

Kluwer Competition Law Blog

Main Developments in Competition Law and Policy 2022 – Georgia

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The [Competition Chapter of the EU-Georgia Association Agreement](#) emphasizes the importance of “*free and undistorted competition in the trade relations*”. It also sets the obligation of the Parties to maintain “*comprehensive competition laws*” and have “*appropriately equipped, effective authority*”. In line with these obligations, an independent competition authority (Georgian National Competition Agency – “GNCA”) was established in 2014, followed by substantial amendments to the Law of Georgia “*On Competition*” and related bylaws in 2020, aiming to approximate Georgian legislation to EU standards.

Recent legislative changes include new functions and enforcement tools for the GNCA, an improved system of merger control, enhanced coordination of competition enforcement in regulated sectors, etc. The amended legislation is broadly in line with the EU best practice and the commitments of Georgia under the Association Agreement. In addition to competition, in 2021 the GNCA became an enforcer of anti-dumping legislation, and as of 2022, the GNCA also enforces recently adopted consumer protection legislation.

Enforcement activities of the GNCA

In 2022 GNCA concluded 3 investigations. The cases concerned an abuse of a dominant position, an anti-competitive agreement, and unfair competition, respectively.

The first case concerned an alleged abuse of a dominant position in the insurance/hospital sector, whereby an insurance company alleged that a medical services provider was abusing its dominant position by refusing to provide family doctor services to the insurer. The GNCA’s investigation did not confirm the infringement of the law, and the agency has subsequently closed the case. However, the GNCA also issued [general recommendations](#) for medical services providers in view of improving conditions of competition for ambulatory institutions operating in the country.

Two other investigations concluded with infringement findings and imposed sanctions, which, however, were minimal in both cases (not exceeding 1,000 GEL) due to the low turnover of infringing undertakings. The [concerted conduct](#) took place between two undertakings and a translator/interpreter. The violation of Article 7 of the Law on Competition was manifested in contractual cooperation between the parties within the framework of public procurement of rare

foreign language translation services, which resulted in a restriction of competition in the relevant market.

The [case of unfair competition](#) concerned the illegal use of a competitor's intellectual property (including trademarks/design of tour vehicles) by another undertaking operating in the same market. The GNCA fined the relevant undertaking and ordered it to cease the illegal conduct.

The GNCA also started 4 investigations in 2022 which are still ongoing. One pending [case](#) concerns a potential anticompetitive agreement between undertakings on the fuel market; [2 related investigations](#) relate to potential distortions of competition by the state authorities; and 1 [case](#) concerns a potential abuse of a dominant position in the maritime transport sector.

In 2022, the GNCA examined and approved 6 concentrations, including 2 instances of unnotified concentrations. The notified concentrations took place on the hospital services, fuel and construction markets, respectively.

The GNCA has recently introduced a new mechanism in cooperation with the Public Registry of Georgia, to identify unnotified concentrations. The Public Registry of Georgia periodically transfers the GNCA information about registered mergers, acquisitions and other registered facts of changes in ownership of undertakings operating on the Georgian market. Although not all corporate restructurings require registration with the Public Registry of Georgia, the new cooperation mechanism has proved effective, as it enables the GNCA to monitor the changes in the market more closely. In case of reasonable suspicion, the GNCA checks annual turnovers and other relevant information concerning the undertakings involved, to establish whether the transaction was subject to its ex-ante clearance.

During the review process, the GNCA identified 2 facts of unnotified concentrations in the markets of hospital services and construction, respectively. Consequently, the GNCA opened the administrative proceedings, established the infringement of the notification obligation, and imposed fines (60 000 Georgian Lari in total) on the relevant undertakings. The undertakings were also mandated to notify the transactions of the GNCA, and the deals were subsequently cleared without remedies (*see [here](#) and [here](#)*).

During 2022, the GNCA completed conducted market monitoring on two – glass waste collection and recycling and fuel (gasoline and diesel) markets. Based on the results of monitoring and a reasonable doubt of a possible anti-competitive agreement, the authority started an *ex-officio* investigation in the fuel sector.

New functions of the GNCA

Anti-dumping

Georgia made an important step forward in the area of trade remedies by adopting its first legislation on **anti-dumping**, in compliance with the EU-Georgia Association Agreement and the requirements of the WTO. The new Law “*on the Introduction of Anti-dumping Measures in Trade*” entered into force in June 2021. The Law designates the GNCA as a competent authority. Consequently, a new department for Anti-Dumping Measures has been established under the auspices of the GNCA.

The department is responsible for investigating and assessing anti-dumping cases, and submitting its opinions to the Government of Georgia – the final decision-making body. There is currently no relevant practice to report, as the anti-dumping department has not yet received official complaints. The department has been conducting informal market studies in select economic sectors (*e.g.*, [this analysis](#) of the fertilizers industry, in Georgian).

Consumer protection

In March 2022 the Parliament of Georgia adopted the Law “*on the Protection of Consumer Rights*”, which entered into force in June 2022. The new law enshrines the main principles of consumer protection in line with the relevant EU legislation and the Association Agreement. The law designates the GNCA as an enforcement authority in the consumer protection domain. A new department focused on consumer protection, was created within the GNCA and was authorized to receive complaints and conduct enforcement activities as of November 2022.

The department receives and handles a large number of consumer complaints on a continuous basis. So far, complaints relate mainly to the e-commerce sector, and practices such as violation of customer information rights or infringements of legal obligations with regard to returns of goods purchased online, etc. The Georgian consumer law provides for enforcement actions in two steps: when the GNCA establishes an infringement of the law, it must give reasonable notice to the economic agent and allow for amendment of its commercial conduct (agreements/policies, etc.). Only if the economic agent fails to rectify its conduct, can the GNCA use a financial penalty, which should not exceed 2% of the undertaking’s annual turnover of the precedent financial year.

New TWINNING project at the GNCA

The EU-funded TWINNING project – “*Strengthening Capacity of the Competition Agency of Georgia*“ was launched in June 2022. Within the framework of the project, civil servants from the competition and consumer protection authorities of Lithuania and Austria provide consultations and technical support to their Georgian counterparts.

The project aims to strengthen the competition and consumer protection policy within the framework of the EU-Georgia Association Agreement, issue recommendations to improve competition and consumer protection legislation (including by-laws), organize advocacy activities and increase awareness of these policies in different target groups. The project also aims to improve the institutional and human resource capacity of the GNCA.

The project will run for 2 years and will comprise topical workshops, seminars, roundtables and training for the Agency’s staff and various target audiences. A team of local and international experts will work jointly to prepare guidance materials.

International conference on competition and consumer protection

The international conference on enforcement of competition policy and protection of consumer

rights was held in Tbilisi on November 16-17. The two-day conference – “*Competition and consumer rights*” was organized by the GNCA and the country’s 4 regulatory agencies (Georgian National Energy And Water Supply Regulatory Commission, The National Bank of Georgia, the Communications Commission of Georgia and Insurance State Supervision Service of Georgia).

In addition to the government and parliamentary teams, diplomatic corps, business representatives, non-governmental and academic sector, and specialists of the field from over 20 countries took part in the conference, including the Head of the Competition and Consumer Policies Branch at the United Nations Conference on Trade and Development (UNCTAD), Ms Teresa Moreira, alongside other international experts.

Within the framework of the conference, the features of competition policy and sustainable development, legal guarantees and the enforcement process of consumer rights protection were discussed. Also, parallel thematic sessions on Indirect Enforcement Mechanisms and Competition Policy in Regulated Markets/Interagency Cooperation were held. The participants of the sessions discussed European practice in the field of consumer rights protection.

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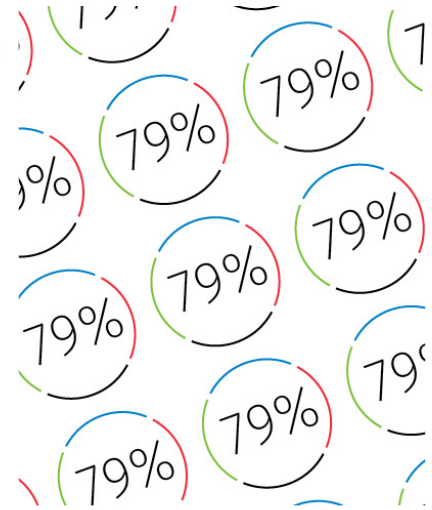
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