

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

Competition Law

Chapter I

General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

1) **dominant position** – an economic (commercial) position in a concrete market of a market participant or several market participants if the market share of such participant or the participants in this concrete market is at least 40 per cent and if such participant or such participants have the capacity to significantly hinder, restrict or distort competition in any concrete market for a sufficient length of time by acting with full or partial independence from competitors, clients or consumers;

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

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

b) appoint such numbers of members in the market participant supervisory body, which ensures for the wielder of the decisive influence can ensure a majority of votes in the relevant body;

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

4) **concrete market** – a market of a concrete good which is evaluated in connection with a concrete geographical market;

5) **concrete market of a good** – a specific market of a good which also includes all those goods which may be substituted for this specific good in a concrete geographical market, taking into consideration the factor of substitution of demand and supply, the specific features of the good and its utilisation characteristics;

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

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

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

9) **market participant** – any person (foreign person included) which performs or is preparing to perform business activities in the territory of Latvia or business activities of which may affect competition in the territory of Latvia. If a market participant or several market participants jointly have decisive influence on one or several other market participants, then, all market participants may be considered a single market participant;

10) **market share** – that share of goods which a market participant offers in a concrete market in relation to the total amount of goods offered in such market; and

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

(With Amendments done by the Law of 22.04.2004.)

Section 2. Purpose of this Law

The purpose of this Law is to protect, maintain and develop free, honest and equal competition in the interests of the public in all economic sectors, to restrict market concentration, impose as an obligation the termination of activities which are prohibited by the regulatory enactments regulating competition, and to call to account persons at fault in accordance with procedures prescribed by regulatory enactments.

Section 3. Operation of this Law

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

Chapter II

Competition Council

Section 4. Legal Status of the Competition Council

(1) The Competition Council is a direct administrative institution, which shall act in accordance with this Law and other regulatory enactments. The Cabinet shall establish the Competition Council and it shall be under the subordination in the form of supervision of the Ministry of Economics.

(2) *(Excluded by the Law of 22.04.2004.).*

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

(With Amendments done by the Law of 22.04.2004.)

Section 5. Composition and Operation of the Competition Council

(1) The Competition Council shall take decisions in competition matters. The Competition Council shall comprise its Chairperson and four members of the Competition Council. The Chairperson of the Competition Council shall manage the Competition Council. The work of the Competition Council shall be ensured by a Bureau, which shall perform its secretariat and expert functions, prepare issues, documents and draft decisions for examination at meetings of the Competition Council, and implement the execution of decisions taken by the Competition Council.

(2) The Cabinet upon the recommendation of the Minister for Economics, shall confirm in office the Chairperson and members of the Competition Council.

(3) The term of office of the Chairperson and members of the Competition Council shall be five years. The Chairperson and members of the Competition Council may be re-appointed to office.

(4) The Chairperson and members of the Competition Council shall be civil servants whose professional qualifications give them the capability of taking decisions in competition matters.

(5) *(Excluded by the Law of 22.04.2004.).*

(6) Meetings of the Competition Council shall be closed unless otherwise decided. Meetings shall be convened at the request of the Chairperson of the Competition Council or at least three members of the Competition Council. The Competition Council is entitled to take a decision if not less than three members of the Competition Council participate in the voting. A decision shall be considered taken, if at least three members of the Competition Council have voted in favour of it.

(7) Minutes shall be taken of the meetings of the Competition Council. All members of the Competition Council who took part in a meeting shall sign the minutes of the meeting. Members of the Competition Council when signing the minutes may write in their own views regarding the issue examined or may make a written note regarding substantiation of their views for appending to the minutes.

(8) The Chairperson of the Competition Council shall sign the decisions of the Competition Council.

(9) The Chairperson of the Competition Council:

1) shall manage and organise the work of the Competition Council and shall be responsible for such work;

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

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

4) may, without a special authorisation, represent the Competition Council;

5) *(excluded by the Law of 22.04.2004.);*

6) is entitled to give direct orders to the Director of the Competition Bureau and to any employee of the Competition Bureau; and

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

(10) During the illness or absence of the Competition Council Chairperson, a member of the Competition Council who has been authorised to do so by the Chairperson of the Competition Council shall carry out the duties of the Chairperson.

(With Amendments done by the Law of 22.04.2004.)

Section 6. Duties of the Competition Council

(1) The Competition Council shall:

1) monitor the observance of the prohibitions against the abuse of dominant position, unfair competition and agreements by market participants, which prohibitions are prescribed in this Law, other regulatory enactments and international agreements;

2) monitor the compliance with the Advertising Law;

3) examine submitted notices regarding market participant agreements and decisions taken in respect of them;

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

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

(2) The Competition Council shall inform the public regarding performance of the tasks of the Competition Council and other issues relating to the protection, maintenance

and development of competition, as well as by 1 March of each year publish in the newspaper *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia] a report regarding the decisions taken by the Competition Council in the previous year. The Competition Council shall publish the decisions taken by it in the newspaper *Latvijas Vēstnesis* not later than ten days after the taking of a decision.

(3) The Competition Council, as an establishment under the subordination of the Ministry of Economics, shall:

1) within the scope of its competence, formulate and in accordance with specified procedures submit to the Ministry of Economy draft legislation;

2) prepare and submit opinions regarding draft regulatory enactments to be examined by the Cabinet which opinions directly or indirectly affect issues on the protection, maintenance or development of competition; and

3) in the case of privatisation, reorganisation and demonopolization of State or local government undertakings (companies), submit if necessary, to the institution concerned written proposals or opinions regarding observance of the principles for the protection, maintenance or development of competition.

(With Amendments done by the Law of 22.04.2004.)

Section 7. Rights of the Competition Council

(1) The Competition Council is entitled to:

1) perform market assessments, with the involvement of independent experts if necessary;

2) provide opinions regarding conformity of the activities of market participants with regulatory enactments that regulate competition and Advertising Law;

3) submit claim applications and complaints to a court in the cases provided for in this Law and other regulatory enactments; and

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

5) apply European Community Competition Law;

6) undertake obligations assigned and exercise rights given to Member State Competition Authority by the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (further – Regulation)

(2) The Competition Council is entitled to evaluate draft legislation prepared by other institutions and other documents and to provide opinions in respect of them, if such draft

legislation includes norms which influence the market mechanism, the realisation of which may directly or indirectly restrict competition.

(With Amendments done by the Law of 22.04.2004.)

Section 8. Decisions of the Competition Council

(1) The Competition Council shall take decisions on:

- 1) initiating proceedings or not;
- 2) extending term for decision making;
- 3) establishing fact of infringement, imposition of legal obligations and pecuniary penalties;
- 4) termination of investigation of the matter;
- 5) mergers of market participants;
- 6) notified agreements;
- 7) infringements of Advertising Law.

(2) Decisions of the Competition Council referred to in part (1) of this Section, except for decisions on initiating proceedings and on extending term for decision making, may be appealed in district administrative court by the involved party within a period of one month after the decision has taken effect.

(3) non-compliance with the legal requests of Competition Council official within a specified time shall incur administrative liability.

(4) In order to perform the tasks provided for in this Law, the Competition Council is entitled to perform other activities permitted by other regulatory enactments.

(5) The Competition Council is exempt from court expenses, when it brings an action in court or submits a complaint in connection with violations of this Law or other regulatory enactments adopted in this field.

(6) Neither Cabinet of Ministers nor Minister of Economy, nor any other person can give directions to the chairmen and members of Competition Council on initiating investigation or on the way how the investigation should be performed or decision made;

(7) Decisions of Competition Council are binding upon market participants and associations of market participants.

(8) The addressee of Competition Council decision complies with the decision of his own accord. When the addressee does not comply with the decision, he shall be

compelled to respect the decision by officer of the court. The Competition Council is exempt from fee for service of officer of the court.

(Redaction of the Law of 22.04.2004.)

Section 9. The Bureau

(1) The Bureau supports functioning of the Competition Council.

(2) The Bureau is managed by Director. The Director of Bureau is civil servant who is subordinated directly to the Chairman of the Competition Council.

(3) Support provided by the Bureau to Competition Council includes:

1) performing functions of the Competition Council secretariat;

2) preparing draft decisions of the Competition Council;

3) analysing applications received by Competition Council and preparing materials on the subject matter to be examined at Competition Council session;

4) carrying out investigation of alleged infringements of this Law, market assessments and preparing Competition Council draft conclusions on whether actions of market participants and officials comply with this Law and Advertising Law.

5) putting into effect the Competition Council decisions in respect to termination of infringements of this Law and payment of fines;

6) preparing in the name of the Competition Council claim applications to a court;

7) preparing Competition Council draft conclusions regarding draft regulatory enactments to be examined in the Cabinet, the putting in effect of which, directly or indirectly may endanger protection, maintenance or development of competition;

8) preparing Competition Council draft conclusion concerning compliance with competition protection principles when privatisation, reorganisation and demonopolization processes of State or local government undertakings (companies) are carried out;

9) preparing Competition Council draft proposals of regulatory enactments in the field of competition protection;

10) providing cooperation with foreign persons.

(4) Director of the Bureau:

1) represents Competition Council within the competence of Bureau with no special authorisation;

2) is in charge of the Bureau and organises its work;

3) is responsible for functioning of the Bureau.

(5) In the name of Competition Council Bureau is entitled the right to:

1) request from any person and their associations information necessary to fulfil the tasks defined in this Law and Advertising Law, including confidential information or information containing commercial secrets as well as receive written or verbal explanations from the respective persons.

2) to visit (also without previous notification) market participants. During these visits authorised Bureau officials are entitled to receive from the respective persons written or verbal explanations and get acquainted on the spot with all documents (including those in electronic format) as well as receive these documents, their copies or extracts from them;

3) on the basis of motivated Bureau Director decision– to seize possessions and documents of market participants or their employees, which may be of importance in respect to the case under investigation;

4) on the basis of court decision without prior warning and in presence of police – to enter into market participants' and their employees' vehicles, apartments or uninhabitable rooms, buildings and other premises by opening them and depositaries inside them, and examine possessions and documents of market participants and their employees. During such inspections the Bureau is entitled the right to request written and verbal explanations from officials and employees of market participants, to make document copies and extracts as well as seize possessions and documents, which may be of importance in the process of clarifying the questions under investigation. The Bureau officials are entitled the right to seal vehicles, apartments, uninhabitable rooms, buildings and other premises and depositaries to ensure preservation of the evidence.

5) on basis of court decision in case of strong suspicion that documents, which could serve as evidence of infringement of Competition Law, are kept in vehicles, uninhabited rooms, buildings, apartments and other premises or movable properties belonging to other persons – the Bureau is entitled the right in presence of police to carry out actions referred to in item 4) part (5) of this Section in respect to these persons and their property;

6) to make administrative report on administrative offence, when presentation of information mentioned in items 1), 2), and 4) of this part was denied in the set time and amount or the obligation referred to in part 7 was not complied with. The report shall be signed by Director of the Bureau or by an official authorised by the Director.

(6) On Bureau request the market participant, its representatives, employees and other persons are obliged to give complete and true information and ensure that employees of Bureau and State police are given access to any vehicle, uninhabitable rooms, buildings, apartments, other premises and movable properties owned or used by them, by opening them and depositaries inside them, as well as to documents created and stored in any format.

(7) State police provides support to Bureau employees in carrying out investigation actions mentioned in part (5) of this Section.

(Redaction of the Law of 22.04.2004.)

Section 9¹.

Court decision

(1) Decision on permission to carry out actions referred to in items 4) and 5) part (5) of Section 9 of this law shall be adopted by district (town) Court corresponding to legal address of Competition Council. Within 48 hours the court shall examine application of Bureau Director and other documents, indicating necessity to carry out these actions, hearken to information provided by Bureau officials and adopt decision on permission or refusal to permit the actions.

(2) Copy of the court decision shall be sent to Bureau within 24 hours after the decision was adopted.

(3) On decision referred to in part (1) of this Section may be submitted collateral complaint.

(4) Submission of collateral complaint on court decision does not suspend implementation of the decision.

(5) Hearing of collateral complaint takes place within 7 days after receipt of the complaint.

(6) Hearing of collateral complaint is carried out in presence of Competition Council representative and complainant.”

(Redaction of the Law of 22.04.2004.)

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

(1) Officials and employees of the Competition Council are prohibited from disclosing, without the permission of the Chairperson of the Competition Council, information that they have received in the course of performing their official duties. Confidential information that has been obtained shall not be disclosed, except in specific cases prescribed in regulatory enactments.

(2) Officials and employees of the Competition Council shall be liable, pursuant to the procedures prescribed in regulatory enactments, for the non-observance of confidentiality and for losses incurred by market participants due to unlawful actions by Competition Council or Bureau officials or employees.

Chapter III

Actions which Restrict Competition

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

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

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

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

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

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

5) the participation or non-participation in competitions or auctions or regarding the provisions for such actions (inactions), except for cases when the competitors have publicly announced their joint tender and the purpose of such a tender is not to hinder, restrict or distort competition;

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

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

(2) The Competition Council may permit, or permit with conditions for defined period of time, if market participants have notified Competition Council according to procedure defined by Cabinet of Ministers and no proceedings had been instigated on the matter, and the agreements referred to in Paragraph one of this Section if it determines that the agreement promotes improvements in the production or sale of goods or economic progress and thereby benefits consumers, and, in addition, such agreement:

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

2) does not afford the possibility of eliminating competition in a substantial part of the concrete market.

(3) The agreements specified in Paragraph one of this Section are permitted, if the market participants have obtained permission from the Competition Council in accordance with procedures prescribed by the Cabinet.

(4) The Cabinet shall issue regulations which regulate:

1) agreements, decisions and concerted actions of individual market participants, which are exempted from the prohibitions referred to in Paragraph one of this Section, if such activities comply with the concrete requirements prescribed in these regulations; and

2) agreements, decisions and concerted actions of individual market participants regarding which the Competition Council need not be notified in accordance with Paragraphs two and three of this Section, if such activities do not significantly affect competition.

(With Amendments done by the Law of 22.04.2004.)

Section 12. Liability for Violations of Prohibited Agreements

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

(2) The Competition Council may impose on market participants fines of up to 5 per cent of their net turnover for the previous financial year each, but not less than 250 lati each. The funds referred to shall be paid into the State basic budget.

(3) The Competition Council may impose on market participants fines of up to 10 per cent of their net turnover for the previous financial year each, but not less than 500 lati each. The funds referred to shall be paid into the State basic budget.

(4) If the legally imposed obligations have not been complied with, the Competition Council may take a decision regarding increasing the fines specified in Paragraphs two and three of this Section up to the maximum amounts prescribed in the two paragraphs.

(5) Cabinet of Ministers shall pass rules on the procedure for establishing pecuniary penalty; these rules shall provide for particularities of yearly net turnover calculation in specific cases, criteria for amount of penalty, liability under mitigating or aggravating circumstances, instances when pecuniary penalty may be reduced or when the market participant may be exempted from paying pecuniary penalty.

(With Amendments done by the Law of 22.04.2004.)

Section 13. Prohibition of the Abuse of Dominant Position

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

1) refusal to enter into transactions with other market participants or amending the provisions of a transaction without an objectively justifiable reason;

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

3) imposition of provisions according to which the entering into, amendment or termination of transactions with other market participants makes such participants dependent on them, or these market participants accept such additional obligations as, by their nature and commercial usage, have no connection with the concrete transaction;

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

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

(With Amendments done by the Law of 22.04.2004.)

Section 14. Liability for the Abuse of Dominant Position

(1) If the Competition Council determines that there is a violation of Section 13, Paragraph one of this Law in the activities of market participants, the Council shall take a decision regarding the determination of a violation, legal obligations and imposition of a fine.

(2) The Competition Council may impose upon market participants fines of up to 5 per cent of their net turnover for the previous financial year each, but not less than 250 lati each.

(3) If the legally imposed obligations have not been complied with, the Competition Council may take a decision regarding increasing the fines specified in Paragraph two of this Section up to 10 per cent of the net turnover for the previous financial year, however the fine may not be smaller than 500 lati each. The funds referred to shall be paid into the State basic budget.

(4) Cabinet of Ministers shall pass rules on the procedure for establishing pecuniary penalty; these rules shall provide for particularities of yearly net turnover calculation in specific instances, criteria for amount of penalty, liability under mitigating or aggravating circumstances, instances when pecuniary penalty may be reduced.

(With Amendments done by the Law of 22.04.2004.)

Chapter IV

Market Participant Merger Control

Section 15. Market Participant Merger Provisions

(1) A merger of market participants is:

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

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

3) a situation where one or several natural persons with decisive influence upon one or several market participants or one or several market participants acquire part of or whole assets of other market participant or rights to use them, or direct or indirect decisive influence upon other market participant or market participants.

(2) Market participants who have decided to merge in one of the ways set out in part (1) of this Section shall, prior to merger, notify the merger to the Competition Council in accordance with Section 16 of this Law if one of the following conditions exists:

1) the combined turnover of the participants in the merger during the previous financial year was no less than 25 million Lats;

2) the joint market share of market participants involved in the merger exceeds 40% of the relevant market;

(3) Merger, notification of which was required but was not notified, is illegal.

(4) Competition Councils shall not be notified in following instances:

1) when credit institutions or insurance companies, the basic activity of which involve deals with securities, acquired by their own and other's funds, have restricted in time property rights on market participants' securities, which have been acquired for further resale, when the said credit institutions or insurance companies does not make use of voting rights, created by the mentioned securities, to influence competitive activities of the respective market participants, or use voting rights created by the said securities only to prepare for investing the market participant, his share, assets or the respective securities, and such investing takes place within a year after the voting rights were acquired. The mentioned term may be prolonged by Competition Council on the basis of application from the respective credit institution or insurance company, if it proves that within that year the respective investment was not possible;

2) of insolvency and liquidation of the market participant when the liquidator or administrator gets decisive influence pursuant to procedure laid down in the respective regulatory enactments.’

(5) The Cabinet shall issue regulation regarding the procedure for submission and examination of merger notices. Such regulation may include additional conditions on the calculation of turnover, including special requirements in respect to credit institutions and insurance companies.

(Redaction of the Law of 22.04.2004.)

Section 16. Procedure for Examination of Market Participants Merger notifications

(1) Within one month after receipt of complete notification Competition Council shall examine the notification pursuant to procedure set by Cabinet of Ministers and adopt one of the decisions referred to in part (3) or (4) or decision to initiate supplementary investigation. Complete notification is a notification, which complies with requirements set by Cabinet of Ministers.

(2) Within four months after initiation of supplementary investigation Competition Council shall adopt one of the decisions mentioned in part (3) or (4) of this Section.

(3) The Competition Council by its decision shall prohibit merger that creates or strengthens dominant position, which will significantly hinder, restrict, or distort competition in any relevant market. The Competition Council may permit such merger, at the same time determining provisions, which prevents negative consequences of the merger and which are binding upon the respective market participants.

(4) If the notified merger of market participants does not cause the consequences referred to in part (3) of this Section, the Competition Council shall adopt decision permitting the merger.

(5) If within four months time period after receipt of complete notification Competition Council has adopted neither of the decisions referred to in part (3) or (4) of this Section, the respective merger shall be deemed to be permitted.

(6) On request from the applicant of merger notification Competition council may prolong the terms set in parts (1), (2) and (5) of this Section.

(7) The Competition Council may take the decision referred to in part (3) of this Section also in respect to such merger of market participants, which should have been notified pursuant to part (2) of Section 15, however it was not done.

(Redaction of the Law of 22.04.2004.)

Section 17. Liability for Illegal Mergers of Market Participants

(1) If a notice has not been submitted in the cases prescribed by this Law, the Competition Council may take a decision regarding the imposition of a fine of up to 1000 lati for each day, counting from the day when the notice should have been submitted, on the new market participant or the acquirer of a decisive influence. The funds referred to shall be paid into the State basic budget.

(2) If a merger of market participants has occurred, which is contrary to a decision of the Competition Council taken in accordance with the procedures set out in Section 16, Paragraph three or six of this Law, the Competition Council may take a decision regarding the imposition of a fine on the new market participant or on the acquirer of a decisive influence of up to 1000 lati for each day counting from the day when the notice should have been submitted. The funds referred to shall be paid into the State basic budget.

(3) The payment of a fine does not release the market participants concerned from the obligation to fulfil the provisions of this Law and the decisions of the Competition Council.

(4) When the Competition Council has determined that the new market participant or the acquirer of a decisive influence has ceased the illegal activity referred to in Paragraph one or two of this Section and has taken a relevant decision, the Council shall cease calculation of the fine referred to in Paragraph one or two of this Section.

(With Amendments done by the Law of 22.04.2004.)

Chapter V

Unfair Competition

Section 18. Prohibition of Unfair Competition

(1) Unfair competition is prohibited.

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

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

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

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

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

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

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

Section 19. Liability for Unfair Competition

(1) If the Competition Council determines that there is a violation of Section 18 of this Law in the activities of market participants, it shall take a decision regarding the determination of a violation, legal obligations and imposition of a fine.

(2) The Competition Council may impose on market participants, fines of up to 5 per cent of their net turnover during the previous financial year each, but not less than 250 lati each. The funds referred to shall be paid into the State basic budget.

(With Amendments done by the Law of 22.04.2004.)

Chapter VI

Application of Competition Law in Civil Actions

Section 20. Competence of the Courts

(1) Concurrently with the Competition Council, a court may also determine a violation of this Law.

(2) Courts which adjudicate civil claims in relation to violations of the Competition Law shall inform the Competition Council thereof.

Section 21. Compensation for Losses

A market participant who deliberately or by carelessness violates the provisions of Sections 11, 13, 15 or 18 of this Law shall cover the losses which due to the violation have been caused to another market participant or a party to a contract.

Chapter VII.

Procedure for Case Investigation

(Chapter added by the Law of 22.04.2004.)

Section 22. Initiation of proceedings

Investigation of a case of alleged infringement of this Law is initiated on basis of:

- an application;
- of Competition Council initiative;
- of other institution's notice.

Section 23. Initiation of proceedings on the basis of an application

(1) Proceedings are initiated on the basis of written application of a person, who has good reason to be interested in rectification of the infringement. Person, who has good reason to be interested in rectification of the infringement, is person the rights and legal interests of which had been or could be violated by the infringement, as well as person involved in the infringement.

(2) In the application shall be included documentary well founded information about:

- 1) persons involved in the alleged infringement;
- 2) evidence of the alleged infringement, which serves as the basis for the application;
- 3) sections of the Competition Law, which possibly have been infringed;

4) facts, which provide evidence, that the person has good reason to be interested in termination of the infringement;

5) measures taken to terminate the infringement, before Competition Council received the application.

(3) Within 30 days after receipt of the application Competition Council shall assess information included in the application, acquire additional information, if necessary, and adopt decision whether to initiate the proceedings or not.

(4) The Competition Council may decide not to initiate proceedings when:

1) the application does not contain information as provided for in part (2) of this Section, or the information is not sufficient and the applicant has not presented additional information within the term set by Competition Council;

2) the infringement is minor.

(5) If the proceedings were not initiated, the applicant shall be informed about reasons why proceedings were not initiated and about possible reconsideration of the application after the inadequacy of the application was eliminated or additional information received.

Section 24. Initiating proceedings on the basis of initiative of Competition Council

Competition Council can initiate proceedings, when facts have become known, which provide basis for ascertaining the infringement as well as in case Competition Council has good reason to believe that such facts may exist.

Section 25. Initiating proceedings on the basis of notice of other institution

Competition Council can initiate proceedings on the basis of other institution's notice, when it contains information about facts, which serve or may serve as evidence for existence of possible infringement of Competition Law.

Section 26 Investigation of the case

(1) After the proceedings are initiated Competition Council obtains information necessary for adopting decision.

(2) The person shall provide the requested information no later than within seven days time period after receipt of the request. While the market survey is carried out, information, the preparation of which does not require particular generalisation or analysis, shall be presented by the informer without delay.

(3) When preparation of the requested information requires generalisation and analysis and the informer, because of objective reasons, cannot prepare the requested information in the set term, he or she notifies Competition Council in writing, points out the reasons for the delay and the date when the information will be presented. Competition Council considers the mentioned notice and may set another date when the information must be presented.

(4) When the information is requested from the possible transgressor, Competition Council shall inform the informer about the possible infringement of the particular Section of Competition Law.

(5) Competition Council may combine in to one office work several proceedings on the same infringement manifested in the actions brought about by the same possible transgressor, if the combining will expedite the examination and lead to improved objectivity.

(6) After the process of establishing facts necessary for decision making is accomplished, the parties of the process have the right to be acquainted with the case in accordance with procedure prescribed in the regulatory enactments. When the facts necessary for decision making are established, Competition Council shall notify in writing all parties of the process.

(7) Parties of the process can acquaint themselves with the case, express their opinion and apply additional information within 10 days after receipt of notification referred to in the part (6) of this Section. Competition Council may ignore information received after this term has expired.

Section 27. Time limit for adopting decision

(1) Competition Council shall adopt decision within 6 months time period after initiation of the proceedings.

(2) If for justifiable reasons the 6 months term cannot be complied with Competition Council can prolong the term up to one year after the initiation of the proceedings.

(3) If in particular case a long-drawn facts establishing process is required, Competition Council by motivated decision can prolong the term for adopting decision up to two years after initiation of the proceedings.

Chapter VIII

Application of European Community competition law.

(Chapter added by the Law of 22.04.2004.)

Section 28. Legal enactments applicable in cases of possible infringements of European Union competition Law

(1) The case of alleged infringement of European Union competition law Competition Council shall investigate and deal with in accordance with procedure laid down in this Law and other legal enactments in respect to alleged infringements of this Law.

(2) In case of infringements of European Union competition law Competition Council shall impose fines pursuant to Sections 12 or 14 and Cabinet of Ministers regulation on the procedure for establishing pecuniary penalty issued pursuant to part (5) Section 12 and part (4) Section 14 of this law.

(3) When applying European Union competition law the term “market participant” is understood as equivalent to term “undertaking” used in European Commission decision and Court of European Communities judgments.

Section 29. Reduction of pecuniary penalty for some infringements of part one Sections 81 of the Treaty

(1) Market participant shall be granted reduction or full exemption from the pecuniary penalty when it of his own initiative notifies Competition Council about agreements between competitors prohibited by part one Article 81 of the Treaty:

1) any agreements on directly or indirectly fixed prices or tariffs or rules of price determination as well as exchange of information on prices or selling rules;

2) agreements to limit or control production, markets, technical development, or investment;

3) agreement on markets shares, taking in consideration territory, buyers, suppliers or other conditions.

4) agreements to take part or not in tenders or auctions or on rules for activities or inactivity in this field;

(2) The reduction or full exemption from the pecuniary penalty provided for in part (1) of this Section is granted pursuant to regulation on procedure for establishing pecuniary penalty passed by Cabinet of Ministers pursuant to part (5) Section 12 and part (4) Section 14.

Section 30. Interim adjustment

(1) When the Competition Council has convincing evidence of possible infringement European Union competition law and failure to eradicate this infringement may cause

significant, irreversible damage to competition, Competition Council can adopt decision on interim adjustment.

(2) The instrument of interim adjustment is decision, by which the market participant is obliged to perform a particular action within the set time period or a particular action is prohibited.

(3) The defendant can appeal against the interim adjustment in district Administrative Court within one month time period after the interim adjustment takes effect.

(4) The decision on interim adjustment is in force up to the moment when the Competition Council final decision concerning this case becomes conclusive.

Section 31. Appeal against the interim adjustment

(1) Court shall hear the case of appeal against the decision on interim adjustment within 14 days time period.

(2) Submission of appeal against decision on interim adjustment does not suspend the interim adjustment and obligation to observe it.

(3) Court decision on appeal against decision on interim adjustment cannot be further appealed, and it takes effect at the moment of adoption of the decision.

Section 32. Realization of European Commission investigations in the territory of Republic of Latvia

(1) District (town) court corresponding to the legal address of Competition Council shall decide whether to grant permission to European Commission for carrying out investigations referred to in first and fourth parts Article 21 of the Regulation. Procedure for adopting court decision and being in force is determined by Section 9¹ of this Law.

(2) The right to apply for permission referred to in part (1) of this Section has both European Commission and Competition Council in the name of European Commission.

Section 33. Assistance to European Commission in preparing and carrying out investigations

(1) Competition Council provides the necessary assistance to European Commission in preparing and carrying out actions provided for in Articles 20 and 21 of the Regulation.

(2) State Police ensures the necessary assistance to European Commission in case the market participant does not submit to requirements laid down in part two of Section 20 and part one of Section 21 of the Regulation in respect to investigations.

(3) On request of European Commission Competition Council on the basis of court decision shall carry out actions referred to in point 4) part (5) of Section 9 of this Law. Procedure for the court decision and rules for being in force are laid down in Section 9¹ of this Law.

Section 34. Cooperation with competition authorities of other Member States

(1) On request of other Member State competition authorities relating to case of possible infringement of European Union competition law Bureau can carry out actions referred to in Section 9 of this Law in respect to market participants in territory of Latvia pursuant to procedures provided for in this law and other law enactments.

(2) Representatives of competition authorities of other Member States shall have the right to take part in actions referred to in part (5) Section 9.

Section 35. Obligation of the court

(1) Court, who has received claim statement and initiated proceedings on infringement of European Union competition law, shall send copy of the claim statement to Competition Council within seven days time after initiating the proceedings.

(2) Within seven days time after complete decision was formulated concerning case of infringement of European Union competition law, the court shall send copy of the decision to Competition Council and European Commission.

Informative reference to Council Regulation

(Reference by the Law of 22.04.2004.)

This law contains references to the following Council Regulation:

Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 04.01.2003, p.1

Transitional Provisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Until new Cabinet of Ministers regulations are issued, but no later than till 1 November 2004, the following Cabinet of Ministers regulations, as far as they are not in contradiction to this law, are in force:

1) Cabinet of Ministers regulation No 22 of 20.01.2003 "Procedure for notification of merger of market participants and for adjudication of the notification"

2) Cabinet of Ministers regulation No 468 of 19.08.2003 "Procedure for pecuniary penalty calculation in case of infringements referred to in part (1) Section 11 and Section 13 of Competition Law""

(Redaction of the Law of 22.04.2004.)

This Law shall come into force on 1 January 2002.

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

President

V. Vīķe-Freiberga

Rīga, 23 October 2001