Latvia: Recent developments in competition regulation and enforcement

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1. Brief overview of the existing legislation

The current Competition Law in Latvia has been in force since 2002 and is the primary legislation of competition in Latvia. It covers all main infringement types, as well as cases on competition rectification or prohibiting an undertaking to conclude an agreement. Its predecessor was Competition Law (1997) and before that law “On competition and the restriction of monopoly activity” (1991). The Competition law has been amended a couple of times, most recently in 2018.

In addition to the Competition law, secondary legislation of the Council of Ministers provides a framework for formal regulation on structural and conduct of exempt firms as well as prohibited agreements.

The Competition Council of the Republic of Latvia (the “CC”) is the main public institution of governance, which is the main body of Latvia’s competition authorities. The CC has been involved in the regulation and supervision of the waste management sector since 2007, with the aim of ensuring fair competition.

3. Recent amendments to Competition Law

In recent years, the CC has been paying close attention and continues to monitor the involvement of public administrative bodies – the state and local governments – and their participation in competitive events. The most recent amendments to the Competition Law[3] are aimed at ensuring that the public authorities (both the state and local government) and their undertakings comply with the principles of competition.

The amendments were approved by the Parliament (Saeima) in 2018, and since then, they have been the principle of competition. For now, the CC has imposed interim measures suspending concession agreements concluded between Riga municipality and two waste management undertakings – SIA Getliņi EKO and AS Tīrīga. The CC concluded that for now, the CC has imposed interim measures suspending concession agreements concluded between Riga municipality and two waste management undertakings – SIA Getliņi EKO and AS Tīrīga. The CC concluded that for now, the CC has imposed interim measures suspending concession agreements concluded between Riga municipality and two waste management undertakings – SIA Getliņi EKO and AS Tīrīga.

In cases where the CC identifies possible non-compliance with the Competition law in the activities of public authorities, the CC can issue a notice to the public administration undertaking. The CC has been involved in the regulation and supervision of the waste management sector since 2007, with the aim of ensuring fair competition.

4. Antitrust agreements

The prohibition of antitrust agreements is regulated in Article 13 of the Competition law and must be complied with in line with Article 15 of the CC on the functioning of the Latvian Competition. Article 13 states that all antitrust agreements are deemed void as of the date of their conclusion and a non-compulsory list of agreements which are considered as antitrust agreements. The prohibition applies to all agreements, including those concluded between the following parties:

- Undertakings that are not competitors;
- Undertakings that are competitors and are not connected with one another.

According to the Competition Law, for a prohibited vertical agreement between undertakings that are not competitors, the CC is entitled to impose a fine of up to 5% of the net turnover of the undertaking in the relevant period. Meanwhile, members of a cartel, i.e., a prohibited agreement between competitors, may each be subject to a fine of up to 10% of the net turnover of the undertaking in the relevant financial period. The procedure for determining the amount of fines for prohibited competition infringements is regulated by a dedicated act, which calculates base amount based on actual turnover, rather than revenue from relevant turnover.

Many other prohibited agreements are regulated in Article 15 of the Competition law. Some of them are listed here, and some are not covered by the Competition Law.

5. Abuse of dominant position

The prohibition of abuse of dominant position is regulated in Article 13 of the Competition law and must be complied with in line with Article 15 of the CC on the functioning of the Latvian Competition. Article 13 states that all antitrust agreements are deemed void as of the date of their conclusion and a non-compulsory list of agreements which are considered as antitrust agreements. The prohibition applies to all agreements, including those concluded between the following parties:

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6. Merger control

The CC as the state competition authority reviews and gives its approval to several mergers each year. Most of the notified merger cases in Latvia are cleared at Phase 1 of an investigation. However, if the merger notification to the CC is submitted after completion of the merger, the CC has set itself to become more active in the field of merger control. As the CC pointed out, the merger cases continue to increase in the last years. Evaluating the previous four years, the number of merger notifications submitted in 2016-2018 was higher than in 2014-2015. And quite, the CC prohibits the merger. Most merger cases in recent years did not need an in-depth review process. Only the last four years, 15 horizontal mergers have been subject to in-depth evaluation. The markets in which the CC carried out an in-depth review are various, such as fuel, telecommunications and digital services, insurance, health, agriculture etc.

Cases in which the CC prohibited the reported merger in recent years are not many, for example in 2016 – 3 out of 18, 2017 – 3 out of 27, in 2018 - 2 out of 19 and in 2019 - 1 out of 15. But after the CC approved the merger, the retailer would have increased its market power in the relevant market. In parallel with the practice of the European Union, the CC has continued to increase its level of scrutiny of mergers. The CC has also been one of the institutions that most actively carries out its duties, carrying out market evaluations, competitions and does not hesitate to impose penalties on undertakings that violate the Competition law. The practice of the CC has evolved and moved on in parallel with the practice of the European Union. The CC is one of the institutions that most actively carries out such duty, carrying out market evaluations, investigations and does not hesitate to impose penalties on undertakings that violated the Competition law.

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