



REPUBLIC OF ESTONIA
COMPETITION AUTHORITY



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ESTONIAN COMPETITION AUTHORITY

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FOREWORD

Dear readers!

Unfortunately, 2016 is mainly remembered for its political turbulence. There is no doubt that politics also impacts the topics of competition and regulation. The focus has always been on the independence of competition authorities and regulators. Decisions must be politically autonomous and strictly adhere to legislation and economic analysis. However, a share of undertakings is owned either by the state or local government and it is vital to ensure the equal treatment of all undertakings, regardless of their ownership form. Among other things, the Estonian Competition Authority is analysing the situation in different sectors and the visions of the state or local government may differ here as well. It is very important that the Authority is able to handle any problems autonomously and give recommendations if competition and free entrepreneurship could be developed in some area of life.

In recent years, one of the main themes has been competitive neutrality. This means that upon providing public or local government services, the principle of free competition and entrepreneurship shall be followed. If the private sector is willing to provide some of the services with the same quality, but at a better price, neither the state nor the local government should prohibit this. Choosing the service provider must be done openly and under the conditions of fair competition. In several areas of activity, we are used to the fact that the service provider is the state or the local government. For instance, as a rule we do not think that the private sector could provide healthcare, social welfare or any number of public utility services. However, we should have the courage to handle these topics as well. The Estonian Competition Authority could not handle such politically sensitive topics if it was not autonomous.

The electricity and gas market directives of the European Union establish that the authority regulating this sector – in Estonia, it is the Estonian Competition Authority – must be both politically autonomous and not linked to undertakings operating in the sector. I am truly happy that such directive is also prepared for competition authorities. The draft legislation clearly establishes the requirement for the autonomy of these authorities. Estonia shall have the honour to hold the presidency of the Council of the European Union in the second half of 2017 and contribute to implementing this important directive.

I am pleased that the Estonian Competition Authority is a member of international networks and organisations and especially as a representative of a democratic, free country with a low level of corruption. I am even more certain that these are the main bases that make the Estonian Competition Authority successful and allow us to efficiently perform the tasks we have undertaken.

With best wishes,

Märt Ots
Director General

ABOUT THE COMPETITION AUTHORITY

The Estonian Competition Authority exercises supervision in the fields of competition, electricity, natural gas, district heating, postal services, public water supply and sewerage and railways. In addition, the Authority settles disputes regarding airport fees. The Competition Authority is in the area of government of the Ministry of Justice.

The functions of the Authority are divided between two divisions. The **Competition Division** exercises competition related supervision, control of concentration in all economic sectors, analyses the competitive situation and raises competition related awareness. The **Regulatory Division** implements price regulation and market supervision in the markets of electricity, natural gas, district heating, water, railways and postal services. The **External and Public Relations Department** is responsible for ensuring effective support services of the Authority (including international and public relations, personnel work and training coordination, document management).

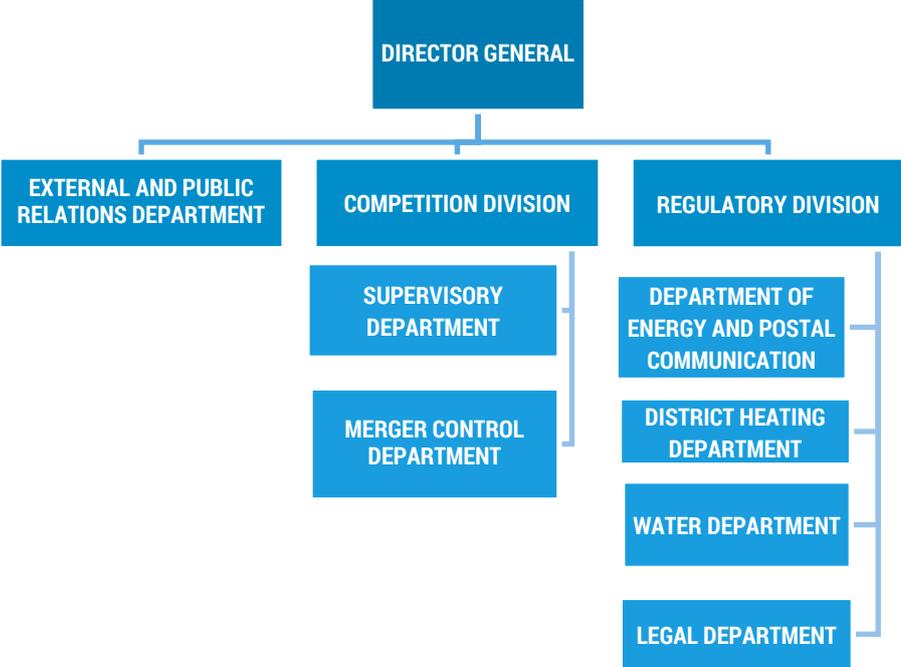


Figure 1. Structure of the Estonian Competition Authority

The Competition Authority employed 46 people as of the end of the year 2016, and 42 people were civil servants and 4 people were employees. The Authority employed 30% of men and 70% of women. The average age of a staff member was 43 years and the average years of service at the Authority was 11.7 years.

Most staff members have higher education in economics (business administration, business management, finance, etc.) or law. In addition, there are officials with higher education in other disciplines such as thermal engineering, public administration, chemistry or other.

COOPERATION

The Authority considers both international as well as national cooperation highly important. The Authority routinely participates in the work of different field-based working groups, networks and organisations.

Competition agencies and sector regulators in various countries share knowledge and experience in the form of bilateral cooperation, but most of the international cooperation is achieved via respective cooperation networks and organisations.

The European Commission's Directorate General for Competition and the national competition authorities in all EU Member States cooperate with each other through the **European Competition Network**. As all the members of the network apply the European competition rules, it is necessary for the competition authorities to pool their experiences and share best practices in order to ensure the effective and consistent application of these rules.

European Competition Authorities is a forum of discussion for the competition authorities in the EU Member States, European Commission and the EFTA States to discuss competition related problems and share experiences.

OECD Competition Committee is a committee of the Organisation for Economic Cooperation and Development, focusing on competition issues in the area that includes all 35 members of the organisation.

International Competition Network is a global network with members from every region in the world ranging from small agencies to large ones with different resources and capabilities. The network is an informal venue and it is mostly addressed to maintain contacts and create convergence towards sound competition policy principles and application thereof.

Agency for the Cooperation of Energy Regulators a European Union Agency, was created by the Third Energy Package to further progress the completion of the internal energy market both for electricity and natural gas. As an independent European structure which fosters cooperation among European energy regulators, ACER ensures that market integration and the harmonisation of regulatory frameworks are achieved within the framework of the EU's energy policy objectives.

Council of European Energy Regulators was established for the cooperation of the independent energy regulators of Europe. It seeks to facilitate the creation of a single, competitive, efficient and sustainable EU internal energy market.

Energy Regulators Regional Association is a voluntary organization comprising of 37 independent energy regulatory bodies primarily from Europe, Asia, Africa, Middle East and the United States of America. The Association's main objective is to increase exchange of information and experience among its members and to expand access to energy regulatory experience around the world.

The aim of the **OECD Network of Economic Regulators** is to share experiences and good practices in different sectors of economic regulation.

The objective of **Regional Gas Market Coordination Group** is to facilitate an effectively functioning common regional gas market in the Baltic States and Finland.

European Water Regulators was created in April 2014 by an initial group of 12 regulators of water supply and sewerage services in Europe. At present, WAREG is made up by 24 regulatory authorities with Member status and 3 regulatory authorities with Observer status, who share the following objectives of cooperation: to exchange and share common practices; to enhance technical and institutional cooperation among WAREG members; and to promote capacity building, stable regulation and consumer protection. In 2016 the Estonian Competition Authority hosted WAREG's working meeting in Tallinn.

Independent Regulators' Group-Rail (IRG-Rail) is the „Independent Regulators' Group – Rail”, a network currently comprising independent rail Regulatory Bodies from 30 European countries. The IRG-Rail acts as a platform for cooperation, information exchange and sharing of best practice between national railway regulators in order to face current and future regulatory challenges in railways and to promote a consistent application of the European regulatory framework.

The main task of the **European Network of Rail Regulatory Bodies** is to facilitate the active cooperation of national rail regulatory bodies and information exchange between these bodies and to assist European Commission in the preparation of delegated acts.

European Regulators Group for Postal Services serves as a body for reflection, discussion and the provision of advice to the European Commission on postal services. It also aims to facilitate consultation, coordination and cooperation between EU countries and the Commission.

European Committee of Postal Regulation examines postal regulatory affairs in a European context taking into account the changes in the borderlines between regulatory aspects and operational aspects in this domain. It also assesses the influence of international regulatory policies.

Universal Postal Union unites 192 member countries and is the primary forum for cooperation between postal sector players. It helps to ensure a truly universal network of up-to-date products and services.

In this way, the organization fulfils an advisory, mediating and liaison role, and provides technical assistance where needed. It sets the rules for international mail exchanges and makes recommendations to stimulate growth in mail, parcel and financial services volumes and improve quality of service for customers.

The Estonian Competition Authority has very good relations and cooperation with colleagues from neighbouring countries. Often the undertakings are active in many neighbouring countries and authorities are facing similar challenges. Annual meetings take place with Latvian, Lithuanian and Finnish colleagues for discussing

competition as well as regulatory issues. In 2016, the Authority hosted Regional Competition Conference, Baltic Electricity Market Forum and Baltic Gas Market Forum.

The Competition Authority hosted the **Regional Competition Conference** in Viljandi on May 26-25. The core value of the annual meeting between representatives from the Baltic Competition Authorities is sharing knowhow between case handles. This year the participants also discussed the role of competition agencies in promoting and ensuring free competition. In addition to Latvian and Lithuanian competition authorities, colleagues from Finland also actively participated in the event.

Baltic Gas Market Forum took place on November 3rd in Tallinn. The Baltic, Finnish and Polish regulators and market players discussed the harmonisation of gas markets, fast developments in the market, creation of common market and interconnections. **Baltic Electricity Market Forum** was held on November 4th. The main questions concerned the latest developments in the electricity markets of Baltic States, Finland and Poland.

The Authority has contributed to cooperation and foreign aid projects whenever possible in terms of human resources. Previously the Authority has been engaged in staff training of Moldovan competition officials. In 2016 a development cooperation project funded by the Ministry of Foreign Affairs and managed by Tallinn Law School was started. In the framework of the project, the experts from the Estonian Competition Authority visited Georgia on November 21-24. One of the aims of the Project „Digital Single Market as a Key element in EU-oriented Georgian Higher Education” is developing cooperation, exchanging knowhow and experiences between Georgian and Estonian Competition Authorities.

Just as important as international cooperation is developing cooperation on a national level with both public sector authorities and undertakings or unions thereof. In 2016, the Competition Authority concluded a cooperation agreement with the Environmental Investment Centre.

The Authority meets its cooperation partners and undertakings a little more casually at an annual conference “Konkurentsipäev”. “Konkurentsipäev 2016” took place on December 14 in Tallinn. The conference traditionally brought together undertakings, experts from various sectors of the economy and cooperation partners from the public sector. The main areas of focus were energy, aviation, IT-sector, trade, and breweries. Conference aims at hearing out undertakings both small and large that share similar values as the Competition Authority and emphasise the importance of free competition.

COMPETITION SUPERVISION

The competition supervisory activities are generally divided in two major parts: solving cases related to competition restricting agreements and conducting proceedings related to the activities of undertakings in a market dominant position. For the Authority, that means conducting criminal, misdemeanour or administrative proceedings. In addition, the Authority analyses the competitive situation in different economic sectors and if necessary makes proposals to respective ministries to improve the competitive situation.

The obligation proposed by AS Tallink Grupp in relation to the sales options for online agents

The Competition Authority investigated the compliance with the competition act of the operations of AS Tallink Grupp based on the complaint of a travel undertaking Boarding Pass OÜ. According to the complaint, AS Tallink Grupp had terminated the Public API Torpedo connection necessary for selling tickets with the applicant and refused to revalidate the agency contract regarding the reselling of vessel tickets operated by AS Tallink Grupp via the online environment of Boarding Pass OÜ.

The Authority concluded in the preliminary position that AS Tallink Grupp may have had infringed the competition act, because the online agents had not been given sufficient opportunities to sell the tickets. In the course of the proceedings, the Authority also requested information from other ferry line operators in Estonia about purchasing vessel ticket reselling services from travel agents and concluded that AS Tallink Grupp has a dominant position in the market of purchasing vessel ticket reselling services from travel agents. An undertaking with a market dominant position must follow the restrictions set in the Competition Act.

Following the preliminary position of the Authority AS Tallink Grupp submitted a proposal of obligation. According to the Competition Act, the assumed obligation has to be addressed at resolving the competition issues and ending anticompetitive effects of the infringement.

On 3 June 2016, the Authority approved the obligation proposed by AS Tallink Grupp, according to which online agents wishing to intermediate Tallink Grupp tickets or other services are provided with a possibility to interface its online sales system with the ticket booking and sales system of AS Tallink Grupp. This will create the opportunity for the clients of the online agent to purchase the services of AS Tallink Grupp within the agent's online sales environment. Furthermore, AS Tallink Grupp has the obligation to hold negotiations in good faith, to enable all the travel undertakings that meet certain requirements and are addressing AS Tallink Grupp on their initiative to use the online brokerage solution. When an agreement with an online agent is reached, AS Tallink Grupp assumes the obligation to carry out the required development and interfacing works, etc.

Online agents wishing to intermediate the services of AS Tallink Grupp and interface their online sales system with the ticket booking and sales system of AS Tallink Grupp have to turn to AS Tallink Grupp.

The Estonian Competition Authority holds the position that the obligation taken will efficiently resolve the competition issues the authority alluded to in the course of the proceedings.

Precept of the Competition Authority for MTÜ Lääne-Viru Jäätmekeskus to end abuse of a market dominant position

Estonian Waste Management Association has asked the Competition Authority to check whether a price increase of organised waste collection in Vinni municipality is cost-based, and whether MTÜ Lääne-Viru Jäätmekeskus has abused its dominant position. To verify the circumstances, the Competition Authority carried out supervision proceedings.

MTÜ Lääne-Viru Jäätmekeskus is an undertaking, established by various local governments, organising waste management on the territories of these local governments. In essence, it intermediates the services of waste handlers and carriers to consumers, and adds a mark-up to the service charges for keeping a record of waste holders and intermediating payments. MTÜ Lääne-Viru Jäätmekeskus has a dominant market position in Sõmeru rural municipality, Vinni rural municipality and Rakvere city, being the only provider of the respective service in these local government units. The price of a service established by an undertaking in a dominant position should correspond to the economic value of the service, including the price must be cost-based and may include a reasonable profit.

The Authority analysed the prices of emptying the containers of mixed municipal waste and removal of the waste in these municipalities, and found that, compared to other undertakings providing equivalent services, the mark-up is significantly higher. Thus, in the price lists established in Vinni rural municipality, Rakvere city and Sõmeru rural municipality MTÜ Lääne-Viru Jäätmekeskus, as an undertaking in a dominant position, has imposed unfairly high prices, and the undertaking is required to bring the prices in line with the law. If the same service would be provided in a competitive situation, the prices would be expected to be lower because competing operators would not be able to charge fees that exceed the actual costs by several-fold. The service of keeping a record of waste holders and intermediating their payments is, in terms of costs, equivalent to private undertakings' customer relationship management, therefore the Authority used the customer relationship management cost of other waste handlers operating in Estonia as the basis for its calculation (the proportion thereof in the total charges collected from final consumers is around 8%). In terms of profit, the Authority compared the profits of other undertakings operating in the same field. Taking waste collection into account as an area of activity (operating profit margin of 7% on average), which, compared to intermediation, is open to the competition risk, the profitability of MTÜ Lääne-Viru Jäätmekeskus

should certainly not be higher. Considering the share of the three main waste handlers' customer relationship management costs in their total costs, which amounts to approximately 8%, and adding the average operating profit margin of an undertaking engaged in waste collection, which is 7% according to Statistics Estonia, the mark-up of MTÜ Lääne-Viru Jäätmekeskus must not exceed 15%.

For elimination of the violation of the Competition Act, the Competition Authority issued a precept to MTÜ Lääne-Viru Jäätmekeskus on 24.05.2016 for the latter to bring the prices of emptying the containers of mixed municipal waste and removal of the waste into line with the Competition Act. The Authority required the undertaking to lower the mark-up in such a manner that the weighted average mark-up would not exceed 15%. MTÜ Lääne-Viru Jäätmekeskus contested the precept of the Competition Authority in court, and in connection with the absence of a final judgement, the precept has not entered into force for the current moment.

Proposal to simplify the swapping of pension funds

The Competition Authority submitted a proposition to the Ministry of Finance to alleviate the time limits of swapping the units of pension funds. The Authority had already made similar proposals in 2010 and 2013. According to the proposal, a shareholder could have the option of swapping their pension fund more frequently than before, for example once a month.

Since 2011, it has been possible to swap one's pension fund three times per year. After that, the share of people swapping their pension fund has increased significantly.

In September 2016 the Minister of Finance presented the new draft Investment Funds Act, which should increase competition between fund managers. According to the proposals, various requirements would be made more flexible, such as reducing the repurchase costs for units. According to the Competition Authority, in such situations there are grounds to ease the time limits for swapping funds even further.

According to the Authority, it is complicated for a new service provider to enter the market in a situation where they are effectively able to compete for existing shareholders only a few times per year. While limiting the frequency of swapping has been justified with the need to prevent short-term investments being made by fund managers, it is a clumsy and non-transparent measure that does not explicitly require the pension funds to change their investment policy.

To the Authority's knowledge, no such regulatory restriction has been implemented in any of the other economic sectors. The Authority holds the position that free enterprise should only be restricted in the case of clear and analytically sound discretion. Enhancing free competition by easing time limits of swapping of pension funds creates better prerequisites for price competition, including reduction of service fees.

Proposal to open the coach service market to free competition

In 2016, the Competition Authority proposed to open up the long-distance bus transport market to free competition and to cancel the restrictions on granting line permits provided by the Public Transport Act wherever there is no reasoned need for such limitations. Historically, the routine of granting line permits for long-distance bus routes in Estonia has in one way or another restricted free competition. In many cases, it is not clear what is the purpose of restricting competition, or whether the restriction contributes to the achievement of the goals established.

The restrictions, established by the Public Transport Act, on granting line permits are described ambiguously, and they are defined in more detail (including the choice between an open or a closed market) in the consideration principles prepared and established by the Road Administration

Based on the consideration principles, the line permit application must be assessed separately in case the frequency of departures exceeds reasonable intervals. The Competition Authority believes that the reasonable intervals are optimally defined by the relationship between supply and demand. Furthermore, the meaning of this criterion is not clear in a situation where the carriers are able to freely use extra buses whenever necessary. For example, on Tallinn-Tartu and Tartu-Tallinn routes it is common that two buses of the same carrier depart simultaneously under the same line permit during peak hours. Another questionable criterion is the number of stops on the route. This has created a situation where line carriers add as many stops as possible to their routes in order to get a line permit. In doing so, they may not be guided by the interests of passengers, choosing relatively little-used locations on the way instead.

For the justification of refusal to issue line permits, there are no compelling reasons that would be based on the protection of public interest. Long-distance bus routes are operated by private companies under market conditions, and the state should not restrict the opening of new routes. It would be reasonable for the state to establish uniform requirements for all carriers, rather than require the new carriers to always offer better or at least equivalent conditions. The current arrangement puts the existing and new carriers in an unfair competitive situation, favouring the carriers, which are already operating on the market. Both existing and new carriers must be able to enter the market and operate under the same conditions.

On the major long-distance routes, the carriers enjoy very high market shares and minimum competition, for example, on Tallinn-Tartu and Tallinn-Narva routes the market share of one carrier exceeds 70%.

Enabling free competition would result in equal treatment of haulers, as well as in lower ticket prices for the consumers.

The Competition Authority has made similar proposals in 2010 and 2012.

CONTROL OF CONCENTRATIONS

A concentration shall be subject to control by the Competition Authority if, during the previous financial year, the aggregate turnover in Estonia of the parties to the concentration exceeded 6 million euros and the aggregate turnover in Estonia of each of at least two parties to the concentration exceeded 2 million euros. The main purpose of the control is to avoid creation or strengthening dominant position of an undertaking, which may give rise to a significant impediment to effective competition.

In 2016, the Competition Authority conducted 37 concentration related proceedings, 35 concentration notices were submitted in 2016 and two cases were brought over from the previous year. The Authority granted 37 permissions to concentration. In 34 out of 37 cases, the Authority made decisions in the 30 calendar days prescribed in the Competition Act. In three cases (Olympic Casino Eesti/ MC Kasiinod; Circle K Eesti AS/ Premium 7; Eesti Keskkonnateenused AS/OÜ Jaaksoni Linnaholdus) the Authority decided to initiate a supplementary proceeding. Supplementary proceeding is carried out in order to ascertain whether the concentration subject to control does or does not involve anti-competitive circumstances.

According to the law, the maximum length of the supplementary proceeding is four months.

The breakdown by types of concentrations was as follows:

- An undertaking acquired control of the whole or part of the other undertaking in case of 30 concentrations (Competition Act § 19 (1) p 2);
- Undertakings jointly acquired control of the whole or a part of another undertaking in the case of seven concentrations (Competition Act § 19 (1) p 3).

The concentrations took place in the following markets:

- | | |
|-------------------------------|---------------------------------|
| ➤ Gambling games | ➤ Medical services |
| ➤ Real estate | ➤ Waste management |
| ➤ Hospitals | ➤ Retail trade of alcohol |
| ➤ Taxi service | ➤ Maritime transport |
| ➤ Production and sale of malt | ➤ Carriage of passengers by bus |
| ➤ Insurance | ➤ Horticultural products |
| ➤ Electrical goods | ➤ Food industry |
| ➤ Gas | ➤ Wholesale of IT products |
| ➤ Pension funds | ➤ Building material |
| ➤ Logistical services | ➤ Wholesale of food products |
| ➤ Motor fuel | ➤ Telecommunications |
| ➤ Electricity networks | ➤ Air transport |
| ➤ Sports goods | |

The majority (25) of the concentrations took place between Estonian undertakings, while in case of four concentrations both parties were foreign undertakings. In eight cases, the concentrations involved both undertakings registered abroad and undertakings registered in Estonia. Compared to the preceding year the number of transactions subject to the Competition Authority's control has increased by 13%.

Concentration of Casinos

One of the concentrations, which led the Competition Authority to conduct a supplementary proceeding, concerned the gaming sector. In late 2015, OLYMPIC CASINO EESTI AS (Olympic Casino) submitted a concentration notification to the Authority, stating that the company intended to acquire a 100% shareholding in AS MC Kasiinod (MC kasiinod).

Olympic Casino operates 20 casinos in Estonia, 16 of which are located in Tallinn, and the undertaking is under a dominant influence of OLYMPIC ENTERTAINMENT GROUP AS. Prior to the concentration, the MC Kasiinod was under a dominant influence of AS Alexela Entertainment. MC Kasiinod is engaged in the organisation of gambling, operating one slot machine hall in Tallinn and three in Tartu, under the Monte Cristo brand.

The Authority assessed the impact of the concentration on the slot machine gambling market in Estonia as a whole, separately addressing the narrower geographic areas where the concentration parties' business activities overlap (Tallinn and Tartu).

As of January 2016, there are 54 gambling locations in Estonia. Olympic Casino owns 20 gambling locations in Estonia, and MC Kasiinod owns four. Thus, the concentration parties own a total of 44.4% of all the gambling sites. The overall market share of the parties to the concentration in the slot machines gaming service market in 2014 was 67%, and thus it is a horizontally affected market. As of January 2016, there were 34 gambling sites in Tallinn, 16 of which belonged to Olympic Casino and one to MC Kasiinod. Thus, the concentration parties owned 50% of the casinos located in Tallinn. As of January 2016, there were five gambling sites in Tartu, one of which belonged to Olympic Casino and three to MC Kasiinod.

There is a horizontal overlap in the concentration parties' activities on slot machine gambling services in Estonia, including in Tallinn and in Tartu. Olympic Casino had the highest turnover as a slot machine gaming service provider already before the concentration, and after the acquisition of the dominant influence over MC Kasiinod, Olympic Casino gained the ownership of four additional gaming locations. Upon assessment of the undertaking's market position, it is important to determine whether the operator can act independently of its competitors, suppliers and buyers to a considerable extent. The Competition Authority assessed whether the addition of four gaming locations to Olympic Casino with the concentration provides the

operator with considerable independent market operation possibilities, thereby significantly damaging the competition.

The concentration parties' competitors were of the view that the concentration would not affect the competitive situation significantly. The major competitors on the slot machines gambling service market are OÜ Novoloto (trademark Fenikss Casino), AS IMG Kasiinod (trademark Casino GrandPrix) and Best4U OÜ (trademark City Casino). Thus, besides the concentration parties, several other operators are active in Estonia, and after the concentration, consumers are left with the opportunity to choose the gaming location of a competing operator besides Olympic Casino. As the main reasons for the insignificant influence, it was pointed out that the operators do not compete on this market with price, but primarily with the location, attractiveness, selection of games, and general emotional background of the gaming locations. In addition, each gaming hall competes with others in its close proximity, and the various logos of the halls are of no significant importance. Opening of new gaming halls has a much greater impact on the competition.

Slot machines, which are an important input in the service, are manufactured and sold by internationally operating companies that are located outside Estonia. The Authority believes that by concentration, Olympic Casino will not achieve such a market position that would allow it to operate independently of the supplier of an important input in the service.

The Authority granted permission to the concentration, since it was of the opinion that the concentration will not change the market structure in such a way as to seriously damage competition, and there are no circumstances that would trigger a denial of the concentration.

Concentrations on the motor fuels retail market

In 2016, the trend of concentrations continued on the motor fuels retail market. During the year, the Authority received four notices regarding concentrations in the sector. (OÜ Alexela Tanklad and part of Mokter OÜ; Circle K Eesti Public Limited Company and part of SEVENOIL EST OÜ, part of OÜ TOOMEMAA, part of private limited company Heleaas and part of private limited company Järvejaam; AS Aqua Marina and part of AS Raktoom; AS Aqua Marina and part of AS Mahta Kütus). As already the third concentration was happening in the field in a short period of time, the Authority conducted a more in-depth analysis in the concentration proceeding, whereby Circle K Eesti Public Limited Company acquired a dominant influence over a part of SEVENOIL EST OÜ, a part of OÜ TOOMEMAA, a part of private limited company Heleaas and a part of private limited company Järvejaam.

The Authority estimates that from the buyer's point of view the geographic area of competing filling stations is normally limited to the territory, near which the buyer regularly commutes. Thus, the assessment of the competition situation on the motor fuels retail market must be subject to definition of the areas which are more localised than the entire territory of Estonia. The more localised areas cover approximately a 10-minute drive radius of the concentration parties' filling stations in the cities, and

approximately a 20-minute drive radius in the countryside. The outcomes of the analysis of local markets revealed that as a result of the concentration, none of the territories are facing a situation where the filling stations of the concentration parties are predominant. In all areas, the parties to the concentration have a sufficient number of competitors.

In spite of the closed nature of the motor fuels retail market where the market entry and expansion are only possible through the concentration of competitors, and despite of the opposition of some of the competitors, the Authority considers that the concentration will not significantly affect competition. The same can also be said after the proceeding of the last concentration in the year 2016, regarding the acquisition of a dominant influence over AS Mahta Kütus by AS AS Aqua Marina. This means that the concentrations did not result in a significant change in the structure of the motor fuels retail market. Four major competitors and a number of smaller players remained operational on the market.

	Beginning of the year 2016	End of the year 2016
Olerex	79	88
Statoil/Circle K	54	77
Alexela	63	67
Neste	55	55

Number of filling stations in 2016

REGULATION OF SECTORS

The Regulatory Division of the Competition Authority performs price regulation and market supervision in different areas of activity. The Authority regulates undertakings providing electricity, natural gas, district heating, water, and postal services. In addition, the regulatory division also analyses the developments and problems of the areas of activity.

Europe-wide Network policies

The Third Energy Package envisages the unification of legislation on the European level. Europe-wide network policies are increasingly being implemented in the course of the daily operation of gas and electricity wholesale markets.

For the market to function, it must first be ensured that all market participants can use the existing gas and electricity infrastructure in a non-discriminating way and for a fair price. The priority has thus been set as power distribution, managing network overloading and, above all, the connecting of networks, which should facilitate cross-border trading with gas and electricity. In addition, the focus should be on facilitating short-term trading and developing a market for auxiliary services, so newcomers, including renewable energy producers, could also participate. It is essential to develop products that are traded on the so-called short-term market and the new products should allow the buyers and sellers to adjust the sales volumes of gas and electricity in real time, buy at short notice, or sell unplanned surpluses. We need to make our energy systems more flexible, especially in regards to the constantly growing use of wind and solar energy.

In this regard, the changing of interactions between main and distribution network operators, due to the networks being made smarter, must be considered. Cross-border balancing markets are important, so the balancing resources could be efficiently distributed among countries. This, in turn, would increase security of supply and reduce the system balancing costs. As of today, several network policies for both electricity and gas have been adopted and are pending.

Reducing network fees of Elektrilevi OÜ

In 2015, after analysing the data in the audited annual report of Elektrilevi OÜ from 2014, the Estonian Competition Authority found that the expenses and profitability on which the network fees are based, may in the future not to be in line with the principles of the Electricity Market Act. Based on that and taking into account the possible reduction of costs and profitability in 2017, based on which the network fees of Elektrilevi OÜ are calculated, the Estonian Competition Authority began a supervisory proceeding on 25 November 2015, to adjust the undertaking's network fees, so that they would comply with the Electricity Market Act.

By the end of 2016, Elektrilevi OÜ received a precept because the Authority detected that the undertaking's network fees are not cost-based. The Estonian Competition Authority demanded the undertaking reduce the network fees by 6.7%. For an average home consumer, this would mean reducing the final price of electricity by 3.6%, considering that network fees constitute about a half of the final price.

The main reason for the decline of the network service fee is the reduction of network losses. The undertaking's network losses have been decreased to 4.5%. This has also been greatly influenced by switching to remotely read meters. In addition, the reduction in the price of electricity price losses also influenced the price drop because compared to previous years, the exchange price of electricity has significantly decreased. Moreover, interest rates have also decreased and they form the basis for calculating the profit earned by the company.

On 13 February 2017, Elektrilevi OÜ submitted an application to the Authority for reducing network fees. On 16 March, 2017, the Estonian Competition Authority approved the undertaking's network fees, which were in compliance with the Electricity Market Act and which will save consumers around EUR 18.5 million.

Debt capital for regulated undertakings

To check the justification of service prices of regulated undertakings, special laws have been established, which prescribe the basic principles of pricing. The service price must cover justified expenses, required investments, and reasonable profit. Profitability is limited by the weighted average cost of capital (WACC), upon the determination of which it is, among other things, essential to assess the costs of debt and equity capital and the capital structure, i.e. the proportion of debt and equity capital.

Calculating reasonable profit as a price component of a monopoly service is essential to avoid a situation in which the market dominant undertaking on the market could have the chance to earn super-profits from the sale of services. In a natural, market economy mode, competition would shape the reasonable profit.

The Authority conducted an analysis to identify the actual costs and proportions of involving debt capital in regulated sectors, compared to the indicators used in the Estonian Competition Authority's WACC guidelines, and to identify whether the cost of debt capital are sufficient to ensure the financing of the company through long-term bank loans.

In Estonia, the cost of regulated debt capital is the sum of a nominal risk-free rate, the Estonian country risk premium and the company's debt capital risk premium. The proportion of regulated debt capital is 50%. Usually, the risk-free return rate is based on a liquid long-term government bond. As Estonia has not organised long term bond emissions, then the average return rates of Germany's 10-year bonds are used as risk-free rates, to which Estonian country risk premium and company debt capital risk premium are added.

The analysis included undertakings from regulated sectors, and their actual costs and proportions of debt capital were compared to the indicators given in the regulative WACC guidelines. In total, 111 companies, including 51 heat suppliers, 14 main and distribution electricity network companies, 8 natural gas distribution network companies and 38 water companies, were included.

The analysis indicated that, based on the indicators given in the annual reports, the arithmetic average cost of debt capital of included undertakings was 2.64%, which is 1.69 percentage points lower than the average debt capital regulative indicator given in the WACC guidelines. The arithmetic average proportion of the companies' debt capital was 33.95%, which is 16.05 percentage points lower than the proportion of debt capital (50%) given in the WACC guidelines.

It can be concluded that the sizes of country risk and debt capital risk premium, used in the WACC guidelines, are sufficient because the resulting of debt capital costs (except natural gas distribution network companies due to high interest rates of their integrated parties) are higher as compared to the actual debt capital costs of the undertakings. The actual debt capital proportions are significantly lower than the proportion used in the WACC guidelines. Nationally regulated undertakings are classified as low risk businesses because in addition to a guaranteed market, there is no service sales risk. In the case of a justified sales volume reduction, regulated undertakings can always apply for a service price based on smaller sales volume.

Assessment of the electricity equipment quality of the main network

The Estonian Competition Authority analysed the reliability of domestic and cross-border connections and made recommendations to supplement the legislation. During the analysis, the legislation did not include a direct requirement to ensure a certain quality for cross-border connections. Cross-border connections included DC connections EstLink 1 and EstLink 2, between Estonia and Finland, as well as AC connections L354 Tsirguliina-Valmiera and L301 Tartu-Valmiera, between Estonia and Latvia. Previously, the authority has pointed out that the current legislation does not include quality requirements for cross-border DC connections and has recommended to establish technical requirements for the DC connections.

Elering AS provides electricity transfer service to producers, distribution networks, and large consumers who have joined the main network and are located in Estonia as well as to the main network of Russia, Finland, and Latvia. As a system manager, Elering AS shall have to ensure the system's security of supply and plan and manage production in the system as well as the transferring of electricity within the main network, taking into account the system's technical capabilities.

The national network service quality indicators of Elering AS show that during the period 2014-2015 the number of failures experienced by the company in the power grid has declined compared to previous years. Number of failures is following a declining trend, which means that the grid works better. However, planned interruptions have become more frequent, which means that more time has been

spent on repair and maintenance in the grid and this has required a longer planned interruption.

Indicators for the EstLink1 and EstLink 2 connections have improved. The number of usage hours, technical operational readiness have increased, and fewer failures have occurred. Moreover, the indicators for these connections are slightly better than the average value of similar connections. The number of usage hours of the Tsirguliina-Valmiera and Tartu-Valmiera connections has also increased. The technical reliability of the Tsirguliina-Valmiera line has decreased, but the technical operational readiness of Tartu-Valmiera has increased.

As a result of the analysis, the Estonian Competition Authority recommended supplementing legislation with technical requirements related to cross-border DC connections. In addition, the authority advised Elering AS to annually publish statistics of the cross-border DC and AC connection indicators, including usage in energy transfer, technical operational readiness, planned interruption, and failures.

Overview of coordinating water service prices during the period 2011-2016

The Estonian Competition Authority has coordinated the water service price from 1 November 2010, when the amendments to the Public Water Supply and Sewerage Act entered into force. These amendments transferred the price regulation tasks from local governments to the Estonian Competence Authority. The authority analysed implementing the regulation based on six-years of experience and in combination with the development of the area of activity as well as the changing of costs included in the service price due to the developments.

During this period, this area of activity has received many investments (water and sewage purifying systems, reconstruction of water and sewage pipes, building new systems, etc.). As a result of the investments, the quality of drinking water has improved significantly and a big step is also taken in terms of environmental protection. Although investments made with the help of financial aid (European Union Cohesion Fund, etc.) are not included in the water service price, the water service price has increased due water company's own funds required by the project supporter.

As a result of the conducted analysis, it can be said that the authority's price regulation has been applied effectively during the six year period and due to the water service price having no validity date, given a signal for achieving cost-efficiency.

The coordinated water service price has constantly grown, but this has several compelling reasons:

- investments into water management;
- increase in electricity amounts thanks to achieving better drinking water quality indicators and collecting and treating sewage water as required;
- expanding the operating range to low density areas;
- increased environmental fees.

The goal of the Estonian Competition Authority is to be a politically independent and objective regulator; this is an unavoidable prerequisite for establishing fair water service price for consumers and water companies.

The delivery speed of national letters

In Estonia, a minister responsible for this area of activity shall establish the universal postal service (UPS) prices based on the Competition Authority's proposal. Pursuant to the Postal Act, the UPS fees must be affordable. The cost-efficiency principle shall also be followed. When the current system was established back in 2009, it could be said that affordable fees were also cost-efficient. Now it is known that amendments to affordable fees have since 2009 been smaller than the increase in UPS costs over the same period.

The number of UPS letters has, in the meantime (2009-2015), significantly decreased, which means that the users' need for this service is much smaller. The reason could be increased electronic correspondence as well as the emergence of alternative channels and services in the postal service market. As a whole, the usability of the services included in the UPS has strongly been influenced by the spreading pack machine network. To post an item, you no longer have to go to a post office, you can also deliver it via a parcel machine.

The quality of an item of correspondence sent as a UPS national ordinary item is established in the Postal Act. Pursuant to the act, 90% of the letters need to be delivered to the sender by the next working day after the day of deposit, at the latest (D+1). This principle and quality requirement has been unchanged already for more than ten years. To check the compliance with this requirement, the Estonian Competition Authority has performed test posts during these years. Generally, the results have been close to the required level. In some years, the result has been a bit over 90% and in some years a few per cent lower.

However, the Postal Act also includes an alternative option, in which case the letter is delivered to the recipient on the third working day following the date of deposit (D+3). In case of this kind of service, 90% of letters also need to reach their destination within the required period of time. However, the UPS service provider Omniva has not provided such an alternative for its users within the UPS. If you look at our close neighbours, then, for instance, Finland (D+2), Norway (D+2), Denmark (D+5), Latvia (D+3), and Lithuania (D+3) have a similar (longer delivery time) service, and experience shows that there is a need for such a service. For instance, in Latvia about 80% of correspondents use the D+3 service and only 20% use the faster (D+1) service. In all likelihood such a service is also needed in Estonia. For a postal service user, the

delivery speed of D+3 means a reasonable alternative for these items, in the case of which the delivery is not time-critical or the sending of which can be planned by the user.

From a postal service survey recently conducted residents of Estonia, it was determined that for most people delivery speed is not a determining factor, if the letter can also be sent for a lower price (MediaCom Trendmark survey, January 2017). Thus, it is recommended that the service provision be made compliant with the altered needs of consumers and a less expensive alternative be established for those items that are not time-critical.

One- and three-day delivery speeds result in a price difference because the service provider can plan in advance for correspondence that take longer, on which day and with which carrier to deliver the letters. Planning the carrier routes and distributing the volumes more efficiently would mainly help to save on labour costs and make the service provision more cost-efficient.

During the last seven years, the trends have created a situation where the current affordable UPS fees do not cover the reasonable UPS fees. For such a situation, the Postal Act has established a system for covering the gap. For a UPS provider such costs, in case of which the sales price does not cover actual reasonable costs, are unreasonably burdensome costs. The UPS provider shall have the right to apply for the Competition Authority to reimburse these costs and the UPS provider Omniva has done so for each year.

Funds for the compensation shall be collected from the postal market from similar services to UPS, depending on the number of delivered packages. These services include delivering correspondence and postal packages under an activity licence. The problem for Estonia is that the postal market is very small and the services on which the UPS payment collection is based form only one part of the entire postal market. It can be generalised that during the entire time when the compensation system has been in use, the UPS payment has been mainly taken from the UPS provider itself and to a small extent also AS Express Post. Although the compensation fund has fulfilled its goal over the years, it can be said that this system is not the best for Estonia. Starting with the fact that the one needing the compensation is at the same time the main source of the compensation funds. The Estonian Competition Authority always favours free competition in these areas where possible. However, the postal market of Estonia is small and there are not many participants, so you cannot rely on competition alone. Only the courier service in Estonia has enough competition because it cannot be directly compared with UPS, as it includes different additional values.

If the UPS fees have to remain affordable, at the same time getting rid of the UPS compensation, then one option could add the alternative D+3 speed option for national correspondence sent as ordinary items, which would also meet the user expectations and wishes and would not require amending the Postal Act.