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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

LITHUANIA

The present document reproduces the text<sup>1</sup> of the Law on Competition (1999:VIII-1099), as notified by Lithuania under Article 63.2 of the Agreement (see document IP/N/1/LTU/1).

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

LITUANIE

Le présent document contient le texte<sup>1</sup> de la Loi sur la concurrence (1999:VIII-1099), notifié par la Lituanie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/LTU/1).

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

LITUANIA

En el presente documento se reproduce el texto<sup>1</sup> de la Ley de competencia N° VIII-1099 de 1999, que Lituania ha notificado de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/LTU/1).

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<sup>1</sup> In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

# **LAW ON COMPETITION**

23 March 1999 No. VIII-1099  
Vilnius

## **Chapter I GENERAL PROVISIONS**

### **Article 1. Purpose of the Law**

1. The purpose of this Law is to protect freedom of fair competition in the Republic of Lithuania.
2. The Law shall regulate the actions of the public and local authorities and undertakings, which restrict or may restrict competition as well as actions of unfair competition, shall establish the rights, duties and liabilities of the said institutions and undertakings and the legal basis for the control of competition restriction and unfair competition in the Republic of Lithuania.
3. This Law seeks for the harmonisation of the Lithuanian and the European Union law regulating competition relations.

### **Article 2. Application of the Law**

1. This Law shall prohibit undertakings from performing actions which restrict or may restrict competition, regardless of the character of their activity, except in cases where this Law or laws governing individual areas of economic activity provide for exemptions and permit certain actions prohibited under this Law.
2. This Law shall also be applicable to the activity of undertakings registered beyond the territory of the Republic of Lithuania if said activity restricts competition in the domestic market of the Republic of Lithuania.
3. This Law shall not be applicable to the activity of undertakings which restricts competition on foreign markets, unless international agreements to which the Republic of Lithuania is a party provide otherwise.
4. When international agreements ratified by the Seimas of the Republic of Lithuania establish different requirements to protect competition, the provisions of the above agreements shall apply.

### **Article 3. Definitions**

1. **“Economic activity”** means any type of manufacturing, commercial, financial or professional activity, associated with purchase or sale of goods, except for acquisitions by natural persons intended for personal and household needs.
2. **“Good”** means any object of purchase or sale, including all kinds of services and works, rights or securities. Purchase or sale represents transfer or acquisition of goods based on the contracts of purchase, supply and other transactions. Articles (property) transferred under lease or loan-for-use contracts shall be comparable to goods.
3. **“Restriction of competition”** means any actions which prevent competition in a relevant market or may weaken, distort or otherwise have a negative effect on competition.
4. **“Undertaking”** means an enterprise, a combination of enterprises (associations, amalgamations, consortiums, etc.), an institution or an organisation, or other legal or natural persons which perform or may perform economic activity in the Republic of Lithuania or whose actions affect or whose intentions, if realised, could affect economic activity in the Republic of Lithuania. Public administration and local authorities of the Republic of Lithuania shall be considered to be undertakings if they engage in economic activity.

5. **“Relevant market”** means the market of certain goods in a relevant geographic territory.
6. **“Product market”** means the aggregate of goods which from the consumers’ point of view are appropriate substitutes according to their characteristics, application and prices.
7. **“Geographic territory (geographic market)”** means the territory in which the conditions of competition in a relevant product market are in essence similar to all undertakings and which, taking into consideration said fact, may be distinguished from adjacent territories.
8. **“Conditions of competition”** means various economic parameters of purchase or sale, the most important thereof being prices, discounts and markups or other payments as well as factors affecting them (legal restrictions of economic activity, aid granted by public and local authorities, production technologies and costs, peculiarities of the use and consumption of goods, transportation possibilities, etc.).
9. **“Competitors”** means undertakings which face or may face mutual competition in the same relevant market.
10. **“Agreement”** means contracts concluded in any form (written or verbal) between two or more undertakings or concerted actions of undertakings, including decision made by any combination (association, amalgamation, consortium, etc.) of undertakings or by representatives of such a combination.
11. **“Dominant position”** means the position of one or more undertakings in the relevant market directly facing no competition or enabling it to make unilateral decisive influence in such relevant market by effectively restricting competition. Unless proved otherwise, the undertaking with the market share of not less than 40% shall be considered to have a dominant position in the relevant market. Unless proved otherwise, each of a group of three or a smaller number of undertakings with the largest shares of the relevant market, jointly holding 70% or more of the relevant market shall be considered to enjoy a dominant position.
12. **“Group of associated undertakings”** means two or more undertakings which, due to their mutual control or interdependence and possible concerted actions are considered as one undertaking when calculating joint income and market share. Unless proved otherwise, a group of associated undertakings shall be deemed to be comprised of every undertaking concerned and:
- 1) of undertakings in which, as in the undertaking concerned, the shareholding of one and the same natural person or the same natural persons accounts for more than 1/4 of the authorised capital or carries more than 1/4 of all the voting rights;
  - 2) undertakings which are subject to joint management or have a joint administrative subdivision with the undertaking concerned or a half or more of whose supervisory board, administrative board or other management body members are also members of the management bodies of the undertaking concerned;
  - 3) undertakings in which the shareholding of the undertaking concerned accounts for more than 1/4 of the authorised capital or more than 1/4 of all the voting rights or which have a commitment to co-ordinate decisions relating to their economic activity with the undertaking concerned, or those undertakings the responsibility for the meeting of whose obligations to third parties has been assumed by the undertaking concerned, or those undertakings which have undertaken to transfer all or part of their profit or have transferred the right to dispose of more than 1/4 of their assets to the undertaking concerned;
  - 4) undertakings whose shareholding in the undertaking concerned accounts for more than 1/4 of the authorised capital or more than 1/4 all the voting rights, or with which the undertaking concerned has committed itself to co-ordinate decisions relating to its economic activity, or which have assumed the responsibility for meeting the obligations of the undertaking concerned to third parties, or those to which the undertaking concerned has undertaken to transfer all or part of its profit or has granted the right to dispose of more than 1/4 of its assets;
  - 5) undertakings connected directly or indirectly through other undertakings with the undertakings referred to in subparagraphs 1, 2, 3 and 4 of paragraph 12 hereof in any way specified in subparagraphs 1, 2, 3 and 4 of paragraph 12 hereof.
13. **“Market share”** means the proportion of total sales or purchase in the relevant market accounted for by an undertaking or a group of associated undertakings.

14. **“Concentration”** means:

1) merger when one or more undertakings which terminate their activity as independent undertakings are joined to the undertaking which continues its operations or when a new undertaking is established out of two or more undertakings which terminate their activity as independent undertakings;

2) acquisition of control, when one and the same natural person or persons already controlling one or more undertakings, or one or more undertakings, acting by contract, jointly set up a new undertaking or gain control over another undertaking by acquiring an enterprise or a part thereof, all or part of the assets of the undertaking, shares or other securities, voting rights, by contract or by any other means.

15. **“Control”** means any rights arising from laws or contracts that entitle a legal or natural person to exert a decisive influence on the activity of the undertaking, including:

1) ownership or the right to use all or part of the assets of the undertaking;

2) other rights which confer decisive influence on the decisions or the composition of the undertaking’s managing bodies.

16. **“Controlling person”** means a legal or natural person having or acquiring control over an undertaking. A controlling person may be a citizen of the Republic of Lithuania, a foreign national or a stateless person, or any other undertaking, as well as public and local authorities. Spouses and their underage (adopted) children shall be considered as one controlling person. When two or more legal or natural persons, acting under contract, exercise control over an undertaking which is subjected to concentration, each of the legal or natural persons shall be considered a controlling person.

17. **“Decisive influence”** means the situation when the controlling person implements or is in the position to implement its decisions regarding the economic activity or the decisions or composition of the management bodies of the controlled undertaking.

18. **“Assets of an undertaking”** means the long-term tangible assets and other fixed assets used in economic activity.

19. **“Commercial secret”** means technical, technological, commercial or organisational information belonging to the undertaking and not disclosed publicly, the confidentiality of which is protected by the undertaking, except for information that cannot be considered a commercial secret under the laws of the Republic of Lithuania.

#### **Article 4. Duty of Public and Local Authorities to Ensure Freedom of Fair Competition**

1. When carrying out the assigned tasks related to the regulation of economic activity within the Republic of Lithuania, public and local authorities shall ensure freedom of fair competition.

2. Public and local authorities shall be prohibited from adopting legal acts or other decisions which grant privileges to or discriminate against any individual undertakings or their groups and which bring about or may bring about differences in the conditions of competition for competitors in the relevant market, except where the difference in the conditions of competition cannot be avoided when the requirements of the laws of the Republic of Lithuania are complied with.

### **Chapter II RESTRICTIVE PRACTICES**

#### **Section I PROHIBITED AGREEMENTS**

#### **Article 5. Prohibition of Agreements Restricting Competition**

1. All agreements which have as their object the restriction of competition or which may restrict competition shall be prohibited and shall be void from the moment of conclusion thereof, including:

1) agreements to directly or indirectly fix prices of certain goods or other conditions of sale or purchase;

2) agreements to share the product market on a territorial basis, according to groups of buyers, suppliers or in any other way;

3) agreements to fix production or sale volumes for certain goods, as well as to restrict technical development or investment;

4) agreements to apply dissimilar (discriminating) conditions to equivalent transactions with individual undertakings, thereby placing them at a competitive disadvantage;

5) agreements to make conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their commercial nature or according to usage, have no direct connection with the subject of the contract;

6) agreement between competitors to participate or not to participate, or to submit co-ordinated bids for public procurement contract, for tender or other procurement of a similar type.

2. When concluded between competitors, the agreements listed in subparagraphs 1, 2, 3 and 4 of paragraph 1 hereof shall be in any case considered as restricting competition.

3. The prohibition provided for in subparagraph 6 of paragraph 1 hereof shall not be applied, if a bid is officially submitted for the award of public procurement contract, for a tender or other similar purchase, drawn up on the basis of a joint activity contract or other contract which does not contradict the law.

4. Agreements concluded between undertakings possessing a small share of the relevant market, which because of their small influence cannot substantially restrict competition shall not be considered to be in breach of paragraphs 1 and 2 hereof. The requirements and conditions of such agreements shall be laid down by the Competition Council of the Republic of Lithuania (hereinafter referred to as the Competition Council) by a legislative deed.

5. The provisions of paragraphs 1 and 2 hereof shall not be applicable in the cases provided for in Articles 7 and 8 of this Law.

## **Article 6. Exemptions**

1. Block or individual exemption may be granted to the agreements specified in Article 5 of this Law, provided the agreement promotes investment, technical or economic progress or improves the distribution of goods, thus allowing all consumers to get additional benefit, also when:

1) the agreement does not impose restrictions on the activity of the parties thereto which are not indispensable to the attainment of the objectives referred to in this Article;

2) the agreement does not afford contracting parties the possibility to restrict competition in a large relevant market share.

## **Article 7. Block Exemption**

1. Taking into consideration the requirements of Article 6 of this Law, the Competition Council shall adopt legal acts on the granting of a block exemption with respect to certain categories of agreements and shall establish terms of application of the block exemption:

1) for agreements on licenses to use trade marks of goods and services, industrial design or other objects of intellectual property which may cause restrictions of production, sale, prices of certain goods or some other competition restrictions, if this is related to the protection of the rights to use trade marks, industrial design or other objects of intellectual property or to the requirements of the technical terms of licenses;

2) for agreements which are allowed in certain relevant markets;

3) for other specific categories of agreements, for which general exemption is granted pursuant to the legal provisions in effect in the European Union.

2. All undertakings shall have the right to conclude contracts which qualify for the granting and application of a block exemption.

3. Undertakings shall have the right to apply to the Competition Council for the confirmation that the intended agreement qualifies for a block exemption. If the Competition Council does not give a negative response within one month after the registration of the application, confirmation shall be deemed to have been given.

4. Undertakings must not later than within one month after the coming into effect of the agreement concluded according to the conditions of block exemption present information on the principal conditions of the agreement to the Competition Council. The Competition Council shall establish a standard form for the presentation of such information.

### **Article 8. Individual Exemption**

1. An undertaking seeking to get an individual exemption according to Article 6 of this Law must submit an application for an individual exemption to the Competition Council prior to the conclusion or coming into force of the agreement. The agreement and the documents proving that the agreement satisfies the requirements of Article 6 shall be attached to the application.

2. The Competition Council must take a decision to grant an individual exemption not later than within three months after the registration of the application for granting an individual exemption, provided the agreement satisfies the requirements of Article 6, or take a decision to refuse granting an individual exemption. If the Competition Council fails to take a decision to refuse granting an individual exemption within the specified period, an individual exemption shall be deemed to have been granted according to the conditions provided for in the application and in the agreement submitted by the undertaking alongside the application.

3. The decision to grant an individual exemption shall specify the date from which the individual exemption shall have effect, the period for which it shall have effect and the conditions and obligations to which the effect of the exemption shall be subject. The decision to refuse to grant an individual exemption shall state the principal reasons of non-applicability of an exemption.

4. On the application of the undertaking, the Competition Council may by its decision extend the effective period of exemption, provided the agreement and the conditions of its implementation satisfy the requirements of Article 6 and the conditions and obligations imposed by the decision on the granting of exemption.

5. The Competition Council may amend or cancel its decision to grant an individual exemption, if:

- 1) there has been a change of at least one of the circumstances due to which the decision to grant an individual exemption has been made;
- 2) the decision to grant an individual exemption was based on false or incomplete information;
- 3) the parties to the agreement have breached any of the conditions or mandatory obligations imposed by the decision on the granting of the exemption.

## **Section II ABUSE OF A DOMINANT POSITION**

### **Article 9. Prohibition to Abuse a Dominant Position**

It shall be prohibited to abuse a dominant position within the relevant market by carrying out actions which restrict or may restrict competition, limit without cause the possibilities of other undertakings to act in the market, or violate the interests of consumers, including:

- 1) direct or indirect imposition of unfair prices or other purchase or selling conditions;
- 2) limitation of trade, production or technical development to the prejudice of consumers;
- 3) application of dissimilar (discriminating) conditions to equivalent transactions with certain undertakings, thereby placing them at a competitive disadvantage;
- 4) making the conclusion of contract subject to acceptance by the other party of supplementary obligations which, by their commercial nature or usage, have no connection with the subject of such contract.

### **Section III**

## **CONTROL OF CONCENTRATION**

#### **Article 10. Notification of Concentration**

1. The intended concentration must be notified to the Competition Council and its permission shall be required where combined aggregate income of the undertakings concerned is more than LTL 30 million for the financial year preceding concentration and the aggregate income of each of at least two undertakings concerned is more than LTL 5 million for the financial year preceding concentration.

2. The combined aggregate income of the undertakings participating in a concentration shall be conceived as:

1) the sum of aggregate income of the undertakings concerned;

2) the sum of aggregate income of the undertakings where one or more of the undertakings concerned acquire by contract another undertaking (the whole or parts of the enterprise), all or a part of the assets of the undertaking or a part of its shares which, including all previous acquisitions, constitute 1/4 or more of the authorised capital, or confer 1/4 or more of all the voting rights. Where the undertaking acquiring a part of shares in another undertaking belongs to the group of associated undertakings, in calculating the shares being acquired, the shares in this entity that are owned by the undertakings belonging to the same group of associated undertakings shall be included. In the case of acquisition of a part of the undertaking (enterprise) or a part of assets of the undertaking, aggregate income and market share shall be calculated proportionately to the part of the property acquired;

3) the amount of aggregate income of the undertakings subject to concentration, in one or more of which one and the same natural person or persons, having the right of control, acquire another undertaking (whole enterprise or a part of it), all or a part of the assets of the undertaking or a part of its shares which, including previous acquisitions, constitute 1/4 or more of the authorised capital or confer 1/4 or more of all the voting rights. When calculating the part of the shares acquired by a natural person or natural persons from another undertaking, the shares owned in this undertaking by the undertakings controlled by a natural person or the same natural persons, as well as by all undertakings belonging to the same group of associated undertakings shall be included. In the case of acquisition of a part of the undertaking (enterprise) or a part of the assets thereof, aggregate income and market share shall be calculated proportionately to the part of the assets acquired;

4) the amount of aggregate income of the undertakings which, based on an agreement, jointly set up a new undertaking, or establish a common management body or any administrative subdivision, also of those which, due to the decisions taken, will have a half or more of the same members in supervisory board, administrative board or other management body, or of those which commit themselves to co-ordinate among themselves decisions concerning their economic activity or to transfer to each other the whole or a certain part of profit, or of those which confer to each other the right to dispose of all or a part of their assets, or one or several undertakings of which by contract or otherwise acquire control of another undertaking. Where one undertaking confers to another undertaking the right to dispose of a part of its assets, the aggregate income and market share shall be calculated proportionately to the part of the assets disposed.

3. If the participant of a concentration is:

1) a bank or another credit institution, 1/10 of the sum of the balance sheet assets shall be calculated instead of the aggregate income;

2) an insurance enterprise, the value of gross insurance premiums shall be calculated instead of the aggregate income;

3) investment company, aggregate income shall be calculated as the sum total of the aggregate income of all the undertakings under the control of this investment company;

4) an undertaking which belongs to the group of associated undertakings, its aggregate income shall be calculated as the sum total of the aggregate income of all the undertakings belonging to the group of associated undertakings;

5) an undertaking of a foreign state, its aggregate income shall be calculated as the sum total of income, received on the product markets of the Republic of Lithuania.

4. The Competition Council shall establish the procedure for calculating the aggregate income as applied for the control of concentration.

5. A concentration shall not be deemed to arise where commercial banks, other credit institutions, intermediaries of public trading in securities, investment companies and insurance companies acquire more than 1/4 of shares in another enterprise or insurance company with a view to transferring them, provided that they do not exercise voting rights in respect of those shares and that any such disposal takes place within one year of the date of acquisition and information is submitted to the Competition Council not later than within one month after acquisition. If the financial institutions which acquired more than 1/4 of shares in another company decide not to comply with the conditions provided for in this paragraph, they must submit a notification of concentration in accordance with the established general procedure.

#### **Article 11. Submission of Notification**

1. Notification of intended concentration in the cases referred to in subparagraphs 2 and 3 of paragraph 2 of Article 10 shall be submitted by the controlling persons; in other cases notification shall be effected jointly by all undertakings participating in concentration.

2. Concentration shall be notified to the Competition Council not later than within 7 days from the submission of proposal to conclude the agreement or to acquire shares or assets, authorisation to conclude the agreement, conclusion of the agreement, acquisition of the right of ownership or the right to dispose of certain assets. The term shall begin when the first of those events occurs. The Competition Council shall establish a standard form for notification of concentration.

3. The notification of concentration shall include:

- 1) registration data of the undertakings participating in concentration;
- 2) reasons and objectives of concentration;
- 3) description of the way of concentration;
- 4) annual financial accounts of each undertaking participating in concentration, for the preceding three years prior to concentration;

5) data on the enterprises owned by each undertaking participating in concentration or the enterprises owned by controlling persons as well as data on the enterprises the share-holders of which they are;

6) purchase and sale volumes of each undertaking participating in concentration within the preceding three years prior to concentration and evaluation of their market share in a relevant market;

7) the list of the major purchasers and suppliers as well as the main competitors in the relevant markets of each undertaking participating in concentration.

4. Where notification of intended concentration with the participation of the undertaking belonging to a group of associated undertakings is submitted, the data on all the undertakings belonging to the group of associated undertakings shall be also submitted pursuant to the requirements of paragraph 3 hereof.

5. Where the notified intended concentration is with participation of banks or other credit institutions, the Competition Council shall also be submitted the finding of the Bank of Lithuania.

#### **Article 12. Suspension of Concentration**

1. The undertakings or controlling persons participating in the concentration which is subject to notification shall have no right to further effect concentration after the performance of the first action of concentration until the Competition Council takes a decision permitting concentration concerned.

2. Any transactions and actions of the undertakings and controlling persons shall be deemed invalid and having no legal consequences if they contradict paragraph 1 hereof, except in cases provided for in paragraph 3 hereof.

3. Upon justified request of the undertaking participating in concentration or of the controlling person, the Competition Council, taking into account the consequences of the suspension of



concentration on the persons concerned and the projected influence of concentration on competition, may permit to exercise individual actions of concentration until the adoption of the final decision. The permission of the Competition Council to implement individual actions of concentration may be made subject to certain conditions and obligations necessary for execution of the final decision of the Competition Council. The Competition Council must adopt a resolution establishing rules on release from suspension of concentration.

#### **Article 13. Examination of Notifications by the Competition Council**

1. Having received notification of concentration, the Competition Council shall publish an announcement to the effect in “*Valstybės žinios*” (the “*Official Gazette*”), indicating the nature of concentration and the parties concerned.

2. The Competition Council shall within 4 months examine the notifications of concentration submitted in accordance with the established requirements. The term shall begin on the day following the receipt of the notification of concentration which complies with the established requirements. If the notification of concentration does not comply with the established requirements, the Competition Council shall adopt a corresponding resolution and promptly inform the persons who submitted the notification thereof in writing.

3. The Competition Council must within a month after the receipt of the notice meeting the established requirements adopt a resolution pursuant to subparagraphs 1 and 2 of the paragraph 1 of Article 14 or a resolution to proceed with further examination of the notification of concentration.

4. When examining notifications of concentration, the Competition Council shall be entitled to obtain from undertakings, controlling persons, and public and local authorities information, oral or written clarifications necessary for taking a decision on concentration.

#### **Article 14. Resolutions of the Competition Council on Concentration**

1. Upon completing the examination of notification, the Competition Council shall take one of the following decisions:

- 1) to permit the concentration notified;
- 2) to permit the implementation of concentration attaching to its decision conditions and obligations for the participating undertakings or controlling persons in order to prevent creation or strengthening of a dominant position;
- 3) to refuse to grant a permission to implement concentration by imposing obligations on undertakings or controlling persons concerned to undertake actions restoring the previous situation, except certain actions of concentration which had been permitted by the Competition Council in accordance with paragraph 3 of Article 12 or which eliminate the consequences of concentration, including obligations to sell the enterprise or a part of it, assets of undertakings or part thereof, shares or part thereof, to cancel or modify contracts, as well as to establish the terms and conditions for the fulfilment of the above obligations, where concentration will establish or strengthen a dominant position and result in a substantial restriction of competition in a relevant market.

2. The resolution of the Competition Council permitting to implement the concentration shall specify possible restrictions of activity of the undertakings concerned, which are directly related and necessary in order to effect concentration.

3. The persons who submitted notifications of concentration shall be informed in writing of the adopted resolutions. If the Competition Council does not adopt the resolutions referred to in paragraph 2 of Article 13 or paragraph 1 hereof or if the persons who submitted notifications of concentration are not informed of the adopted resolution within 4 months after the day of receipt of the notification meeting the established requirements, the undertakings or controlling persons shall have the right to implement concentration according to the conditions specified in the notification.

4. Operative part of resolutions adopted by the Competition Council according to Article 14 of this Law shall be published in “*Valstybės žinios*” (the “*Official Gazette*”).

**Article 15. Investigation of Infringements of Concentration Control and  
Amendment or Revocation of Resolutions on Concentration Adopted  
by the Competition Council**

1. Where there are reasonable grounds for believing that a concentration has been put into effect in violation of the requirements of this Law or in breach of the resolutions of the Competition Council, the Competition Council shall carry out investigation according to the provisions of Section Five of this Law.

2. The Competition Council shall have the right to amend or to revoke the resolution on concentration provided for in paragraph 1 of Article 14 if such resolution has been adopted based on incorrect or incomplete information submitted by undertakings participating in concentration or by controlling persons, which information has had a decisive influence on the resolution, or where undertakings or controlling persons have violated the conditions and obligations of the implementation of concentration.

**Chapter III  
UNFAIR COMPETITION**

**Article 16 Prohibition of Acts of Unfair Competition**

1. Undertakings shall be prohibited from performing any acts contrary to honest business practices if such acts may be detrimental to competition interests of another undertaking, including:

1) unauthorised use of a mark identical or similar to the name, registered or unregistered well known trade mark or other reference having a distinguishing feature of another undertaking, if this causes or may cause confusion with that undertaking or its activity or where it is sought to take undue advantage of the reputation of that undertaking (its mark or reference) or where this may cause injury to the reputation (its mark or reference) of that undertaking or reduction of the distinguishing feature of the mark or reference applied by that undertaking;

2) misleading of undertakings by providing them with incorrect or unjustified information about quantity, quality, components, properties of usage, place and means of manufacturing, price of its goods or goods of another undertaking, or concealing risks associated with the consumption, processing or other possible usage of those goods;

3) using, transferring, disclosing the information representing a commercial secret of another undertaking without its consent, also obtaining such information from the persons having no right to transfer it, in order to compete, seeking benefit for oneself or inflicting damage on that undertaking;

4) proposing that the employees of the competing undertaking terminate their employment contracts or refrain from performing all or part of their work-related duties, with a view to self-benefit or seeking to inflict damage on the competing undertaking;

5) simulating the product or product packaging of another undertaking by copying the external shape or packaging colour or other distinguishing feature of the product, if this can be misleading in determining the identity of the product or if the acts are intended to obtain the benefits by taking undue advantage of the reputation of another undertaking;

6) providing incorrect or unsubstantiated information about its own or another undertaking's managing personnel, skills of the employees, legal, financial or other position if damage may thereby be inflicted on another undertaking;

7) advertising claims which are considered misleading under the laws of the Republic of Lithuania.

2. Subparagraph 1 of paragraph 1 hereof specifies the cases which shall not be considered as the use of identical or similar name, trade mark or reference mark: when the name or surname of the owner or the holder of controlling interest or the founder is used in a name, trade mark or reference mark, and the undertakings, using such a name, trade mark or reference mark have taken measures to prevent misleading the customers as to the identity of the undertaking or the good.

3. The information specified in subparagraph 2 of paragraph 1 hereof on the designation of origin of a good implies geographical indications provided in any suitable way characterising the good as

produced in the territory of a certain state or in a certain region or area of the territory which is associated with quality, reputation or other properties of the good.

4. The persons who have acquired information of a commercial secret as a result of their work or any other contractual relations with the undertaking may use this information not earlier than after the passage of one year after the termination of employment or other contractual relations, unless legislation or the contract provides otherwise.

5. The actions taken with a view to achieving certain functional characteristics of a good or of its packaging shall not be considered a simulation of the appearance of the good or of the form of its packaging provided the person, responsible for such actions, has taken measures to prevent misleading other undertakings or consumers as to the identity of the manufacturer or the good.

#### **Article 17. Protection of Rights**

1. The undertaking legitimate interests whereof are violated by actions of unfair competition shall be entitled to bring an action in court seeking:

- 1) termination of illegal actions;
- 2) recovery of the damages;
- 3) imposition of the obligation to make one or several statements of a certain content or form, denying the previously submitted incorrect information or giving explanations as to the identity of the undertaking or its goods;
- 4) seizure and destruction of the goods, their packaging or attributes, directly related to unfair competition, unless infringements can be eliminated otherwise.

2. The organisations representing the interests of undertakings or consumers shall also enjoy the rights specified in subparagraphs 1, 3 and 4 of paragraph 1 hereof.

3. Liability for the use of misleading advertising shall be established by the laws of the Republic of Lithuania.

4. The Competition Council shall investigate the acts of unfair competition only in the cases where these acts violate the interests of a number of undertakings or consumers. The Competition Council shall impose sanctions for these acts provided for by legislation.

### **Chapter IV**

#### **INSTITUTION CONTROLLING ACTIONS RESTRICTING COMPETITION**

#### **Article 18. Competition Council of the Republic of Lithuania**

1. The Competition Council is a public body of the Republic of Lithuania implementing the state competition policy and supervising compliance with this Law.

2. The Competition Council shall be a legal person, having its accounts with the banks, a seal with the Lithuanian State Emblem and its name.

3. The Competition Council shall be governed by the Constitution of the Republic of Lithuania, by this and other laws, international agreements to which the Republic of Lithuania is a party, other legal acts, and the Regulations of the Competition Council approved by the Government.

4. The Competition Council shall be a budgetary institution financed from the Lithuanian state budget.

5. The Law on Budgetary Institutions shall be applicable to the activity of the Competition Council, unless this Law provides otherwise.

#### **Article 19. Powers of the Competition Council**

1. The Competition Council shall:

- 1) control the compliance by undertakings, public and local authorities with the requirements of this Law;

2) establish the criteria and procedure for providing the definitions of the relevant market and a dominant position, investigate and define relevant markets, determine the market share of undertakings, and their position in a relevant market;

3) give obligatory instructions to undertakings, from among them - to banks and other credit institutions as well as public and local authorities to submit financial and other documentation, including that containing commercial secrets and other information required for market investigation or fulfilment of other tasks of the Council;

4) examine the conformity of legal acts or other decisions adopted by public and local authorities with the requirements of Article 4 of this Law, and, where there is sufficient cause, apply to public and local authorities with the request to amend or revoke legal acts or other decisions restricting competition. In case of failure to satisfy the requirement the Council shall have the right to appeal against such decisions, except for the statutory acts issued by the Government of the Republic of Lithuania, to the Higher Administrative Court;

5) investigate and consider infringements of this Law and impose penalties on the defaulters in the cases and following the procedure provided for by law;

6) appeal to the court for the protection of interests of the State and other persons safeguarded by this Law;

7) adopt legal acts within the limits of its competence;

8) within its competence carry out expert examination of drafts of laws and other legal acts, submit findings on the effect of said acts on competition to the Seimas and the Government of the Republic of Lithuania;

9) exercise other powers provided for by this and other laws.

2. The Competition Council may delegate some of its powers to the Chairperson of the Competition Council or to the administration of the Competition Council, except for the powers to make decisions or to hear cases provided for by Articles 7, 8, paragraph 4 of Article 10, paragraph 1 of Article 14, paragraph 2 of Article 15 of this Law and the authorisation to impose penalties prescribed by this Law and to adopt legal acts.

3. The administration of the Competition Council shall be formed to fulfil the functions of the Competition Council. Its structure and list of staff shall be approved by the Competition Council. The functions of the administration and the administrative staff shall be laid down in this Law and in the Regulations approved by the Competition Council.

## **Article 20. Composition and Formation of the Competition Council, its Operational Procedure**

1. The Competition Council shall consist of the Chairperson and 4 members. The Chairperson of the Competition Council and its members shall be appointed by the President of the Republic on the nomination of the Prime Minister of the Republic of Lithuania. The Chairperson of the Competition Council shall be appointed for a term of five years, the term of appointment of the members of the Competition Council shall be six years. Every three years there shall be a partial replacement of the Council members. During the first appointment of the members of the Competition Council two members shall be appointed for a term of six years and 2 members - for three years.

2. Persons of highest integrity who are trained in law or economics and are citizens of the Republic of Lithuania may hold the office of the Chairperson and of members of the Competition Council.

3. The Chairperson and the members of the Competition Council shall be removed from office only:

- 1) of their own volition;
- 2) upon the expiry of their term of office;
- 3) upon being elected or appointed to another office;
- 4) upon the coming into force of the court sentence;
- 5) if instances of malfeasance are revealed;

6) if by their acts they discredit the name of the Chairperson or the member of the Competition Council;

7) for health reasons.

4. The members of the Competition Council may not, during their term of office, engage in any other occupation, except for scientific, educational or creative work they may perform upon the approval of the Competition Council.

5. The Competition Council shall resolve issues assigned within its competence by passing resolutions. The resolutions shall be passed by majority vote with at least four members of the Competition Council, the Chairperson including, participating in the voting. In the event of a tie, the Chairperson shall have the casting vote.

6. Operational procedure of the Competition Council and rules regulating the procedure of the investigation of cases shall be laid down in the Work Regulations adopted by the Competition Council.

#### **Article 21. The Chairperson of the Competition Council**

1. The Chairperson of the Competition Council shall:

- 1) direct the work of the Competition Council;
- 2) represent the Competition Council in the Republic of Lithuania and abroad;
- 3) employ and dismiss the administrative staff of the Competition Council;
- 4) submit annual reports on the Competition Council activities to the Seimas and Government of the Republic of Lithuania;

5) fulfil other functions assigned to him by the Competition Council.

2. In the Chairperson's absence his duties shall be fulfilled by another member of the Competition Council, who shall be appointed by the Chairperson.

3. The Chairperson of the Competition Council or, in his absence, another member of the Competition Council appointed to act for him shall have the right to participate in the meetings of the Government of the Republic of Lithuania without the right to vote and must voice his comments should the decisions proposed for adoption contradict this Law.

#### **Article 22. Protection of Commercial Secrets**

1. Commercial secrets disclosed to the Competition Council and its administrative staff during their exercise of control over compliance with this Law must be kept confidential and, in the absence of the undertaking's consent, must be used only for the purpose the information was provided.

2. For the disclosure of commercial secrets of undertakings the Competition Council and its administrative staff shall be held liable under law.

### **Chapter V**

#### **INVESTIGATION OF RESTRICTIVE PRACTICES AND HEARING OF CASES**

##### **Section IV**

#### **INVESTIGATION OF RESTRICTIVE PRACTICES, CARRIED OUT BY THE COMPETITION COUNCIL**

#### **Article 23. Infringements Investigated by the Competition Council**

1. The Competition Council shall investigate:

- 1) infringement of agreements restricting competition and of conditions and obligations of exemption granted under Articles 7 and 8 of this Law;
- 2) abuse of a dominant position;
- 3) putting into effect of a concentration without notifying or without getting a permit or in breach of the established conditions or obligations stated as well as continuing to put in effect a concentration during its suspension;

4) unfair competition in the cases provided for in paragraph 4 of Article 17 of this Law;  
5) infringements in case of failure to comply with the requests to supply information or failure to timely comply, also in case of provision of incorrect or incomplete information or, in the cases provided for in this Law, failure to supply information within the period fixed, or obstruction of the authorised officers of the Competition Council in carrying out the investigation or default on penalties or obligations imposed by the Competition Council.

2. The investigation shall be carried out by the administrative staff members of the Competition Council authorised by it (hereinafter - authorised officers).

#### **Article 24. The Right to Initiate Investigation of Restrictive Practices**

1. The right of request to start investigation of restrictive practices shall be vested in:  
1) undertakings whose interests have been violated due to restrictive practices;  
2) public and local authorities;  
3) associations and unions representing the interests of undertakings and consumers.  
2. The Competition Council shall have the right to start investigation on its own initiative by taking a justified decision.

#### **Article 25. Submission of Application for Investigation and its Examination**

1. The request for the investigation to be carried out shall be submitted in a written application, specifying the facts and circumstances of restrictive practices the applicant is aware of. Documents confirming the above facts shall be attached to the application.

2. The Competition Council shall set the general requirements for the data and documentation to be provided by the applicant in order to start investigation of restrictive practices.

3. The Competition Council must examine applications filed with respect to the restrictive practices not later than within 14 days from submission of the application and documentation and take a decision to start or to refuse to start the investigation.

4. The refusal to start investigation follows, if:

1) the facts indicated in the application are immaterial, causing no substantial damage to the interests protected under this Law;

2) investigation of the facts specified in the application is not within the Competition Council's remit;

3) the facts specified in the application have already been investigated and a resolution has already been taken on the issue;

4) the applicant has failed to provide, within the time period set by the Competition Council, the data and documents required in order to initiate the investigation.

5. The Competition Council shall take a justified decision to investigate the restrictive practices.

6. The Competition Council must complete the investigation not later than within 3 months from the commencement thereof. The Competition Council may extend the period by a justified resolution each time for up to 2 months.

#### **Article 26. Rights and Duties of the Authorised Officers of the Competition Council in the Process of Investigation**

1. The authorised officers of the Competition Council, carrying out the investigation, shall be empowered:

1) to enter and to check any premises, land and means of transport used by the undertaking;

2) to examine the documents of the undertaking under investigation required for investigation, get their copies and extracts, be given access to the notes of the employees of the undertaking, also copy the above notes as well as information stored in computers and magnetic disks;

3) to get oral and written explanations from the persons connected with the activity of the undertakings under investigation, summon them to the office of the investigating officer to give explanations;

4) to get from other undertakings, regardless of their subordination, data and documents or copies thereof relating to the economic operations of the undertaking under investigation, also from public and local authorities;

5) to audit (carry out an inspection of) the economic activity of the undertaking and obtain findings regarding the material of inspection from the institutions responsible for expert examination;

6) to take possession of any documents and articles having evidential value in the investigation of the case;

7) to enlist the assistance of specialists and experts in carrying out the investigation;

8) acting in compliance with the procedure established by law, use technical means for investigation purposes.

2. The actions of investigation specified in subparagraphs 1 and 2 of paragraph 1 hereof may be carried out only with the warrant of the judge.

3. For the maintenance of order the investigating officers of the Competition Council may enlist police assistance

4. Before commencing the actions specified herein, the authorised officers of the Competition Council must produce a document issued by the Competition Council confirming their powers, purpose and time limits of investigation.

5. While exercising their rights granted by law and the Competition Council, the officers authorised by the Competition Council shall register investigation actions in writing, i.e. shall draw up documents (acts, records, requests, etc.) the form and filling in procedure whereof shall be established by the Competition Council.

6. Instructions given by the authorised officers of the Competition Council while performing actions provided for in paragraph 1 hereof shall be obligatory to undertakings and to their management and administrative staff. Penalties provided for in laws shall be applied for failure to fulfil the instructions.

7. The authorised investigating officers shall warn the persons providing explanations in writing of their liability for giving false information or for refusal to provide information to the Competition Council.

#### **Article 27. Appeal against the Actions of the Investigating Officers**

1. The undertakings, suspected of having violated the Law on Competition, shall have the right to appeal to the Competition Council against illegitimate actions of the investigating officers. A complaint shall be filed not later than within 10 days from the date of actions subject to appeal. The Competition Council must take decision within 10 days from the date of receipt of the complaint.

2. If the undertakings, suspected of infringement of the Law on Competition, object to the decision of the Competition Council or if the Competition Council fails to make a decision within a 10-day period, the undertakings shall have the right to file a complaint with the Higher Administrative Court. The filing of the complaint shall not suspend investigation.

#### **Article 28. Interim Measures**

1. In cases, where there is sufficient evidence of infringement of the Law on Competition, the Competition Council, seeking to prevent substantial or irreparable damage to the interests of undertakings or public interests, shall have the right to apply interim measures necessary for the implementation of the final decision of the Competition Council. The application of interim measures shall cease upon the payment of the penalties imposed by the resolution of the Competition Council adopted after the investigation of the case.

2. In cases provided for in paragraph 1 hereof the Competition Council shall have the right to apply the following interim measures with respect to the undertaking suspected of infringement of the Law on Competition:

1) to obligate the undertakings to cease an illegal activity;

2) upon being issued a warrant by the judge of the Higher Administrative Court, to obligate the undertakings to perform certain actions if failure to perform same would result in serious damage to other undertakings or public interests or incur irreparable consequences.

3. Before adopting a resolution to apply interim measures, the Competition Council shall give the undertaking suspected of infringement of the Law on Competition an opportunity to make representations.

4. The decision of the Competition Council on the application of interim measures may be appealed against to the Higher Administrative Court within 1 month from the date of making the decision. The lodging of a complaint does not suspend the application of interim measures.

#### **Article 29. The Procedure for Authorising Investigation Measures, Interim Measures and Restrictions of Economic Activities**

1. Upon the adoption by the Competition Council of a resolution on the investigation actions as provided for in paragraph 2 of Article 26 or on interim measures as provided for in subparagraph 2 of paragraph 2 of Article 28, or on restrictions of economic activities as provided for in paragraph 2 of Article 40, the authorised officer of the Council shall submit an application to the court to authorise these actions, measures or restrictions. The application shall be submitted to the Higher Administrative Court.

2. The application shall state the name of undertaking, specify the character of alleged violations and the intended investigation actions, interim measures or restrictions of economic activity to be applied.

3. The judge of the Higher Administrative Court shall examine the application for the authorisation of investigation actions, interim measures or restrictions of economic activities and shall make a justified decision to grant or to reject the application.

4. The application for authorisation of investigation actions, interim measures or restrictions of economic activities shall be examined and the decision thereon shall be taken not later than within 72 hours from the moment of filing of the application.

5. If the authorised officer of the Competition Council disagrees with the decision of the judge of the Higher Administrative Court to reject the application, he shall have the right to appeal within 7 days against the judge's decision to the appeal court.

6. The appeal court must investigate the complaint against the decision of the judge of the Higher Administrative Court not later than within 7 days. The representative of the Competition Council shall have the right to attend the complaint investigation.

7. The decision of the appeal court shall be final and shall not be referred to the court for review by cassation.

8. While considering applications and complaints regarding the authorisation of investigation actions, interim measures or restrictions of economic activities, the courts must ensure confidentiality of the provided information and intended actions.

#### **Article 30. Completion of Investigation**

1. Upon the completion of investigation the authorised officers of the Competition Council shall refer the case with their findings and proposals to the session of the Competition Council for investigation or shall discontinue the investigation according to the procedure laid down by the Competition Council.

2. The applicant and the interested parties shall be notified in writing of the decision taken.

3. Should new circumstances be revealed or if the undertaking fails to comply with the conditions and obligations laid down on the basis of this Law, the Competition Council shall have the right to reopen the closed investigation.



## **Section V**

### **HEARING OF RESTRICTIVE PRACTICES CASES**

#### **Article 31. The Participants of the Hearing Process**

1. The hearing of the case on infringements referred to in Article 23 shall be held with the following persons participating:
- 1) the applicant (the initiator of investigation);
  - 2) the undertaking suspected of infringement of the Law on Competition (alleged defaulter);
  - 3) on the decision of the Competition Council, other undertakings whose interests are directly related to the case under investigation;
  - 4) representatives of public and local authorities, at their request;
  - 5) experts, specialists and other persons, pursuant to the decision of the Competition Council.
2. Persons specified in subparagraphs 1, 2 and 3 of paragraph 1 hereof, hereafter in this Law shall be referred to as parties to the proceedings.
3. The parties to the proceedings may be represented by their representatives and lawyers.

#### **Article 32. Notice of the Hearing of the Case**

The parties to the proceedings shall be notified in writing of the findings of the authorised officers regarding the restrictive practices, of the place and time of hearing of the case and shall be offered to submit their written comments. The Competition Council may notify of the hearing of the case through the media.

#### **Article 33. Persons Participating in the Hearing of the Case at the Session of the Competition Council**

The case shall be heard in the presence of the parties to the proceedings and other persons participating in the case. In the absence of the parties to the proceedings, the case may be heard only when information is available that said persons have been timely notified of the place and time of the hearing and have been given an opportunity to make representations and familiarise themselves with the findings of the investigation.

#### **Article 34. The Right to be Heard, to Give Explanations and to Familiarise Oneself with the Investigation Material**

1. At the stages of investigation and hearing of the case the parties to the proceedings shall have the right to be heard and to give explanations both in writing and orally. Upon the completion of the investigation the parties to the proceedings shall be presented with the written findings of the authorised officer and shall be provided access to the documents of the case, other than those containing commercial secrets of another undertaking. In such cases the consent of this undertaking shall be required.
2. The parties to the proceedings and other persons participating in the case shall have the right to make an application to the Competition Council at any stage of investigation and hearing of the case, requesting protection of their commercial secrets. The Competition Council or its authorised officer must make a justified decision on the protection of commercial secrets and notify the applicant thereof. The applicant may be obligated to produce within the set time period an extract of the document omitting commercial secrets, which shall be appended to the case.

#### **Article 35. Public Hearing of Cases**

The hearing of cases at the sessions of the Competition Council shall be public. The Competition Council may on its own initiative or at the request of the alleged defaulter or any other interested person announce a closed hearing of the case where it is necessary to keep the state secret or commercial secrets of undertakings.

### **Article 36. Resolutions of the Competition Council Adopted upon the Completion of Hearing of the Case**

1. Upon completing the hearing of the case, the Competition Council shall have the right to adopt a resolution:

- 1) to impose the penalties provided for by this Law;
- 2) to refuse to impose penalties where there are no legally established grounds;
- 3) to close the case in the absence of infringements of the Law;
- 4) to remand the case for supplementary investigation.

2. The resolution of the Competition Council must state the circumstances of infringement of this Law, evidence of guilt, explanations given to the Competition Council by the defaulter, applicant and other persons as well as their assessment, the motives and legal grounds of the resolution to be adopted.

3. The resolution of the Competition Council must be based only on those findings and facts and circumstances of the investigation with respect to which the person suspected of infringement of the Law on Competition had been afforded an opportunity to give explanations.

4. The resolution of Competition Council adopted pursuant to this Article may be amended or cancelled only by the court.

### **Article 37. Announcement of Resolutions of the Competition Council**

1. The Competition Council resolution or its extract shall be delivered to the parties to the proceedings.

2. The operative part of the resolutions adopted by the Competition Council pursuant to Article 36 of this Law shall be published in "*Valstybės žinios*" (the "*Official Gazette*").

## **Section VI JUDICIAL INVESTIGATION OF COMPLAINTS AGAINST THE RESOLUTIONS OF THE COMPETITION COUNCIL**

### **Article 38. Appeal against the Resolutions of the Competition Council**

1. The undertakings as well as other persons who believe that their rights protected by this Law have been violated shall have the right to appeal to the Higher Administrative Court against the resolutions of the Competition Council. The parties to the proceedings shall have the right to appeal against the resolutions of the Competition Council adopted pursuant to Article 36 of this Law.

2. A written complaint shall be lodged not later than within 20 days after the delivery of the resolution or publication of its operative part in "*Valstybės žinios*" (the "*Official Gazette*").

3. Unless the Higher Administration Court decides otherwise, the lodging of a complaint shall not suspend the implementation of the resolutions of the Competition Council.

### **Article 39. Decision of the Court**

Upon investigation of the complaint against the resolution of the Competition Council, the court shall make one of the following decisions:

- 1) to leave the resolution as it stands and to reject the complaint;
- 2) to revoke the resolution or its individual sections and to remand the case to the Competition Council for supplementary investigation;
- 3) to revoke the resolution or its individual sections;
- 4) to amend the resolution on the granting of individual exemption, concentration, application of penalties or interim measures.

## **Chapter VI**

### **LIABILITY FOR INFRINGEMENT OF THE LAW ON COMPETITION**

#### **Article 40. Penalties Imposed on Undertakings**

1. Upon establishing that undertakings have engaged in conduct prohibited under this Law or have otherwise infringed this Law, the Competition Council shall have the right :

1) to place the undertakings under an obligation to end illegal activity, to carry out actions restoring the previous situation or eliminating consequences of infringement, including the obligation to cancel, amend or conclude contracts, also to set the time limit and lay down the conditions for meeting the above obligations;

2) to obligate the undertakings or controlling persons, who have effected concentration resulting in the establishment or strengthening of a dominant position and subsequent considerable reduction of competition in a relevant market without notifying the Competition Council or getting its permission, also in the cases provided for in paragraph 2 of Article 15 of this Law, to carry out actions restoring the previous situation or eliminating the consequences of concentration, including obligations to sell the enterprise or a part thereof, the assets of the undertaking or a part thereof, shares or a part thereof, to reorganise the enterprise, to cancel or change contracts, as well as to set the time limit and lay down the conditions for fulfilling of the above obligations;

3) to impose fines on undertakings fixed by this Law.

2. Upon being issued an authorisation by the Higher Administrative Court judge, the Competition Council may by its resolution prescribe the following restrictions of economic activity of undertakings which default on the imposed penalties specified in paragraph 1 hereof: suspend export-import operations, bank operations, the validity of the permit (licence) to engage in certain economic activity. The resolutions of the Competition Council shall have a binding force for the institutions empowered to apply the above restrictions and must be implemented without delay. The restrictions shall be lifted after the implementation of penalties imposed by the Competition Council.

3. For violation of this Law an action may be brought against undertakings not later than within three years from the date of infringement, and in case of continued violation - from the date of performance of the last acts.

#### **Article 41. Fines**

1. A fine of from LTL 3000 to 100000 may be imposed on undertakings for prohibited agreements; infringement of the conditions of exemption granted pursuant to Articles 7 and 8 of this Law; abuse of a dominant position, in the cases provided for in subparagraphs 1, 2, 3 and 4 of paragraph 1 of Article 9 of this Law; putting into effect of a notifiable concentration without the permission of the Competition Council; continuation of concentration within the period of its suspension, also infringement of concentration conditions or mandatory obligations established by the Competition Council. In the case when infringements listed in this paragraph have been made in aggravating circumstances, a fine of a larger amount may be imposed on the undertakings but not exceeding 10% of the gross annual income.

2. A fine of from LTL 1000 to 30000 may be imposed on undertakings for the actions of unfair competition subject to investigation by the Competition Council. In the cases where infringements enumerated in this paragraph have been made in aggravating circumstances, a fine of a larger amount may be imposed on the undertakings but not exceeding 3% of the gross annual income.

3. A fine of from LTL 1000 to 10000 may be imposed on undertakings for providing incorrect or incomplete information required for investigation, also for providing incorrect and incomplete information in an application for granting exemption under Article 8 of this Law, in notification of concentration or in any other notification submitted to the Competition Council in the cases provided for by this Law.

4. A fine of from LTL 3000 to 100000 may be imposed on undertakings for obstructing the officers of Competition Council from entering and checking the premises, land and means of transport

used by the undertaking, to inspect or take possession of any documents and articles having evidential value in the investigation of the case.

5. A fine of from LTL 1000 to 10000 may be imposed on undertakings for each day of commission (continuation) of infringement in the event of failure to satisfy or to satisfy in good time the obligations of the Competition Council to put an end to illegal activity; to perform actions restoring previous situation or eliminating the consequences of infringement; also for failure to fulfil or fulfil without delay the instructions to provide information; for failure to provide notification of intended concentration within the time limits established by the Law; for failure to provide in good time information in the cases provided for by this Law.

#### **Article 42. Imposition of Fines and Setting their Amount**

1. In setting the amount of a fine imposed on undertakings, regard shall be had to:

- 1) amount of damage caused by the infringement;
- 2) duration of the infringement;
- 3) circumstances extenuating or aggravating the liability of an undertaking;
- 4) amount of income due to the undertaking because of the infringement;
- 5) influence of each undertaking in the commission of the infringement, if the infringement has been committed by several undertakings.

2. Voluntarily putting an end to the effect of detrimental consequences of infringement after the commission thereof, rendering of assistance to the Competition Council in the course of investigation, compensation for the losses or elimination of damage shall be considered as extenuating circumstances.

3. Obstruction of investigation, concealment of the committed infringement, failure to put an end to infringement notwithstanding the obligation by the Competition Council to discontinue illegal actions or repeated commission of the infringement for which the undertakings have been subjected to penalties provided for in this Law shall be considered as aggravating circumstances.

4. When setting the amount of a fine, the Competition Council may also recognise other circumstances not indicated herein as extenuating. The Competition Council shall take a decision whereby the rules of recognition of extenuating circumstances shall be laid down.

#### **Article 43. Exemption from Fines**

1. The undertaking which is a party to a prohibited agreement between competitors shall be exempted from fines provided for in respect of the infringement upon presenting to the Competition Council full information relating to the agreement if all the following conditions are satisfied:

- 1) the undertaking provides information prior to the beginning of investigation of the agreement;
- 2) the undertaking is the first of the parties to the prohibited agreement to provide such information;
- 3) the undertaking provides complete information available to it regarding the prohibited agreement and co-operates with the Competition Council during the investigation;
- 4) the undertaking has not been the initiator of the prohibited agreement and has not induced other undertakings to participate in such an agreement.

2. The dominating undertaking which has committed prohibited actions provided for in subparagraphs 1, 2, 3 and 4 of paragraph 1 of Article, 9 shall be exempted from the fines provided for in respect of those infringements, if all of the following conditions are satisfied:

- 1) the undertaking provides complete information required for the investigation of abuse of dominant position and co-operates with the Competition Council during the investigation;
- 2) the prohibited actions committed by the undertaking have not caused substantial and irreparable damage to the interests of other undertakings or public interests;
- 3) the undertaking stops the prohibited actions of its own free will and furnishes proof thereof before the end of the investigation;
- 4) the undertaking compensates of its own free will the damage caused by the prohibited actions and furnishes proof of this before the end of the investigation.

3. The Competition Council, having completed the investigation and when adopting the final resolution on the infringement shall decide, whether the conditions specified herein have been met and the undertaking qualifies for exemption from fines.

#### **Article 44. Recovery of Fines**

1. An undertaking must pay into the State Budget the fine imposed by the Competition Council not later than within three months after the date of receipt of the resolution.

2. Upon a justified request of the undertaking payment of a fine or a part thereof may be postponed by a decision of the Competition Council for up to six months.

3. The fine not paid by the undertaking shall be recovered into the State Budget. The resolution of the Competition Council shall be submitted to the bailiff for execution according to the procedure established by the Code of Civil Procedure. The resolution may be submitted for execution not later than within three years from the date of its adoption.

#### **Article 45. Administrative Liability**

Infringement of this Law shall incur administrative liability established by the laws of the Republic of Lithuania.

#### **Article 46. Compensation for Damage**

1. The undertakings who violate this Law must compensate for damage caused to other undertakings or natural and legal persons according to the procedure established by the laws of the Republic of Lithuania.

2. Damage caused to undertakings by illegal actions of the Competition Council or its officers shall be compensated according to the procedure established by law.

*I hereby proclaim this Law enacted by the Seimas of the Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS

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