

Kluwer Competition Law Blog

Main Developments in Competition Law and Policy 2023 – Georgia

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The **Competition Chapter of the EU-Georgia Association Agreement** sets the obligation for the Parties to maintain “*comprehensive competition laws*” and to have an “*appropriately equipped, effective authority*”. The Georgian Competition and Consumer Agency (“GCCA”) is a designated authority enforcing the Law of Georgia “*On Competition*” and related bylaws since its establishment in 2014. Georgian competition legislation is broadly in line with EU law, and the GCCA generally aspires to follow EU best practices. As Georgia obtained an official EU candidate status in December 2023, competition cooperation with the EU is likely to intensify going forward. In addition to competition, in 2021 the GCCA became an enforcer of anti-dumping legislation, as of 2022, the GCCA also enforces consumer protection legislation, and as of 1 January 2024, the GCCA will also enforce recently adopted [e-commerce regulation](#).

Enforcement activities of the GCCA

In 2023, GCCA conducted eight investigations: six infringement decisions were adopted, no violation was found in one case, and the inquiry was dropped (withdrawn by the applicant) in one case. The investigations covered the markets for auto fuel, cinema tickets online sales, tobacco, pharmaceuticals, shipping, auto technical inspection, fast food services, and construction/infrastructure services. The GCCA also started 2 investigations in 2023 which are still ongoing. The investigations are connected to the markets of parking lots and food products.

Anticompetitive agreements and concerted practices

The most economically significant case related to an alleged price fixing in the pharmaceutical markets, where the [GCCA fined](#) 4 leading pharma companies in Georgia. The GCCA initiated an investigation based on information made public by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Affairs of Georgia in March 2023, which revealed that several importers and distributors of oncological medicines were charging identical, supra-competitive prices practice within the framework of the state funding program for oncology medicines.

The GCCA identified 42 pharmaceuticals where the 4 companies charged identical prices and established the violation of Article 7 of the Law of Georgia on Competition implemented through a

concerted practice. In particular, the companies' prices submitted on the closed portal of the Ministry were found to coincide with an accuracy of 1 Tetri. Given that price fixing is considered a severe violation of the Georgian competition legislation, the GCCA imposed total fines of up to GEL 53 million (~ EUR 18 million).

The authority has also concluded another Article 7 case in the fuel market. The investigation was launched in August 2022, on the basis of the recommendation of the Prime Minister of Georgia and following the Agency's own market monitoring. The Agency's August 2023 [decision](#) established that 5 leading fuel companies in Georgia maintained supra-competitive prices in the retail market of motor fuel in the period of March-August 2022 as a result of an anticompetitive concerted practice. The GCCA sanctioned the companies involved with a total fine of up to 4 million GEL (~ EUR 1.4 million). Moreover, in order to improve the competitive environment in the fuel market, the Agency issued recommendations to be implemented by relevant parties. All companies appealed the Agency's decision before Tbilisi City Court.

The [latest Article 7 case](#) is related to the market of online sales of cinema tickets. The Agency sanctioned 3 companies with a total fine of over GEL 1.6 million GEL (~ EUR 550,000). The infringement related to exclusivity to sell cinema tickets online. At the start of the investigation, the court injunction was used to suspend the exclusivity condition. This allowed the complainant to enter the market before the Agency's final decision and contributed to opening a closed market.

Merger control

In 2023 the Agency [approved 8 concentrations](#) in the medical sector, retail market of auto fuel (gasoline, diesel), the construction-development sector, FMCG market, nonferrous and ferrous metal scrap market, accessories and luxury goods market, and agricultural machinery and equipment wholesale market.

Moreover, the GCCA's monitoring revealed 3 facts of gun-jumping, [resulting in financial sanctions up to GEL 32,000](#) (~ EUR 11,000) on the acquiring undertakings. The undertakings were also instructed to submit relevant notifications for the GCCA's review.

Market monitoring

The GCCA has completed the monitoring of the market of the supply/offer of insurance products in the process of realization of banking products by commercial banks. According to the Agency's assessment, in 2020-2022, the market of credit products is highly concentrated, and, at the same time, it had a stable character and share distribution among large undertakings. The Agency [issued 6 mandatory recommendations](#) for consideration in order to improve the competitive environment in the market.

Unfair competition

The only case on unfair competition related to the fast-food service sector and it was initiated on

the basis of the complaint of the undertaking against two of its competitors. The [decision](#) established unfair use of trademarks and appearance of the applicant company, imposed pecuniary sanctions to its competitors and ordered to eliminate the infringement.

Distortion of competition by state authorities

The GCCA also [established a violation of Article 10](#) (distortion of competition by state authorities) by the two Municipality City Halls in Georgia. The investigation further revealed the usage of the disputed condition in the state procurement process by six additional municipalities of Georgia. According to the GCCA's recommendations, the municipal bodies and other state organizations were instructed to ensure compliance with the principles of competition in the public procurement process.

In another case GCCA established the restriction of competition by the Georgian Accreditation Center. The [decision](#) concerned the refusal to implement certain accreditation procedures against the applicant in the field of technical inspection, which caused a delay in the company's activity. The GCCA issued the mandatory recommendation, and the decision has been appealed to the court.

Amendment to the law “On Competition”

In November 2023, the Parliament of Georgia [approved the amendments](#) to the law *On Competition*, which came into force on the 1 January 2024. The amendments were developed based on recommendations from the [EU-funded TWINNING project](#) in partnership with the Lithuanian Competition Council and the Agency's practices. They aim to strengthen the effective enforcement of competition policy and clarify technical details and terms. The Agency has also been rebranded as the *Georgian Competition and Consumer Agency* to reflect its novel enforcement powers under the Law of Georgia on the Protection of Consumer Rights. As per the adopted changes:

- Interference with the Agency's on-site inspection will be punishable by an administrative fine of GEL 10,000 (~ EUR 3,500) the first time, and GEL 20,000 (~ EUR 7,000) in case of a repeated offense;
- Relevant representatives of various law enforcement or expert bodies can participate in the on-site inspection process if necessary;
- The time limit for withdrawal of the complaint is now limited. It will only be possible before the party receives a draft decision of the GCCA.
- Gun jumping sanctions will be extended to individuals in certain cases. Notably, an individual who fails it their obligation to notify the concentration can be fined with up to GEL 10,000 (~ EUR 3,500). This is a separate sanction, in addition to potential fines for the undertaking(s) involved.
- The identity of the person(s) participating in the leniency program and the confidentiality of the data provided by them is now guaranteed.

International conference on competition and consumer protection

The II international conference on enforcement of competition policy and protection of consumer rights was held in Tbilisi on November 16-18, 2023. Five regulatory bodies (the GCCA, the National Bank of Georgia, the National Energy and Water Supply Regulatory Commission of Georgia, the Communications Commission, and the State Insurance Supervision Service of Georgia) jointly organized the conference, which focused on enhancing consumer rights mechanisms and strengthening competition policy in Georgia.

The conference welcomed more than 300 delegates from around 20 countries and the heads of competition and consumer enforcers from 10 jurisdictions, as well as representatives of the government and parliament, local and international experts, public and regulatory bodies, academia, and business sector. Professor William Kovacic (George Washington University Law School, the Center for Competition Law) delivered a keynote and Ms. Teresa Moreira (Head of Competition and Consumer Policies, UNCTAD) and Mr. Ori Schwartz (Head of the OECD Competition Division) also addressed the audience.

The conference's nine panels discussed [varied competition and consumer protection agenda](#) and the GCCA signed memorandums of cooperation with the competition authorities of Serbia and Austria in order to strengthen mutual cooperation.

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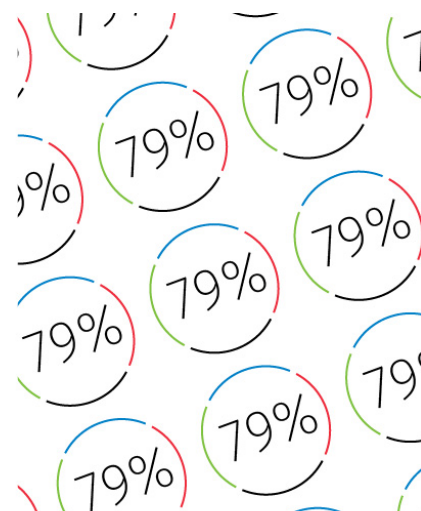
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