

(2) Agreements that promote improvements in the production or sale of products or economic progress and thereby benefit consumers are considered to be in force and are exempt from the prohibition referred to in Paragraph one of this Section and, furthermore, such agreements:

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

2) do not afford the possibility of eliminating competition in a substantial part of the relevant market.

(3) The market participants prior to entering into an agreement, as well as prior to the entry into effect thereof, if a case has not been initiated in respect of it, are entitled to submit to the Competition Council a notification regarding the relevant agreement. The Competition Council is entitled to permit, or permit with conditions for a specified time period the agreement thus notified, if the agreement conforms to Paragraph two of this Section or to the criteria in accordance with which specific agreements between market participants are exempted from the prohibitions referred to in Paragraph one of this Section. The procedures for the submission and examination of the notification regarding an agreement between market participants shall be prescribed by the Cabinet.

(4) The Cabinet shall prescribe the following:

1) separate agreements between market participants, which do not significantly affect competition;

2) the criteria according to which separate agreements between market participants are exempted from the prohibitions referred to in Paragraph one of this Section.

[22 April 2004; 13 March 2008]

Section 12. Liability for Violations of Prohibited Agreements

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

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

(3) The Competition Council is entitled to impose on market participants fines of up to 10 per cent of their net turnover for the previous financial year each, but not less than 500 lats each.

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

(5) The Cabinet shall issue regulations regarding the procedures by which fines are specified, which provide for special features of the financial year net turnover calculation in separate cases, criteria for the specification of the amount of fines, mitigating circumstances and aggravating circumstances, and cases where the fine may be reduced.

(6) The fine calculated in accordance with the procedures set out in this Section shall be paid into the State basic budget.

[22 April 2004; 13 March 2008]

Section 13. Prohibition of the Abuse of Dominant Position

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

1) refusal to enter into transactions with other market participants or to amend the provisions of a transaction without an objectively justifiable reason, including unfair and unjustified refusal to supply products or deliver services;

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

3) imposition of provisions according to which entering into, amendment or termination of a transaction with another market participant is made dependent on whether this market participant undertakes additional obligations which, by their nature and commercial use, do not pertain to the particular transaction;

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

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

(2) A market participant or several market participants are in a dominant position in retail trade if, considering their buying power for a sufficient period of time and the suppliers' dependency in the relevant market, they have the capacity of directly or indirectly applying or imposing unfair and unjustified provisions, conditions or payments upon suppliers and may hinder, restrict or distort competition in any relevant market in the territory of Latvia. Any market participant who is in a dominant position in retail trade are prohibited from abusing such dominant position in the territory of Latvia. Abuse of a dominant position in retail trade occurs as:

1) application or imposition of unfair and unjustified provisions concerning return of products, unless the returned product is of poor quality or is a product, including a new product, unknown to consumer, delivery or increase in the amount of delivery of which is initiated by the supplier;

2) application or imposition of unfair and unjustified payments, discounts for the delivery of products, the presence of the delivered product at a retail outlet, including for the placement of products on shelves of shops, and for the promotion measures of the trade. Objectively justified payment for the promotion of a new product, unknown to the consumer, in the market shall not be considered as unfair and unjustified;

3) application or imposition of unfair and unjustified payments for entering into a contract, unless such payments are justified by the fact of entering into a contract with a new supplier who therefore needs a special evaluation;

4) application or imposition of unfair and unjustified payments for the delivery of products to a soon to be opened retail outlet;

5) application or imposition of unfair and unjustifiably lengthy settlement periods for the delivered products. The settlement period for the delivered food products, the term of validity of which is not longer than 20 days, shall be unfair and unjustifiably lengthy, if it exceeds 30 days from the day of delivery of products; and

6) application or imposition of unfair and unjustified fines for violating the provisions of a transaction.

(3) If a market participant in retail trade is in such dominant position as specified in Section 1, Clause 1 of this Law and the abuse of the dominant position takes the form specified in Section 1, Paragraph one of this Law, the liability of the retail market participant shall set in according to Section 14, Paragraph two, Clause 1 of this Law.

[22 April 2004; 13 March 2008; 18 June 2009]

Section 14. Liability for the Abuse of Dominant Position

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

(2) The Competition Council is entitled to impose upon market participants a fine:

1) for a violation referred to in Section 13, Paragraph one of this Law – up to 5 per cent of their net turnover for the previous financial year each, but not less than 250 lats each;

2) for any first-time violation of Section 13, Paragraph two of this Law – up to 0.05 per cent of the net turnover of the market participant or of several market participants for the previous financial year each, but not less than 250 lats each; and

3) for any next violation referred to in Section 13, Paragraph two of this Law, if the violation has been committed after the imposition of a fine in accordance with Clause 2 of this Paragraph – up to 0.2 per cent of the net turnover of the market participant or several market participants for the previous financial year each, but not less than 250 lats each.

(3) If a market participant does not comply with the legal obligation, the Competition Council is entitled to take a decision regarding:

1) an increase of the fine specified in Paragraph two, Clause 1 of this Section to 10 per cent of the net turnover from the previous financial year, but the fine shall not be less than 500 lats each; and

2) an increase of the penalty specified in Paragraph two, Clause 3 of this Section to 2 per cent of the net turnover from the previous financial year, but the fine shall not be less than 500 lats each.

(4) The Cabinet shall issue regulations regarding the procedure by which fines are specified, which provide for special features of the financial year net turnover calculation and procedure for the calculation of the amount of fine, taking into account the gravity and the duration of the violation, mitigating and aggravating circumstances, as well as specifying the cases where there is the right to a reduction of the fine.

(5) Fines calculated in accordance with the procedures specified in this Section shall be paid into the State basic budget.

[22 April 2004; 13 March 2008]

Chapter IV

Market Participant Merger Control

Section 15. Market Participant Merger Provisions

(1) A merger of market participants is:

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

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

3) such a situation where one or more natural persons who already have a decisive influence over another market participant or other market participants, or one or more market participants acquire part or all of the fixed assets of another market participant or other market participants or the right to use such, or a direct or indirect decisive influence over another market participant or other market participants. An acquisition of assets or of the right to use such assets is considered to be a merger if the acquisition of the assets or of the right to use such assets increases the market share of the acquirer of the aforementioned assets and the usage rights in any relevant market; or

4) such a situation where two or several natural persons jointly or a single natural person simultaneously acquire a part or all of the assets of two or several market participants or obtain the right to use such assets, or a direct or indirect decisive influence over two or several market participants.

(2) Market participants who have decided to merge in one of the ways set out in Paragraph one of this Section shall, prior to merger, submit a full-form merger notification to the Competition Council, if one of the following conditions exists:

1) the combined turnover of the participants in the merger for the previous financial year in the territory of Latvia has exceeded 25 million lats; or