreneurs intending to perform concentration of the requirements stipulated in section 2, a dominant position will not be created or strengthened, as a result of which the competition on the market will not be significantly restricted.

2. The President of the Office may impose upon the entrepreneur or entrepreneurs intending to perform the concentration an obligation, or accept their obligation, in particular:

- 1) to divest the entirety or a part of the property of one or more entrepreneurs,
- 2) to suppress the control over entrepreneur or entrepreneurs not participating directly in the concentration, in particular by way of divesting the determined set of stocks or shares or by recalling from his function the member of managing or controlling body of the one or more entrepreneurs,
- 3) to grant competitor an exclusive licence

- determining in the decision referred to in section 1 the time limit for meeting the requirements.

3. In the decisions referred to in section 1, the President of the Office shall impose upon the entrepreneur or entrepreneurs the obligation to provide information about fulfilment of such requirements, in a time limit appointed in the decision.

Article 19

1. The President of the Office shall prohibit, by way of a decision, to perform the concentration which results in creation or strengthening of a dominant position, in consequence of which the competition on the market would be significantly restricted, with the reservation of section 2.

2. The President of the Office shall issue, by way of a decision, permission to perform concentration resulting in creation or strengthening a of dominant position despite significant restriction of competition, in the case when renouncing prohibition is justified, in particular where concentration:

- 1) will contribute to the economic development or technical progress,
- 2) it may have a favourable impact on the national economy.

Article 20

1. The President of the Office may withdraw the decisions referred to in Article 17, Article 18, section 1 and Article 19, section 2 if they were based on unreliable information for which entrepreneurs participating in the concentration were responsible or where entrepreneurs did not comply with conditions referred to in Article 18, section 2 and 3. In the case of withdrawal of the decision the President of the Office shall pronounce on the substance of the case.

2. Where, in the cases referred to in section 1, the concentration is already performed and restitution of the competition on the market is otherwise impossible, the President of the Office may, by way of a decision, defining time limit for its implementation under conditions defined in the decision, order in particular:

- 1) separation of the merged entrepreneur under conditions defined in the decision,
- 2) divestiture of the entirety or a part of the entrepreneur's property,
- 3) divestiture of stocks or shares ensuring the control over the entrepreneur or entrepreneurs or dissolution of the company over which the entrepreneurs have joint control,
- 4) recalling from the function of the member of a managing or controlling body of the entrepreneurs participating in the concentration.

3. The decision referred to in section 2 cannot be issued after the lapse of 5 years since the day the concentration was performed.

4. In the case when the intention of concentration have not been notified to the President of the Office as stipulated in Article 12 section 1, the provisions of sections 2 and 3 shall apply respectively.

Article 21

The decisions referred to in Article 17, 18, section 1 or in Article 19, section 2 shall expire if within the time limit of 3 years from issuance of the decision a concentration is not performed.

Article 22

The President of the Office, upon a motion of the financial institution, may extend, by way of a decision, the time limit referred to in Article 13, item 3 where it will prove that resale of stocks or shares was not possible or economically unjustified before the lapse of one year since their acquisition.

Article 23

The Registry court, acting pursuant to the separate provisions, shall make entry into the register where:

- 1) the President of the Office shall, by way of a decision, give permission to perform the concentration,
- 2) the entrepreneur proves that the intention of concentration is not subject to notification.

Title IV

Organisation of competition and consumer protection

Chapter I

The President of the Office

Article 24

1. The President of the Office shall be the central government administration organ competent in the protection of competition and consumers. The Prime Minister shall supervise activities of the President of the Office.

2. The Prime Minister shall appoint, for the period of 5 years, the President of the Office, selected by way of a contest, from among the persons with university education, in particular in the field of law, economy or business administration, distinguished by their theoretical knowledge and practical experience in the scope of market economy and competition and consumer protection.

3. The Prime Minister shall define, by way of a regulation, mode and procedures for organising the contest referred to in section 2. The Prime Minister shall define composition of the contest board and exigencies towards members thereof, having in mind the necessity to ensure impartiality of the election of the President.

4. The member of the contest board may not be a person who within the last three years was performing function in the organs of the entrepreneur being in possession of a dominant

position or was representing his interest, or a person not giving a guarantee of impartiality in performance of the function in public interest.

5. The President of the Office may be recalled by the Prime Minister before the term of office in the case of:

- 1) assuming relation of work, with the exception of employment as professor at the university or in scientific institution,
- 2) undertaking business activity in a capacity of entrepreneur or assuming function of a member of managing or controlling body of the entrepreneur,
- 3) condemnation by a lawful judgement for the offence committed in deliberate guilt,
- 4) flagrant infringement of his responsibilities,
- 5) resigning of his office.

6. The President of the Office shall perform his tasks supported by the Office for Competition and Consumer Protection, hereinafter referred to as “the Office”.

Article 25

The Prime Minister shall appoint and recall Vice-Presidents of the Office, upon a motion of the President of the Office.

Article 26

1. The scope of the activities of the President of the Office shall include:

- 1) exercising control over the observance by entrepreneurs of the provisions of the present Act,
- 2) issuance, in the cases stipulated in the Act, of decisions in the matters of counteracting competition restricting practices, concentrations or separations of entrepreneurs as well as decisions concerning financial fines,
- 3) conducting studies on the concentration level in the economy and on the market behaviour of entrepreneurs,
- 4) elaboration of the draft government programmes for the development of the competition and of the draft government consumer protection policy,
- 5) monitoring the public aid granted to the entrepreneurs pursuant to separate provisions,
- 6) assessment of the efficiency and effectiveness of the public aid granted to the entrepreneurs as well as of the effects of granted aid in the field of competition,
- 7) co-operation with foreign and international organisations and authorities in the scope of competition protection,
- 8) elaboration and submission to the Council of Ministers of the draft legal acts concerning competition restricting practices, development of the competition or conditions for its emergence as well as protection of consumer interests,
- 9) giving an opinion on the draft legal acts concerning competition restricting practices, development of the competitions or conditions for its emergence as well as protection of consumer interests,
- 10) submitting to the Council of Ministers periodical reports on the enforcement of the government programmes for competition development and consumer policy,
- 11) addressing entrepreneurs and associations thereof in the matters of the protection of the rights and interests of consumers,
- 12) undertaking activities resulting from the provisions on combating unfair competition,

- 13) addressing specialised units and relevant bodies of the State supervision for undertaking control of observance of consumer rights,
- 14) surveillance over the safety of products intended for consumer use in the scope of the Act on general product safety,
- 15) co-operation with the territorial self-government authorities and with national and international social organisations which statutory tasks include the protection of consumer interests,
- 16) giving assistance to the self-government authorities on voivodship (provincial) and powiat (district) levels and to organisations which statutory tasks include protection of consumer interests, in the scope of the government consumer policy,
- 17) initiating checks on products and services to be performed by consumer organisations,
- 18) elaborating and editing publications and educational programmes promoting awareness of consumer rights,
- 19) enforcement of the international obligations of the Republic of Poland in the scope of co-operation and exchange of the information in the field of competition protection and public aid granted to the entrepreneurs,
- 20) collecting and disseminating judgements pronounced in the cases in the field of competition and consumer protection,
- 21) performance of other tasks defined by the present Act or by separate acts.

Article 27

1. The President of the Office shall issue the Official Journal of the Office for Competition and Consumer Protection.
2. The decisions and resolutions of the President of the Office, as well as judgements of the District Court in Warsaw – the antimonopoly court, hereinafter referred to as “antimonopoly court” and of the Supreme Court in cases of cassation of the judgements of the antimonopoly court, or their sentences with the omission of information constituting business secrecy of the undertaking and of other secrecy protected under separate provisions, may be in their entirety or part published in the Official Journal of the Office for Competition and Consumer Protection.
3. In the Official Journal of the Office for Competition and Consumer Protection shall be also published information, communications, notices, explanations and interpretations having significant importance for the application of the provisions encompassed by the scope of the activities of the President of the Office.

Article 28

1. The Office shall be composed of the Head Office in Warszawa and of the Office delegations in Bydgoszcz, Gdańsk, Katowice, Kraków, Lublin, Łódź, Poznań, Warszawa and Wrocław.
2. The Office delegations shall be managed by their directors.
3. The Prime Minister shall determine, by way of a regulation, territorial and material jurisdiction of the Office delegations in the scope of the activities of the President of the Office, taking into consideration character and number of cases arising on the relevant territory.

4. In addition to the matters within their jurisdiction the Office delegations may deal with other cases entrusted by the President of the Office.

5. In particularly justified circumstances the President of the Office may take over the case within the jurisdiction of a given delegation or delegate it to be dealt with by the indicated delegation.

6. Decisions and resolutions within the jurisdiction of delegations and in cases delegated by the President of the Office pursuant to section 5, are issued by the directors of delegations on behalf of the President of the Office.

Article 29

The organisation of the Office shall be defined by the statute granted by the Prime Minister, by way of a regulation.

Article 30

1. The Trade Inspection shall be subordinated to the President of the Office.

2. The President of the Office shall sanction the policy of the Trade Inspection and the draft plans of inspections of national dimensions submitted by the Chief Inspector of the Trade Inspection.

3. The President of the Office may order the Trade Inspection to proceed with the inspection or to exercise other tasks included in the scope of his activities.

4. The President shall perform periodical assessments of the activities of the Trade Inspection based on the reports submitted by this Inspection and shall address the conclusions of such assessments to the Chief Inspector of the Trade Inspection.

Article 31

The President of the Office may make public information concerning results of the control of The Trade Inspection as well as information about activities undertaken by virtue of the provisions of Article 26, items 11 and 12, with the omission of information constituting secrecy of the undertaking as well as of other secrecy protected under separate provisions.

Chapter II

Territorial self-government and consumer organisations

Article 32

The tasks in the field of the protection of consumer interests in the scope determined by the Act and by separate provisions shall be performed also by the territorial self-government as well as by consumer organisations and other institutions, which statutory tasks include the protection of consumer interests.

Article 33

The task of the territorial self-government in the field of consumer protection shall consist in promoting consumer education, in particular by way of introducing elements of consumer awareness into educational programmes in the public schools.

Article 34

1. The tasks of the district (powiat) self-government in the field of the protection of consumer rights shall be performed by the district (municipal) consumer advocate, hereinafter referred to as “consumer advocate”.
2. The districts may, by way of an agreement, create one common post of the consumer advocate.

Article 35

1. The consumer advocate shall be appointed by the district council or town council in towns with district status, hereinafter referred to as “the council”.
2. The consumer advocate shall be appointed from among persons with university education, in particular in law or economy and with minimum five years of professional experience.
3. The consumer advocate shall be subordinated directly to the council and report to the council.
4. The organisational status of the consumer advocate shall be determined by the district statute or regulations.

Article 36

1. The consumer advocate shall be employed in the district starosty.
2. All functions in the scope of labour law in relation to the consumer advocate shall be performed by the starost.
3. The working and payment conditions of the consumer advocate shall be determined by the council.
4. The rules on the remuneration of the consumer advocate shall be governed by the provisions on self-government employees.

Article 37

1. The tasks of the consumer advocate shall, in particular include the following:
 - 1) providing free of charge consumer advice and legal information in the scope of protection of consumer interests,
 - 2) bringing forward motions for proclaiming and amending local regulations in the scope of consumer protection,

- 3) addressing entrepreneurs in cases pertaining protection of consumer rights and interests,
- 4) co-operation with the territorially competent Office delegations, with organs of Trade Inspection and with consumer organisations,
- 5) performance of other tasks prescribed by the present Act and by separate provisions.

2. The consumer advocate may in particular bring an action on consumers behalf and, with their consent, join lawsuits in cases pertaining protection of consumer interests.

3. In the cases concerning misdemeanours to the detriment of consumers, the consumer advocate is acting as a public prosecutor in the meaning of provisions of the Misdemeanour Code.

4. The entrepreneur addressed by the consumer advocate acting pursuant to provisions of section 1, item 3, is under an obligation to provide the advocate with requested explanations and information and to assume an attitude in relation to comments and opinion of the advocate.

5. The provisions of Article 63 of the Code of Civil Proceedings shall apply, respectively, to the consumer advocate.

Article 38

1. The consumer advocate shall submit to the council for approval annual report on his/her activities in the previous year by 31 May of each year.

2. The consumer advocate shall remit the report approved by the council referred to in section 1 to the territorially competent Office delegation.

3. The consumer advocate shall be obligated to constantly present to the Office delegations the relevant conclusions and inform about problems concerning consumer protection which require undertaking activity on the government administration level.

Article 39

1. The consumer organisations shall represent consumer interests in relation to the public and self-government administration bodies and may participate in the implementation of the government consumer policy.

2. The organisations referred to in section 1 are, in particular, entitled to:

- 1) expressing opinion on the draft legal acts and other documents concerning rights and interests of consumers,
- 2) elaborating and disseminating consumer educational programmes,
- 3) performing tests of products and services and publishing their results,
- 4) editing periodicals, research studies, folders and leaflets,
- 5) providing free of charge consumer advice and free of charge assistance in consumer redress,
- 6) participating in works on standardisation,
- 7) implementing government tasks in the field of consumer protection, commissioned to them by the government and self-government administration bodies,

- 8) applying for allocation of public funds for the implementation of tasks referred to in item 7.

Article 40

The government and self-government administration bodies shall be obliged to consult consumer organisations on the issues concerning the directions of activities aimed at the protection of consumer interests.

Article 41

The amount of yearly targeted budget allocation, in the meaning of the act of 26 November 1998 on public finance (O.J.L. of 1999 No 155, item 1014, No 38, item 360, No 49, item 485, No 60, item 778 and No 100, item 1255 and O.J.L of 2000. No 6, item 69, No 12, item 136 and No 48, item 550), granted from the State budget for implementation of tasks referred to in Article 39, section 2, item 7 shall be determined in the Budgetary Act in the part of the State budget falling under disposal of the President of the Office.

Title V

Proceedings before the President of the Office

Chapter I General provisions

Article 42

1. The proceedings before the President of the Office shall be conducted as explanatory investigation or antimonopoly investigation.
2. The explanatory investigation may precede instituting the antimonopoly investigation.
3. The provisions of section 2 shall not apply to the cases of concentration.

Article 43

1. The President of the Office may institute *ex officio*, by way of a resolution, the explanatory investigation where circumstances indicate the possibility of an infringement of the provisions of the present Act, in the matters concerning given economy sector and in the cases concerning protection of consumer interests.
2. The explanatory investigation shall be aimed at:
 - 1) preliminary assessment if there was an infringement of provisions of the Act giving grounds to institute antimonopoly investigation, including assessment if the case has an antimonopoly character,
 - 2) market research, including defining its structure and concentration level,
 - 3) assessment if the legitimate interests of the consumers have been infringed, thus justifying taking actions foreseen by separate legal acts.

3. The closure of the explanatory investigation shall be done by way of a decision.
4. The explanatory investigation should last no longer than 30 days from its institution.

Article 44

1. The antimonopoly investigation in the cases of competition restricting practices and of control of concentrations shall be instituted upon a motion or *ex officio*.
2. The provision of section 1 shall apply to the imposition of fines referred to in Chapter VI.

Article 45

1. Upon request of the President of the Office entrepreneurs or association thereof shall be obligated to provide all necessary information.
2. The request referred to in section 1 should include:
 - 1) indication of the scope of such information and the relevant time period,
 - 2) indication of the object of the request,
 - 3) time limit for providing information,
 - 4) instruction about sanctions for non delivering information or for providing false or misleading information.

Article 46

1. Only the original document or its copy certified by public administration body, notary, attorney at law, legal adviser or authorised employee of the entrepreneur may serve as the documentary evidence in the proceedings before the President of the Office.
2. The evidence in the proceedings before the President of the Office shall constitute the document drawn up in the Polish language, with the reservation of section 3.
3. Where such document has been drawn up in a foreign language also the translation into Polish of this document or of its part intended to serve as the evidence in the proceedings should be submitted, certified by a sworn translator.

Article 47

1. The party adducing witness evidence is obligated to precisely indicate facts subject to confirmation by the testimony of individual witnesses and to indicate the data to allow proper summons of the witnesses.
2. The President of the Office, when summoning a witness, shall indicate in his summons name, surname and domicile of the summoned, place and date of giving the explanation, parties and subject of the case as well as provisions on penal sanctions for false testimony.

Article 48

1. The testimony of a witness, after its entry to the protocol, shall be read before a witness and, depending on circumstances, completed or verified based on his/her comments.
2. The protocol of the hearings of a witness shall be signed by the witness and by the employee of the Office carrying on the hearings.

Article 49

1. In cases requiring special information, the President of the Office having heard proposals of the parties concerning number of experts and their choice, may summon one or more experts in order to seek their opinion.
2. The expert in the meaning of section 1 may be also a legal person specialised in the relevant field.

Article 50

Until the termination of the activities of an expert each party may request him/her to be excluded from the proceedings for the same reasons as may be invoke to exclude the employee of the Office. The party lodging a request to exclude an expert after the works have been initiated has an obligation to give an appearance of verisimilitude that the reason justifying the exclusion arose thereafter or was unknown to the party beforehand.

Article 51

The President of the Office may order to present to an expert the case records and the subject of inspection. The provisions of Article 63, sections 1 and 3 shall apply respectively.

Article 52

1. The opinion of an expert should contain its justification.
2. The experts may submit their joint opinion.

Article 53

1. The President of the Office shall accord to an expert the remuneration in accordance with the provisions on costs of expert's evidence in court proceedings, with the reservation of section 3.
2. The President of the Office may impose upon a party the obligation to pay an advance on account of the expert's expenses.
3. Where the investigation is instituted *ex officio* and terminated by a decision referred to in Article 11, section 1, the costs of the expert's remuneration shall be born by the State Treasury.

Article 54

1. The President of the Office may address a scientific or scientific-research institute to issue an opinion.
2. In its opinion this institute shall indicate person or persons who carried the research and issued the opinion.
3. The provisions of Articles 51 and 53, section 2 and 3 shall apply respectively.

Article 55

1. During the proceedings the President of the Office may held hearing.
2. The hearing referred to in section 1 shall be in open court, with the exception of such hearing or its part in course of which information subject to business secrecy or other secrecy protected by virtue of separate provisions are being examined.
3. The President of the Office may summon for the hearing and examine parties, witnesses as well as ask for expert opinion.
4. In the case of hearing in camera the provisions of Articles 153, 154 and 479¹⁰ of the Code of civil proceedings shall apply respectively.

Article 56

The President of the Office may address territorially competent regional court to examine witnesses and obtain an expert opinion, where it is supported by the character of the evidence or consideration of significant inconvenience or significant costs of obtaining the evidence. When addressing the court for providing evidence, the President of the Office shall issue a decision in which he shall define:

- 1) the court which is to provide evidence,
- 2) means of evidence,
- 3) facts to be established.

Article 57

1. During the proceedings before the President of the Office the authorised employee of the Office or of the Trade Inspection, hereinafter referred to as “inspector”, may perform the inspection of each entrepreneur or association thereof, hereinafter referred to as “controlled”, in the scope encompassed by these proceedings.
2. The authorisation to perform an inspection should include:
 - 1) name, surname and post of the inspector as well as his/her identity or professional card number,
 - 2) indication of the controlled,
 - 3) indication of the subject and scope of the inspection,
 - 4) indication of date of initiating the inspection and scheduled date of its termination,
 - 5) instruction about sanctions for the lack of co-operation during the inspection.

3. The authorisation to perform the inspection referred to in section 1 is issued, respectively: by the President of the Office and, upon a motion of the Chief Inspector of the Trade Inspection, by the voivodship inspectors of the Trade Inspection.

4. The inspector is obligated to produce to the person representing the controlled the authorisation to perform the inspection and professional identity card. In the case of the absence of the person authorised to represent the controlled, authorisation to perform the inspection and professional identity are shown to the employee or person active on the place where inspection is initiated. The copy of the authorisation to perform an inspection shall remain with the controlled.

5. The inspector is entitled to:

- 1) enter the premises, buildings, rooms or other quarters and means of transportation belonging to the controlled,
- 2) request to render accessible files, books and all kinds of documents or data carriers related to the subject of inspection as well as duplicates and extracts thereof and also to make notes,
- 3) request persons referred to in Article 59, section 1, to provide oral explanations relevant for the subject of inspection.

6. The Council of Ministers shall determine, by way of a regulation and taking into consideration objectives of the inspection, the detailed mode and procedure of the inspection, including mode of drafting inspection protocol.

Article 58

1. In the course of the inspection the inspectors may also search the premises or things, pursuant to the permission of the antimonopoly court, issued upon a motion of President of the Office. During the search the inspector may be assisted by functionaries of other State control bodies or the Police from the unit territorially competent considering the entrepreneur's premises.

2. The antimonopoly court shall issue within 48 hours the decision in the case referred to in section 1. To the decision of the antimonopoly court the right of complaint shall not apply.

3. The Police, upon instruction of the President of the Office, shall perform functions referred to in section 1.

5. In the matters not regulated by the Act, the provisions on search of the Code of penal proceedings shall apply.

Article 59

1. The controlled or the person authorised to represent him as well as the user of living quarters referred to in Article 91, section 1 are obliged to:

- 1) provide the requested information,
- 2) enable access to business premises and buildings, rooms and other quarters or means of transportation of the controlled,

3) render accessible files, books and all kinds of documents or other data carriers belonging to the controlled.

2. The person referred to in section 1 may refuse to provide information or to co-operate during the inspection solely were it would expose him/her or his/her spouse, ascendants, descendants, siblings and related in the same line or degree as well as persons being with this party in the privity of adoption, custody or wardship to penal liability. The right to abstain from providing information or co-operation during the inspection shall continue after the termination of marriage or the dissolution of the privity of adoption, custody or wardship.

Article 60

1. During the inspection referred to in Article 57, section 1 the President of the Office may issue a seizure order in view to secure files, books, all kind of documents or data carriers as well as other things which may serve as the evidence in the case.

2. The inspector shall summon the person being in a possession of the objects referred to in section 1 to deliver them voluntarily and, in the case of refusal, may carry their collection in the course of administrative execution proceedings.

3. The resolution on the seizure of objects shall be subject to complaint of the persons which rights have been infringed. The lodging of a complaint does not suspend enforcement of the decision.

Article 61

1. The objects subject to seizure, delivered, collected or found during the inspection, after being examined and entered into the protocol of seizure, should be taken away or deposited with the trustworthy person, with the indication of the obligation to present them upon each request of the organ performing the inspection.

2. The protocol of seizure should contain indication of the case to which the seizure or search are related, exact hour of initiating and terminating the action, detailed list of detained objects and, where appropriate, their description and moreover, reference to the resolution of the President of the Office about a seizure. The protocol shall be signed by the executor and the representative of the controlled.

3. The executor of the seizure of the objects referred to in section 1 shall be obligated to immediately present to the interested persons the receipt specifying which objects and by whom have been detained and to inform without delay the entrepreneur whose objects have been detained.

4. The detained objects should be immediately returned upon assessment of their uselessness for the carried investigation or upon abrogation by the antimonopoly court of the seizure order.

Article 62

1. The President of the Office, upon request of the party or *ex officio*, by way of a resolution, may to the necessary extend restrict for the remaining parties the right to inquiry into the evidence attached to the case files, where rendering this material accessible would threaten with a disclosure of the business secrecy as well as of other secrets protected by separate provisions.
2. The restriction referred to in section 1 shall also apply to materials included to the investigation pursuant to Article 65, section 3.
3. The decision issued pursuant to section 1 shall be subject to complaint.
4. The party lodging a motion to restrict for the remaining parties the right to inquiry into the evidence shall submit to the President of the Office also a version of a document which does not contain restricted information referred to in section 1, with appropriate annotation.
5. The version of a document not including restricted information referred to in section 1, with appropriate annotation, shall be made accessible to the parties.

Article 63

1. The information obtained during the investigation by the employees of the Office are subject to the protection pursuant to provisions on the protection of undisclosed information.
2. The provision of section 1 shall not apply to the information generally accessible to the public, information about initiating the proceedings, with the exception of proceedings in cases concerning concentration with participation of public companies, in the meaning of provisions on public circulation of securities, and to information on issuance of the decision terminating the investigation and its findings.
3. The employees of the Office shall be under obligation to protect business secrecy as well as other secrets protected by virtue of separate provisions, knowledge about which they acquired during the proceedings.

Article 64

The public administration bodies are under obligation to render accessible to the President of the Office the files being in their possession as well as information relevant to the proceedings before the President of the Office.

Article 65

1. The information acquired in the course of the proceedings cannot be used for other proceedings conducted on the basis of separate provisions.
2. The provision of section 1 does not apply to the penal proceedings conducted under public complaint procedures as well as other proceedings carried by the President of the Office.

3. The President of the Office shall inform parties about including to the evidence information acquired in the course of other proceedings.

Article 66

When issuing the decision terminating the proceedings, the President of the Office shall take into consideration only the charges to which parties could assume their position.

Article 67

The President of the Office shall decide, by way of a resolution, upon discontinuance of the investigation in the case of the following:

- 1) withdrawal of a motion to order renunciation of the competition restricting practices,
- 2) withdrawal of a notification of the intention to perform concentration of entrepreneurs,
- 3) inaction of the mover preventing carrying on the investigation in the cases of competition restricting practices,
- 4) desistance from imposing the fine referred to in Article 101, section 2, item 2, Article 102 and Article 103.

Article 68

With the reservation of Article 93, the investigation shall not be instituted, where 5 years have elapsed since the end of the year when:

- 1) infringement of the provisions of the Act took place,
- 2) decision about imposition of fine became legally binding.

Article 69

1. In the case of proceedings instituted upon a motion, the losing party shall be obligated to reimburse to the other party, upon its request, the expenses necessary for expedient legal redress and expedient defence, including costs of opinion of experts and scientific institutes.

2. The necessary expenses of the proceedings carried on by the party personally or by the plenipotentiary, who is not attorney at law or legal adviser, shall include travel costs incurred by the party or its plenipotentiary to visit the seat of the President of the Office.

3. The necessary expenses of the proceedings of the party represented by the attorney at law or legal adviser shall include his/her fees, however not higher than those resulting from payment rates determined by the separate provisions and expenses of one lawyer as well as costs of personal appearance of the party upon summons of the President of the Office.

Article 70

1. Where the requests contained in a motion for instituting proceedings are only partially met, the expenses incurred by the parties shall be mutually compensated or proportionally shared. However, the President of the Office may impose upon one of the parties the obligation to reimburse all the expenses if the motion of the other party was not taken into account only in its insignificant part.

2. In the case of conciliation between the parties, the expenses of the proceedings shall cancel each other out, unless the parties decide otherwise.

Article 71

1. The reimbursement of expenses shall be due to the entrepreneur or association thereof against which the proceedings are instituted upon a motion despite the assessment, by way of a decision, of infringement of the provisions of the Act, where such entrepreneur or association thereof give no grounds for the institution of the proceedings and admit, at the moment of the first action undertaken before the President of the Office after receiving information about instituting the investigation, the legitimacy of charges.

2. The costs of necessary opinions of experts and scientific institutes in the cases related to concentrations shall be born by the entrepreneurs participating in the concentration.

Article 72

Where proceedings are initiated *ex officio* and result in the assessment by the President of the Office of the infringement of provisions of the Act, entrepreneur or association thereof which perpetrate this infringement shall be obliged to bear the costs of the proceedings.

Article 73

In the cases particularly justified the President of the Office may impose upon the losing party the obligation to reimburse only a part of the expenses or desist from charging costs.

Article 74

Regardless of the result of proceedings, the President of the Office may impose upon a party the obligation to reimburse expenses due to its unreliable or clearly unfair behaviour, in particular costs resulting from avoiding to give explanation or submitting untruthful explanation, concealment or delayed presentation of the evidence.

Article 75

The President of the Office shall decide upon costs by way of a resolution, which may be included in the decision terminating the proceedings.

Article 76

The claim for reimbursement shall expire if in the time limit appointed by the President of the Office, not shorter than 7 days, the party does not submit a list of expenses or a request for reimbursement in conformity with separate provisions.

Article 77

1. The motions for instituting antimonopoly proceedings before the President of the Office are subject to dues which are to be covered by entrepreneurs and associations thereof.

2. Where the motion is filed without dues being remitted, the President of the Office shall summon a mover to effect the payment within 7 days, with instruction that non - payment of dues will result in leaving the motion without being examined.
3. The antimonopoly proceedings may be instituted irrespective of the dues not being paid, where it is justified by important considerations concerning competition protection or consumer interests.
4. In the case referred to in section 3 the dues shall be subject to collection under provisions on administrative execution of payments.
5. In the case of the unquestionable incapacity of the entrepreneur, in particular being natural person, or of the association of entrepreneurs, to remit dues, the President of the Office may, upon their motion, relieve them from the dues, in part or in the entirety.
6. The Prime Minister determines, by way of a regulation, the amount of dues referred to in section 1 and mode of their payment, in particular the amount of rates, taking into consideration their division into motions concerning competition restricting practices and concentration as well as the mode of effecting payment of dues.

Article 78

- 1 The decision of the President of the Office is subject to appeal to the antimonopoly court, lodged within two weeks from the date when the decision has been delivered.
2. The provisions of the Code of Civil Proceedings concerning proceedings in economic cases shall apply to the proceedings in cases of appeal against decisions of the President of the Office.
3. In the case where the appeal against decision is lodged, the President of the Office shall without delay remit it to the antimonopoly court together with case files.
4. Where the President of the Office considers the appeal to be justified, he may – without remitting files to the court – abrogate or change his decision in its entirety or in part, about which without delay he shall inform the party by sending a new decision, which may be appealed against.
5. Prior to the remittance of the appeal to the antimonopoly court or the abrogation or the change of the decision pursuant to section 4, the President of the Office may also, in justified cases, perform additional activities aimed at clarification of objections contained in the appeal.
6. Provisions of sections 1-5 shall apply, respectively, to the resolutions of the President of the Office which are subject to complaints, however a complaint is to be lodged within one week as of the day of the remittance of the resolution.

Article 79

Legal means for shaking decision foreseen in the Code of administrative proceedings and concerning resumption of proceedings, abrogation, change or assessment of invalidity of decisions shall not apply to the decision of the President of the Office.

Article 80

To the matters not regulated by the present Act the provisions of the Code of administrative proceedings shall apply, with the reservation of Article 81.

Article 81

To the matters concerning the evidence in the proceeding before the President of the Office in the scope not regulated in the present chapter, Articles 227-315 of the Code of civil proceedings shall apply respectively.

Article 82

The entrepreneur shall inform the President of the Office about proceedings instituted against him abroad based on assumption of performance of competition restricting activities and shall remit to the President of the Office a copy of the judgement.

Article 83

The provisions of the present chapter shall apply respectively to the cases of imposition of fines for infringements of the provisions of the Act.

Chapter 2

Antimonopoly proceedings in cases of competition restricting practices

Article 84

1. The motion for instituting the antimonopoly investigation related to suspicion of the infringement of the provisions of the Act may be lodged by:

- 1) entrepreneur or association of entrepreneurs, which prove their legal interest,
- 2) territorial self-government body,
- 3) organ of State inspection,
- 4) consumer advocate,
- 5) consumer organisation.

2. The motion referred to in section 1 shall be lodged in writing together with justification and indication of the legal basis with copies in a number enabling their presentation to the remaining parties to the proceedings. The mover is obliged to give to the infringement of the provisions of the Act the appearance of verisimilitude.

3. The President of the Office informs the parties about instituting proceedings.

Article 85

1. The President of the Office may, by way of a decision, refuse to institute the antimonopoly proceedings if according to the information contained in a motion and being in a possession of the President of the Office clearly results that the prohibition provided for in Article 5 has not been infringed in the scope not exempted pursuant to Articles 6 and 7, or prohibition defined in Article 8.
2. Prior to issuing the decision on instituting or refusing to institute the antimonopoly proceedings, the President of the Office may proceed with the explanatory investigation referred to in Article 43 aimed at obtaining additional information necessary to decide upon instituting or refusing to institute the antimonopoly proceedings.
3. President of the Office shall refuse, by way of a decision which is subject to a complaint, to institute antimonopoly proceedings where the motion is lodged by a person not authorised in conformity with Article 84 section 1.
4. The President of the Office may refuse to institute antimonopoly proceedings, by way of a resolution which may be complained against, in the following cases:
 - 1) in the case when a mover fails to provide in the fixed time limit information necessary to decide upon instituting or refusal to institute the proceedings,
 - 2) where a motion fails to meet the requirements referred to in Article 84 section 2.

Article 86

The party to the investigation shall be a person who applies for the issuance of a decision in the matters concerning competition restricting practices or against whom the proceedings on application of competition restricting practices or infringement of other provisions of the Act are instituted.

Article 87

1. The President of the Office may allow for the participation in the proceedings in the character of the interested entity the following:
 - 1) entrepreneur aggrieved in the result of the activities constituting the infringement of the provisions of the Act,
 - 2) party to the agreement subject to the investigation,
 - 3) another entity which files a motion and proves its legal interest or which admission to the participation in the proceedings will contribute to the clarification of the case.
2. The admittance or refusal to admit to the participation in the proceedings in a character of the interested entity shall be effected by way of a resolution which is subject to complaint.
3. The interested entity shall be entitled to give explanation as to the circumstances of the case.

4. The interested entity shall be authorised to the inquiry in the files, in the scope which is necessary to protect its rights and without prejudice to business secrecy as well as to other secrets protected pursuant to separate provisions.

5. The President of the Office shall inform the interested entity about the way the case is solved. Such entity shall not have the right of appeal or complaint.

Article 88

In the course of the proceedings before the President of the Office the parties may agree to conciliate, provided that it is without prejudice to the public interest.

Article 89

1. In cases of minor importance for the protection of competition and consumers, where on the basis of circumstances of the case, information contained in the motion or information giving grounds to institute investigation *ex officio* as well as based on hitherto adjudication in the antimonopoly cases, the President of the Office shall assess that infringement of the prohibition of the competition restricting practices is unquestionable, he may, after instituting the antimonopoly investigation, summon the entrepreneur or association of entrepreneurs against whom the investigation is instituted to acknowledge such infringement of the relevant provisions of the Act.

2. In the case of the acknowledgement referred to in section 1, the President of the Office without investigation of the evidence shall issue the decision ordering to abandon the infringement. The provisions of Article 101, section 2, item 1 shall not apply.

3. The right of appeal shall not apply to the decision referred to in section 2.

4. The provisions of sections 1, 2 and 3 shall not apply to:

- 1) agreements referred to in Article 5, section 1, concluded between competitors,
- 2) in the case of abuse of a dominant position by the entrepreneur whose market share exceeds 80%,
- 3) where during last 3 years preceding the institution of the antimonopoly investigation the infringement by the entrepreneur or association of entrepreneurs of the prohibition referred to in Article 5 in the scope not exempted under Articles 6 or 7, or the prohibition provided for in Article 8 has been assessed by the final decision of the President of the Office or by the legally binding court judgement.

Article 90

The President of the Office may issue a decision or a part of it under pain of immediate enforcement, where it is necessary for the protection of competition or important interest of consumers.

Article 91

1. Where there are trustworthy bases for suspicion that the objects, files, books, documents and other data carriers which may have an impact on the assessment of facts substantial for

the ongoing investigation are kept in the living quarters, the antimonopoly court may, upon a motion of the President of the Office, give permission to make a search by functionaries of the Police from the unit competent in view of the localisation of these living quarters.

2. The search referred to in section 1 shall be performed also with the participation of the inspector. Provision of Article 57, sections 2 and 3 shall apply respectively.

3. The antimonopoly court shall give permission referred to in section 1 by way of a resolution which is not subject of appeal.

4. On the basis of the order of the antimonopoly court, the Police shall perform the activities referred to in section 1.

Article 92

The antimonopoly proceedings in the matters of competition restricting practices should be terminated not later than within 4 months as of the day of their institution. The provisions of Articles 35-38 of the Code of administrative proceedings shall apply respectively.

Article 93

The proceedings in the matters of application of competition restricting practices shall not be instituted where since the end of the year in which they have been abandoned one year have elapsed.

Chapter 3

Proceedings in the cases of concentration

Article 94

1. Every person who notifies, in conformity with section 2, the intention of concentration shall be a party to the proceedings.

2. The intention of concentration shall be notified by:

- 1) merging entrepreneurs jointly - in the case referred to in Article 12, section 2, item 1,
- 2) entrepreneur taking over the control - in the case referred to in Article 12, section 2, item 2,
- 3) jointly all entrepreneurs participating in creation of a joint entrepreneur - in the case referred to in Article 12, section 2, item 3,
- 4) entrepreneur taking over or acquiring stocks or shares - in the case referred to in Article 12, section 3, item 1,
- 5) entrepreneur in whose managing or controlling body the person already performing function of the member of managing or controlling body of another entrepreneur is assuming the function - in the case referred to in Article 12, section 3, item 2,
- 6) respectively financial institution or entrepreneur who acquired stocks or shares in order to secure liabilities - in the case in Article 12, section 3, item 3.

3. In the case where a concentration is performed by a dominant entrepreneur by intermediary of at least two dependent entrepreneurs, the notification of intention of concentration shall be filed by a dominant entrepreneur.

4. The notification referred to in section 1 should be effected in the time limit of 7 days since the day the agreement is concluded or since another action is undertaken, on the bases of which the concentration takes place.

5. The Council of Ministers shall determine, by way of a regulation, the detailed conditions to be met by the notification of intention of concentration, including list of information and documents which this notification should contain, taking into consideration the specificity of activities conducted by different entrepreneurs and, in particular by financial institutions.

Article 95

1. The President of the Office may, by way of a resolution which is not subject to complaint, admit to the participation in the proceedings in the character of interested entity a person who proves its legal interest, in particular:

- 1) entrepreneur over whom another entrepreneur takes over the control,
- 2) entity disposing of stocks or shares,
- 3) entity disposing of the property.

2. The interested entities are authorised to provide explanations and documents relevant for the assessment of the case.

3. The provision of Article 87, section 5 shall apply respectively.

Article 96

1. The President of the Office may:

- 1) return within 14 days the notification of the intention of concentration shall it fail to meet the requirements with which it should comply,
- 2) summon the party notifying the intention of concentration to eliminate the indicated errors in the notification or to supplement necessary information, in the appointed time limit.

2. The President of the Office may present to the entrepreneur or association of entrepreneurs participating in the concentration the requirements referred to in Article 18, section 2, appointing the time limit for adopting attitude towards the proposal; the failure to reply or negative answer shall result in the issuance of the decision referred to in Article 19, section 1.

Article 97

1. The antimonopoly proceedings in concentration cases should be terminated not later than within 2 months since their institution, with the reservation of section 2.

2. In the case of the intention to acquire stocks admitted to the public circulation the proceedings referred to in section 1 should be terminated not later than within 14 days since their institution.

3. The time limits appointed in sections 1 and 2 shall not include periods of waiting for the notifications of the remaining participants to the concentration as well as periods for eliminating errors or supplementing information referred to in Article 96, section 1, item 2 as well as for adopting attitude towards conditions proposed by the President of the Office referred to in Article 18, section 2.

Article 98

1. The entrepreneurs which intention of concentration is subject to notification are under obligation to refrain from proceeding with concentration until the issuance of the decision of the President of the Office or the lapse of the time limit in which such a decision should be issued.

2. The legal action pursuant to which the concentration is to be effected may be performed under condition of the issuance by the President of the Office, by way of a decision, of the approval or after the lapse of the time limit referred to in Article 97.

3. The realisation of the public offer to purchase or exchange of stocks, notified to the President of the Office under procedure stipulated in Article 12, section 1, shall not be considered as an infringement of the obligation referred to in section 1, provided the buyer does not exercise the voting rights arising from the acquired stocks or exercises them solely in order to maintain full value of his capital investment or to prevent the substantial damage which might affect the entrepreneurs participating in the concentration.

Article 99

In the case where the President of the Office shall conceive the information about the concentration being effected with the infringement of the obligation referred to in Article 12, he may institute the investigation *ex officio*.

Article 100

In the case of non-compliance with the decision referred to in Article 20, section 1 or 4, the President of the Office may, by way of a decision, accomplish a separation of the entrepreneur. To the separation of a company the provisions of Articles 528-550 of the act of 15 September 2000 – Code of commercial companies (O.J.L. of 2000, No 94, item1037) shall apply respectively. The President of the Office has the competence of the bodies of companies participating in the separation. Moreover, the President of the Office may apply to the court for the annulment of the agreement or for undertaking other legal means aimed at restoring the previous status.

TITLE VI

Fines

Article 101

1. The President of the Office shall impose upon the entrepreneur, by way of a decision, the fine equivalent from 1.000 up to 50.000 EURO, where this entrepreneur, even unintentionally:

- 1) fails to comply with the obligation to notify the intention of concentration referred to in Article 12,
- 2) after taking over or acquiring stocks or shares exercises the rights arising from these stocks or shares, thus infringing provisions of Article 13, sections 3 and 4,
- 3) is in a possession of stocks or of shares after the lapse of the period referred in Article 13, item 3,
- 4) undertakes activities from which he should abstain after having effected the notification pursuant to Article 98, section 1.

2. The President of the Office may impose upon the entrepreneur, by way of a decision, the fine:

- 1) in the amount equivalent to 1.000 up to 5.000.000 EURO, but not exceeding 10% of the annual income attained in the year of account preceding the year of imposing the fine, where he infringes the prohibition defined in Article 5 in the scope not exempted under Articles 6 and 7, or if he infringes the prohibition defined in Article 8,
- 2) in the amount equivalent to 200 up to 5.000 EURO where he, even unintentionally:
 - a) in the motion referred to in Article 22 or in the notification referred to in Article 94, section 2 declared false data,
 - b) failed to provide information requested by the President of the Office pursuant to Article 18, section 3 or Article 45, or provided false or misleading information,
 - c) does not co-operate in the inspection carried on within the framework of the investigation pursuant to Article 57, with the reservation of Article 59, section 2,
 - d) did not fulfil obligation foreseen in Article 82.

3. The provisions of sections 1 and 2 shall also apply to the association of entrepreneurs. Where the association of entrepreneurs does not attain any income, the President of the Office may fix the fine in the amount up to fiftyfold of the average salary.

Article 102

1. The President of the Office may impose upon the entrepreneurs, by way of a decision, the fine in the amount equivalent from 10 up to 1.000 EURO for each day of laches in the execution of the decision issued pursuant to Article 9, 18 section 1, Article 19, section 1 and Article 20, section 2 and 4, the resolutions issued pursuant to Article 60, section 1 or judgements of the antimonopoly court pronounced by virtue of Article 479³¹ § 3 of the Code of civil proceedings; the fine shall be imposed counting from the date indicated in the decision.

2. The provisions of section 1 shall apply to the associations of entrepreneurs. Where the association of entrepreneurs does not attain any income, the fine for each commenced month of non execution of the decision, resolution or of the court judgement within the time limit shall be fixed by the President of the Office in the amount up to fiftyfold of the average salary.

Article 103

1. The President of the Office may, by way of a decision, impose upon a person performing managerial function or belonging to the managing body of the entrepreneur or association of

entrepreneurs the fine in the amount up to tenfold of the average salary, where this person deliberately or unintentionally:

- 1) did not execute the decisions, resolutions or judgements referred to in Article 102,
- 2) did not notify the intention of concentration referred to in Article 12.

2. The President of the Office may impose upon the persons referred to in Article 59, section 1, the fine referred to in section 1, for non providing the information or providing false or misleading information, requested by the President of the Office pursuant to Article 45, with the reservation of Article 59, section 2, and also for the lack of co-operation in the inspection carried within the frameworks of the investigation pursuant to Article 57, with the reservation of Article 59, section 2, as well as upon the witnesses for unjustified refusal to testify.

Article 104

When fixing the amount of the fines referred to in Articles 101-103 the duration, gravity and circumstances of the previous infringement of the provisions of the Act should be particularly taken into account.

Article 105

1. The fines referred to in Articles 101-103 are to be paid out of the income after taxation or out of another form of the surplus of revenues over expenses decreased by the taxes.

2. The execution of the fine imposed by the President of the Office shall be suspended until validation of the decision about its imposition.

3. Financial means originating from the fines referred to in Articles 101-103 shall constitute income of the State Treasury.

4. The fine is to be paid within 14 days from the validation of the decision of the President of the Office.

5. In the case of the ineffective lapse of the time limit referred to in section 4, the fine shall be subject to collection on the bases of the provisions on administrative execution proceedings.

6. In the case of delay in the payment of a fine the interest shall not be collected.

Article 106

1. Upon a motion of the entrepreneur, association of entrepreneurs or persons referred to in Article 103, the President of the Office may, by way of a resolution which is not subject to appeal, accord to the respite for payment of the fine or to the payment on the instalment plan, taking into account important interests of the mover.

2. The President of the Office may abrogate, by way of a resolution which is not subject to appeal, the respite for payment of the fine, where new or previously unknown circumstances, substantial for the settlement, are disclosed.

TITLE VII

Amendments to the existing provisions

Article 107

The following amendments shall be introduced into the act of 17 November 1964 – the Code of civil proceedings (O.L.J. of 1964, No 43, item 296, of 1965, No 15, item 113, of 1974 No 27, item 157 and No 39, item 231, of 1975 No 35, item 234, of 1982 No 11, item 82 and No 30, item 210, of 1983 No 5, item 33, of 1984 No 45, item 241 and 242, of 1985 No 20, item 86, of 1987 No 21, item 123, of 1988 No 41, item 324, of 1989 No 4, item 21 and No 33, item 175, of 1990 No 14, item 88, No 34, item 198, No 53, item 306, No 55, item 318 and No 79, item 464, of 1991 No 7, item 24, No 22, item 92, No 115, item 496, of 1993 No 12, item 53, of 1994 No 105, item 509, of 1995 No 83, item 417, of 1996 No 24, item 110, No 43, item 189, No 73, item 350 and No 149, item 703, of 1997 No 43, item 270, No 54, item 348, No 75, item 471, No 102, item 643, No 117, item 752, No 121, item 769 and 770, No 133, item 882, No 139, item 934, No 140, item 940 and No 141, item 944, of 1998 No 106, item 668 and No 117, item 757, of 1999 No 52, item 532 and of 2000 No 22, item 269 and 271, No 48, item 552 and 554, No 55, item 665, No 73, item 852 and No..., item ...):

1) Article 479¹ §2, item 3 shall read as follows:

"3) being in the courts' competence on the bases of the provisions on competition protection, Energy Law, Telecommunications Law and the provisions on rail transport,"

2) Chapter 2, Division IVa, Title VII, Book One of the first part shall read as follows:

“Chapter 2

Chapter 2. Proceedings in cases in the field of competition protection

Article 479²⁸ § 1. The District Court in Warsaw – the antimonopoly court shall be the competent forum in the matters of:

- 1) appeals against the decision of the President of the Office for Competition and Consumer Protection, in the present chapter referred to as “the President of the Office”,
- 2) complaints against resolutions issued by the President of the Office in the course of proceedings conducted by virtue of the provisions of the Act of 15 December 2000 on competition and consumer protection (O.J.L No 122, item 1319) or pursuant to separate provisions,
- 3) complaints against resolutions issued by the President of the Office in the course of proceedings in prevention conducted by virtue of the Act on competition and consumer protection,
- 4) complaints against resolutions issued in the course of execution proceedings conducted in order to enforce obligations resulting from decisions and resolutions issued by the President of the Office.

§ 2. The appeal against decisions of the President of the Office shall be lodged by his intermediary before the antimonopoly court in a time limit of two weeks since the day the decision is delivered.

§ 3. The appeal against the decision of the President of the Office should meet the requirements foreseen for a lawsuit citation and contain description of the sued decision, citation of raised objections, compact grounds thereof, indication of the evidence as well as contain a motion for the change of the decision in its entirety or in part.

Article 479²⁹. § 1. Parties to the proceedings before the antimonopoly court shall be the President of the Office, the entity being a party to the proceedings before the President of the Office as well as the person lodging a complaint.

§ 2. In the proceedings before the antimonopoly court may take part as participants the entities admitted to the participation in the proceedings before the President of the Office in a capacity of interested entities.

§ 3. The employee of the Office for Competition and Consumer Protection may act as a plenipotentiary of the President of the Office.

Article 479³⁰. In the case where an appeal against the decision of the President of the Office is being lodged, the antimonopoly court may, upon a motion of the appealing party, suspend the enforcement of the decision until settlement of the case. The resolution may be issued in the course of the proceedings in camera.

Article 479³¹. § 1. The antimonopoly court shall dismiss an appeal against a decision of the President of the Office where there are no grounds to admit it.

§ 2. The antimonopoly court shall dismiss an appeal lodged after the lapse of the time limit for its submission, inadmissible for other reasons as well as where errors in the appeal are not eliminated in the appointed time limit.

§ 3. The antimonopoly court, when admitting an appeal against a decision, shall change the decision in its entirety or in part and rule on the substance of the case.

Article 479³². § 1. Complaints against resolutions of the President of the Office are to be lodged to the antimonopoly court in the time limit of one week since such resolution is delivered.

§ 2. The provisions of Article 479²⁸ § 2 and 3 as well as Articles 479³⁰ and 479³¹ shall apply to complaints against resolutions of the President of the Office respectively.

Article 479³³. § 1. In the course of the proceedings before the antimonopoly court a business secrecy and other secrets protected by virtue of separate provisions shall be protected.

§ 2. The antimonopoly court may, by way of a resolution, disclose to the party to the proceedings the information protected in the proceeding before the President of the Office as a business secrecy of the another party solely where:

- 1) circumstances giving grounds to issuance by the President of the Office of the resolution restricting the right to inquiry into evidence attached by the parties into the case files have changed significantly,
- 2) the party which business secrecy is protected have expressed its consent.

§ 3. The court, upon request of the party or *ex officio*, may to the necessary extend restrict for the remaining parties the right to inquiry into the evidence attached to the case files in the course of the proceedings, where rendering this material accessible would threaten with a disclosure of the business secrecy or other secrets protected by virtue of separate provisions.

§ 4. The restriction of the right to inquiry into the evidence referred to in § 3 shall not apply to the President of the Office.

§ 5. The resolution referred to in § 2 and 3 shall not be subject to appeal.

Article 479³⁴. In the proceedings before the antimonopoly court the President of the Office shall not be under obligation to pay court dues and to reimburse costs of the proceedings.

Article 479³⁵. § 1. To the judgement of the antimonopoly court the provisions of Articles 387 and 388 shall apply respectively.

§ 2. The judgement of the antimonopoly court shall be subject to cassation by the Supreme Court, irrespective of the value of the subject of complain.”

3) After Chapter 3, Division Iva, Title VII, Book One of the first part the following Chapters 4-6 shall be inserted:

“Chapter 4

Proceedings in cases in the field of regulation in the energy sector

Article 479⁴⁶. The District Court in Warsaw – the antimonopoly court shall be the competent forum in the matters of :

- 1) appeals against decisions of the President of the Office for Energy Regulation, hereinafter in this chapter referred to as “the President of the Office”,
- 2) complaints against resolutions issued by the President of the Office in the course of proceedings conducted by virtue of the act of 10 April 1997 – Energy Law (O.J.L. of 1997 No 54, item 348 and No 158, item 1042, of 1998 No 94, item 594, No 106, item 668 and 162, item 1126, of 1999 No 88, item 980, No 91, item 1042 and No 110, item 1255 and of 2000 No 43, item 489 and No 48, item 555) or based on separate provisions.

Article 479⁴⁷. § 1. The appeal against decisions of the President of the Office shall be lodged by his intermediary before the antimonopoly court in a time limit of two weeks since the day the decision is delivered.

§ 2. The antimonopoly court shall dismiss the appeal lodged after the lapse of a time limit for its submission or where it is inadmissible for other reasons.

Article 479⁴⁸. § 1. The President of the Office without delay shall remit the appeal together with the case files to the antimonopoly court.

§ 2. Where the President of the Office considers the appeal to be justified, he may – without remitting files to the court – abrogate or change his decision in the entirety or in part, about which without delay he shall inform the party by sending his new decision, against which the party may appeal.

Article 479⁴⁹. The appeal against decisions of the President of the Office should meet the requirements foreseen for a lawsuit citation and contain description of the sued decision and value of the subject of dispute, citation of raised objections, compact grounds thereof, indication of the evidence as well as contain a motion for the change of decision in its entirety or in part.

Article 479⁵⁰. § 1. Parties to the proceedings in the field of energy regulation shall also be the President of the Office and the interested entity.

§ 2. The interested entity shall be the person, whose rights or obligations depend on the settlement of the proceedings. Where the interested entity is not summoned to take part in the proceedings, the antimonopoly court shall summon her upon a motion of the party or *ex officio*.

Article 479⁵¹. The employee of the Office for Energy Regulation may act as a plenipotentiary of the President of the Office.

Article 479⁵². In the case where an appeal against the decision of the President of the Office is being lodged, the antimonopoly court may, upon a motion of the appealing party, suspend the enforcement of the decision until settlement of the case. The resolution may be issued in the course of the proceedings in camera.

Article 479⁵³. § 1. The antimonopoly court shall dismiss an appeal against a decision of the President of the Office where there are no grounds to admit it.

§ 2. The antimonopoly court, when admitting an appeal against a decision, shall change the decision in its entirety or in part and rule on the substance of the case.

Article 479⁵⁴. In the proceedings before the antimonopoly court the President of the Office shall not be under obligation to pay court dues and to reimburse costs of the proceedings.

Article 479⁵⁵. The provisions of Article 479³² § 1 and Articles 479⁴⁷-479⁵⁴ shall apply, respectively, to the complaints against resolutions of President of the Office.

Article 479⁵⁶. § 1. To the judgement of the antimonopoly court the provisions of Articles 387 and 388 shall apply respectively.

§ 2. The judgement of the antimonopoly court shall be subject to cassation by the Supreme Court, irrespective of the value of the subject of complain.

Chapter 5

Proceedings in cases in the field of regulation in telecommunications sector

Article 479⁵⁷. The District Court in Warsaw – the antimonopoly court shall be the competent forum in the matters of :

- 1) appeals against decisions of the President of the Office for Telecommunications Regulation, hereinafter in this chapter referred to as “the President of the Office”,

2) complaints against resolutions issued by the President of the Office in the course of proceedings conducted by virtue of the act of 21 July 2000 – Telecommunications Law (O.J.L. No 73 item 852) or based on separate provisions.

Article 479⁵⁸. § 1. The appeal against decisions of the President of the Office shall be lodged by his intermediary before the antimonopoly court in a time limit of two weeks since the day the decision is delivered.

§ 2. The antimonopoly court shall dismiss the appeal lodged after the lapse of a time limit for its submission or where it is inadmissible for other reasons.

Article 479⁵⁹. § 1. The President of the Office without delay shall remit the appeal together with the case files to the antimonopoly court.

§ 2. Where the President of the Office considers the appeal to be justified, he may – without remitting files to the Court – abrogate or change his decision in the entirety or in part, about which without delay he shall inform the party by sending his new decision, against which the party may appeal.

Article 479⁶⁰. The appeal against decisions of the President of the Office should meet the requirements foreseen for a lawsuit citation and contain description of the sued decision and value of the subject of dispute, citation of raised objections, compact grounds thereof, indication of the evidence as well as contain a motion for the change of decision in its entirety or in part.

Article 479⁶¹. § 1. Parties to the proceedings in the field of telecommunications regulation shall also be the President of the Office and the interested entity.

§ 2. The interested entity shall be the person, whose rights or obligations depend on the settlement of the proceedings. Where the interested entity is not summoned to take part in the proceedings, the antimonopoly court shall summon her upon a motion of the party or *ex officio*.

Article 479⁶². The employee of the Office for Telecommunications Regulation may act as a plenipotentiary of the President of the Office.

Article 479⁶³. In the case where an appeal against the decision of the President of the Office is being lodged, the antimonopoly court may, upon a motion of the appealing party, suspend the enforcement of the decision until settlement of the case. The resolution may be issued in the course of the proceedings in camera.

Article 479⁶⁴. § 1. The antimonopoly court shall dismiss an appeal against a decision of the President of the Office where there are no grounds to admit it.

§ 2. The antimonopoly court, when admitting an appeal against a decision, shall change the decision in its entirety or in part and rule on the substance of the case.

Article 479⁶⁵. In the proceedings before the antimonopoly court the President of the Office shall not be under obligation to pay court dues and to reimburse costs of the proceedings.

Article 479⁶⁶. The provisions of Article 479³² § 1 and Articles 479⁵⁸- 479⁶⁵ shall apply, respectively, to the complaints against resolutions of the President of the Office.

Article 479⁶⁷. § 1. To the judgement of the antimonopoly court the provisions of Articles 387 and 388 shall apply respectively.

§ 2. The judgement of the antimonopoly court shall be subject to cassation by the Supreme Court, irrespective of the value of the subject of the complain.

Chapter 6

Proceedings in cases in the field of regulation in rail transport sector

Article 479⁶⁸. The District Court in Warsaw – the antimonopoly court shall be the competent forum in the matters of :

- 1) appeals against decisions of the President of the Office for Rail Transport, hereinafter in this chapter referred to as “the President of the Office”,
- 2) complaints against resolutions issued by the President of the Office in the course of proceedings conducted by virtue of the act of 27 June 1997 on rail transport (O.J.L. of 1997 No 96, item 591, of 1998 No 106, item 668, of 1999 No 84, item 934 and of 2000, No 84, item 948 and No, item....) or based on separate provisions.

Article 479⁶⁹. § 1. The appeal against decisions of the President of the Office shall be lodged by his intermediary before the antimonopoly court in a time limit of two weeks since the day the decision is delivered.

§ 2. The antimonopoly court shall dismiss the appeal lodged after the lapse of a time limit for its submission or where it is inadmissible for other reasons.

Article 479⁷⁰. § 1. The President of the Office without delay shall remit the appeal together with the case files to the antimonopoly court.

§ 2. Where the President of the Office considers the appeal to be justified, he may – without remitting files to the Court – abrogate or change his decision in the entirety or in part, about which without delay he shall inform the party by sending his new decision, against which the party may appeal.

Article 479⁷¹. The appeal against decisions of the President of the Office should meet the requirements foreseen for a lawsuit citation and contain description of the sued decision, the value of the subject of dispute, citation of raised objections, compact grounds thereof, indication of the evidence as well as contain a motion for the change of decision in its entirety or in part.

Article 479⁷². § 1. Parties to the proceedings in the field of regulation in rail transport sector shall also be the President of the Office and the interested entity.

§ 2. The interested entity shall be the person, whose rights or obligations depend on the settlement of the proceedings. Where the interested entity is not summoned to take part in the

proceedings, the antimonopoly court shall summon her upon a motion of the party or *ex officio*.

Article 479⁷³. The employee of the Office for Rail Transport Regulation may act as a plenipotentiary of the President of the Office.

Article 479⁷⁴. In the case where an appeal against the decision of the President of the Office is being lodged, the antimonopoly court may, upon a motion of the appealing party, suspend the enforcement of the decision until settlement of the case. The resolution may be issued in the course of the proceedings in camera.

Article 479⁷⁵. § 1. The antimonopoly court shall dismiss an appeal against a decision of the President of the Office where there are no grounds to admit it.

§ 2. The antimonopoly court, when admitting an appeal against a decision, shall change the decision in its entirety or in part and rule on the substance of the case.

Article 479⁷⁶. In the proceedings before the antimonopoly court the President of the Office shall not be under obligation to pay court dues and to reimburse costs of the proceedings.

Article 479⁷⁷. The provisions of Article 479³² § 1 and Articles 479⁶⁹- 479⁷⁵ shall apply, respectively, to the complaints against resolutions of the President of the Office.

Article 479⁷⁸. § 1. To the judgement of the antimonopoly court the provisions of Articles 387 and 388 shall apply respectively.

§ 2. The judgement of the antimonopoly court shall be subject to cassation by the Supreme Court, irrespective of the value of the subject of complaint.

Article 108

Article 20 of the act of 20 June 1985 – Law on organisation of common courts (O.J.L. of 1994, No 7, item 25, No 77, item 355, No 91, item 421, No 105, item 509, of 1995 No 34, item 163, No 81, item 406, of 1996 No 77, item 367, of 1997 No 75, item 471, No 98, item 604, No 106, item 679, No 117, item 751, 752 and 753, No 121, item 769, No 124, item 782, No 133, item 882, of 1998 No 98, item 607, No 160, item 1064, No 162, item 1118 and 1125, of 1999 No 20, item 180, No 60, item 636, No 75, item 853, No 83, item 931, No 110, item 1255 and of 2000 No 48, item 551, No 50, item 580, No 56, item 678) - shall read as follows:

“Article 20. The Minister of Justice, by way of regulation, shall establish in the District Court in Warsaw a separate organisational unit competent in the cases in the fields of protection of competition, regulation in energy, telecommunications and rail transport sectors.”

Article 109

In the act of 30 April 1993 on national investment funds and their privatisation (O.J.L. of 1993 No 44 item 202, of 1994 No 84 item 385, of 1997 No 70 item 164, No 47 item 298 and No 107 item 691) the following amendments shall be introduced:

1) Article 25 shall read as follows:

“Article 25.1. The managing company shall neither at the same time render managerial services on behalf of two or more funds nor be the shareholder of the fund on which behalf it renders managerial services without obtaining prior consent of the President of the Office for Competition and Consumer Protection.

2. The member of the supervisory board or of the management of the fund shall not be allowed to assume at the same time the function of the member of the supervisory board or of the management of another fund. The above prohibition shall apply to the proxies respectively.

3. In the case of the infringement of the obligations and prohibitions referred to in sections 1 and 2, the President of the Office for Competition and Consumer Protection may issue the decision imposing on the respective member of the management of a given fund or managing company the fine in the amount not exceeding the half of the income of this person for the last taxation year. The appeal against the decision of the President of the Office for Competition and Consumer Protection shall be examined according to the procedure set up in Article 78 of the act of 15 December 2000 on competition and consumer protection (O.J.L No 122, item 1319).”

2) Article 27 shall read as follows:

“Article 27. The prohibitions referred to in Article 25 sections 1 and 2 shall also include the entities dominant or dependent in relation to the managing company, in the meaning of Article 4, item 3 of the act referred to in Article 25, section 3.”

3) After Article 28 the following Article 28a shall be added:

“Article 28a. In the scope not regulated by this Chapter, the provisions of the act of 15 December 2000 on competition and consumer protection shall apply.”

TITLE VIII

Transitional and final provisions

Article 110

1. As of the day the present Act is coming into force the first term of office of the President of the Office holding this post on that day shall begin, without prejudice to sections 2 and 3.

2. The term of office referred to in section 1 shall be abbreviated by the period for which the President of the Office has been holding this post before the Act becomes effective.

3. The Prime Minister may recall the President of the Office within 3 months as of the day the Act comes into force. During this period the restrictions referred to in Article 24, section 5 shall not apply.

Article 111

As of the day the present Act comes into force, Directors and Deputy Directors of the Office delegations shall become members of the civil service corps and their hitherto work relations established by way of the appointment based on rules defined in the act of 24 February 1990 on counteracting monopolistic practices and protection of consumer interests (O.J.L. of 1999 No 52, item 547 and of 2000 No 31, item 381, No 60, item 704) shall be transformed into work relations by virtue of the work contract for unlimited duration, only that the post of Vice-Director of the delegation shall change to the post of Deputy Director.

Article 112

When fixing the amount of the fine referred to in Article 104 also the fact of the infringement of the provisions of the act of 24 February 1990 on counteracting monopolistic practices and protection of consumer interest shall be taken into account within the period of 5 years as of the day the present Act enters into force.

Article 113

The investigations instituted by virtue of the provisions of the act of 24 February 1990 on counteracting monopolistic practices and protection of consumer interest shall be carried pursuant to the provisions of the present Act.

Article 114

The implementing regulations issued on the bases of the act of 24 February 1990 on counteracting monopolistic practices and protection of consumer interests shall remain in force until the time they will be superseded by the regulations issued pursuant to the present Act, in the scope in which they are not contradictory to its provisions, but not longer than for the period of 12 months from its entering into force.

Article 115

The value of EURO referred to in the provisions of the Act shall be converted into zloties according to average rate of foreign currencies published by the National Bank of Poland on the last day of the year preceding the year in which the intention of concentration is notified or fine imposed.

Article 116

Wherever in the separate provisions the antimonopoly authority or the Antimonopoly Office are being mentioned, it should be understood as the President of the Office for Competition and Consumer Protection.

Article 117

The act of 24 February 1990 on counteracting monopolistic practices and protection of consumer interests expires (O.J.L. of 1999 No 52 item 547 and of 2000 No 31 item 381, No 60 item 704).

Article 118

The Act comes into force as of 1 April 2001, except for Article 41 which shall come into force as of 1 January 2001.