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# DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS COMPETITION COMMITTEE

**Global Forum on Competition** 

COMPETITION AND COMMODITY PRICE VOLATILITY

**Contribution from Latvia** 

-- Session I --

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#### COMPETITION AND COMMODITY PRICE VOLATILITY

#### -- Latvia --

### **Background**

- 1. In recent years has there been significant volatility in the prices of commodities that are important to the general population in your country? Please briefly provide details (e.g., among others, on the product(s), market(s) and adjacent market(s) concerned and the magnitude and duration of this volatility, be it prices going up or down).
- 2. Since year 2004 Competition Council of Latvia (CCL) monitored the situation in the sectors of grain, bread, milk, sugar, fruits and vegetables. In the sectors of grain, milk and edible oil CCL analyzed among other things the tendencies of prices and the reasons for them. As refers to the significant volatility in the prices of the mentioned commodities we have to mention the following about the most important commodities:

### 1. Grain and downstream products

- 3. In the last years the significant increase in grain price took place in the beginning of 2007. In January 2008, food wheat prices compared with January 2007 and January 2006 have increased by 70% and 111%. Feed wheat prices by 42% and 108%, feed barley by 32% and 93%. In April 2008 prices compared with April 2007 have increased by 70%, but compared with 2005 they have increased by 184%. The average prices for feed barley in April 2008 compared with April 2007 and April 2005 have increased by 54% and 152%. The wheat price culmination in Latvia was April 2008. In May and June 2008 prices have decreased.
- 4. Increase in food wheat has resulted in increase of flour and in the final bread prices. The data received during the market inquiry done by CCL shows that flour price forms 30-60% of bread price (depending on the technology). In the period of time from 2006 and 2007 as bread producers have informed the prices of flour from the food wheat and rye increased regularly, during 2006 by 8% and during 2007 by approximately 43%. From the beginning of 2007 the retail prices growth rate of bread was has been higher than the purchase price of flour increases, so that it can be concluded that the bread price growth rate was not proportional to the increase in flour prices<sup>2</sup>.
- 5. In 2009 the increase and reduction of bread consumption price took place. In January the prices of bread have increased by 197,5% compared with the level of price in 2005, and in the end of 2009 there was the reduction by up to 186,2% compared with the level of price in 2005.

Informative report of the Ministry of Agriculture "On the situation in the grain sector", 2008. http://www.llka.lv/attachments/056 situacija graudkopiba.doc

Competition Council, Report on the supervision on the bread market (For the period of 2006-2007). Public version. <a href="http://www.kp.gov.lv/uploaded\_files/KPPP038MaizesUzraudziba.pdf">http://www.kp.gov.lv/uploaded\_files/KPPP038MaizesUzraudziba.pdf</a>.

6. In the end of summer 2007 there was significant – up to 100% – and rapid increase in price of buckwheat. Short before this increase there was the deficit of this product in the market.

### 1.1 Milk and related (downstream) products

- 7. CCL observed the situation in the milk sector in 2004-2005 and in 2006-2007.
- 8. After relatively long period of stability (from 2000 till 2003) milk purchase and retail prices have increased in 2003. Comparing with the 2000 in 2004 prices increased by 30% and in 2005 by 50%. Besides also milk purchase prices have increased significantly in the period of July-December of 2007. The increase was from 160-180 Ls/t (~230-260 EUR/t) to 230-250 Ls/t (~330-360 EUR/t) or by about 40%. The purchasing price forms about 60% in the price of milk, offered by milk processors, and about 40% in the price of milk, offered by retailers. CCL compared the increase in the purchase price and retail price and established that the increase in the retail price was higher than increase in the purchase price of milk.

#### 1.2 Edible oil

9. In summer 2010 there was noticeable increase in price of edible oil in wholesale and retail. We have not define the precise value of increase, because there were a lot of sorts of edible oil and prices have increased differently.

# 1.3 Are the price volatility in these commodities, and the causes of that volatility, global, regional or domestic?

### 1.3.1 Grain (flour, bread)

10. Price increase was global, according to the information published by Ministry of Agriculture the reasons for price increase was the poor cereal harvest in Ukraine, Hungary, Romania, Bulgaria, USA, Australia, and also the fact that the big part of grains were used for the producing of bioenergy. In the sector of grain as producers of flour say the price tendencies are global and the main index for the price volatility in local markets is the prices in European and world's exchange of commodities. The real costs of production are not the main factor which affects the prices. The increase in the price of buckwheat was local (Latvia) due to poor harvest in Latvia and to more attractive prices for buckwheat in Poland and Lithuania.

#### 1.3.2 Milk

11. The purchase price increase in 2007 was likely regional (European); as it is mentioned in CCL Report on the supervision on the milk market (for the period of 2006-2007) there was the lack of raw milk in all the Europe and at the same time the crisis in energy sector took place, which affected the prices as well.

#### 1.3.3 Edible oil

12. CCL paid special attention to the rapeseed oil as there was noticeable increase in retail price. As rapeseed oil is the exchange commodity so increase in price was global, said the wholesalers. The data from the Rotterdam exchange shows that the increase began in May 2010 and stopped in January 2011.

- 1.4 Does your agency have any ongoing / pre-emptive monitoring activities in relation to these sensitive commodities? For example, do you routinely monitor prices, quantities or behaviors in these markets (both domestic and foreign markets)?
- 13. CCL does not monitor the prices of commodities routinely in the lasting base. Firstly because CCL is the small authority and it does not have enough resources for such monitoring and secondly the price increase does not mean automatically that the violations of the competition rules occur. CCL follows the situation in the market and if it sees the necessity to obtain more information on the situation in the markets, it opens market supervision procedure. During the market supervision accordingly to the aims of this process CCL can obtain and analyze the information on prices, quantities, behavior of market participants from different levels of supply chain. It is not problematic for CCL to collect the data from the domestic market, but if the information from foreign markets is necessary, CCL need to cooperate with national competition authorities. Receiving information from foreign market participants in the market supervision procedure may be problematic.

### 2. Competition law enforcement & formal investigations

- 2.1 Please provide a brief overview of significant competition law enforcement matters that your agency has undertaken in relation to commodities including: Merger assessments; Cartels and horizontal agreements; Vertical restrictions; Abuse of dominance actions; Any price control or other actions to regulate prices. Please explain how the matter came to the attention of the agency, the substance of the allegation, the analysis undertaken and the remedies imposed (if any).
- 14. Please see the answer in Annex. Relating to the price control or other actions to regulate prices CCL does not control them and can not affect them, it is outside of competence of CCL.
- 2.2 Has your agency undertaken a market study into any commodity or commodities? Please explain what triggered the market study, the substance of the allegation, the analysis undertaken and the remedies imposed (if any).
- 15. Yes, as it is mentioned above CCL regularly undertakes the market supervision. Usually the reason for undertaking of market supervision is the need to survey the situation in the market, because of perceived market malfunctioning, complaints, political calls. The types of analysis undertaken in the process of market supervision depend on the specialties of the aim of the supervision what is the subject which CCL wants to learn. As a rule CCL analyses structure of the market, level of competition, barriers, supply chain, sales/purchase channels, dynamics of prices, structure of price and reasons for price increase, sales/purchase volumes and agreements between market participants.
- 16. CCL can not impose any remedies to the market participants in the frame of market supervision. If CCL sees any indication of possible violation of CCL it opens a case against market participants, or if necessary can inform the public person responsible for policy making in the sector. If necessary CCL sends to the market participants its recommendations for making the business more compatible with the competition rights, indicating the risks from the Competition Law point of view.
- 2.3 Has your agency received requests from governments or other parts of society to formally investigate commodities markets or requests for the competition authority to put downward pressure on prices where there has not been information or evidence suggesting anticompetitive behavior? What was the nature and circumstances of the request and how did your agency respond?
- 17. CCL at least from 2004 has not received formal requests from the government or public organizations to investigate commodities markets or to put downward pressure on prices. However

informal pressure is made by the society through the mass media. Mass media reflects the events in the markets including the forecasts on the price increase and sometimes these publications forces CCL to react.

18. In 2009 government put the special attention to the problems in the milk sector. Particularly the problem was in the worsening relations between the biggest supermarket chains and suppliers of milk products which could lead to higher consumer prices in retail. The government asked the Ministry of Economy to analyze the situation and to evaluate the possibility to reduce the maximal market shares of the biggest retailer forcibly or apply other measures in order to limit the market power of retailers and supplier's dependence on retailer. CCL participated in the analysis and gave its report on the situation. At that time CCL was already aware of the problems in the Latvian food retail because a number of market supervisions in the commodity sectors have been already finished.

### 3. Advocacy opportunities and challenges

- 3.1 Has your agency had the opportunity to improve the efficiency and effectiveness in commodities markets through advocacy? For example, have you had the opportunity to recommend or advice on commodity price deregulation? Have you had the opportunity to advise on the reform of government or private sector monopolies for the purchase or sale of particular commodities for domestic consumption or export (i.e. single desks)? Have you had the opportunity to advice on the reform of regulations that fix or control prices or quantities? What was the commodity, the nature of the reform and the outcome?
- 19. Firstly we would like to note that the processes related to the transformation of economy and transition to the market relations are finished more then 15 years ago. The commodity price deregulation, commodity markets demonopolization are not actual issues now as well other market functioning conceptual matters. There are no state/private monopolies in the commodity markets, the prices are not regulated. Although, of course, CCL sees room for improvements CCL always uses the opportunities to reach the market participants or government with its recommendations, warnings, and risks indications if it sees the possibilities for improvements. In the formal decisions even if the violation is not established CCL uses to indicate activities which are prohibited by competition rules, activities which in relevant circumstances could be considered like infringements, recommendation for better understanding of the responsibility of market participants which are in dominant position. CCL in last years much attention pays to the markets of milk and also the retail sector, which is very concentrated with at least two leading chains.
- 3.2 Has your agency been confronted by a government proposal to address pressing concerns about commodity prices that did impede competition (or would have impeded competition if it had been introduced)? What was the nature of the problem that the government was seeking to address? What was the timing and political constraints upon your opportunity to provide advocacy? What advice did the agency provide and what was the result?
- 20. At beginning of 2009 during the discussions on possible retailers' abuse of their bargaining power in respect of suppliers as well as possible too huge markups of retailers there were discussions on possibility to regulate the markup of unspecified commodity goods. However further direction of this draft law in parliament was stopped already initially. There were no other similar proposals.

- 3.3 Please describe any pre-emptive steps available to your agency to: i) Reduce the risk that commodity price volatility becoming a problem in your country? ii) Reduce the risk that governments or public societies seek policy responses to problematic commodity price volatility that would impede competition?
- 21. In case of price increase CCL can open a formal procedure (market supervision or, if there are suspicions on the violation of Competition Law administrative procedure) and clarify the reasons of the price increase. Steps available to CCL to diminish the mentioned risks depend on the reasons of price volatility. Economy of Latvia is small and opened, so if the commodity (like grain, sugar, edible oil etc.) price increase follows the international tendencies CCL does not have any tool to prevent this influence. The price is shaped in result of demand and supply, CCL can not reduce the speculations in exchanges as well CCL can not restrict the market transparence and information inflow about prices in exchanges to Latvian producers. If the reason of price increase is related to the specific regulation of the market, CCL will refer to the responsible ministry with a proposal to preclude possible obstacles with negative impact on prices. For example regarding sugar market CCL requested the European Commission to find appropriate solution to this market.

ANNEX

ANSWER TO THE QUESTION REGARDING COMPETITION LAW ENFORCEMENT & FORMAL INVESTIGATIONS

|     | Mergers   |                                    |                |   |                            |  |  |  |
|-----|---|------------------------------------|----------------|---|----------------------------|--|--|--|
| No. | Products, markets   | Date of notification and clearance | Type of merger | Names of companies  | Decision                   |  |  |  |
| 1.  | Distribution markets of the vodka, brandy, cognac, liquor, sparkling wine and another alcohol markets in territory of Latvia. | N: 08.06.2007.<br>C: 08.10.2007.   | Vertical       | 1.,,S.P.I. Worldwide Trade Limited" 2. SIA "AV&D" 3. SIA "Interlat"   | Clearance with commitments |  |  |  |
| 2.  | Breast milk substitute-market, market of the porridge   | N: 15.06.2007.<br>C: 10.10.2007.   | Vertical       | 1. Nutricia International B.V. 2. SIA "Amaija"  | Clearance                  |  |  |  |
| 3.  | Frozen and /or chilled food distribution market and ice cream market in Latvian territory                                     | N: 27.06.2007.<br>C: 24.10.2007.   | Horizontal     | 1. SIA "Rīgas Piensaimnieks" 2. a/s "FFL"   | Clearance                  |  |  |  |
| 4.  | Quark products market and yogurt market in the territory of Latvia  | N: 21.11.2007.<br>C: 18.12.2007.   | Horizontal     | <ol> <li>Alta Capital Partners S.C.A SICAR</li> <li>AS "Tere"</li> <li>AS "Kalev Chocolate Factory"</li> <li>AS "Kalev Paide Tootmine"</li> </ol> | Clearance                  |  |  |  |
| 5.  | Daily consumer goods retail market in supermarket sector in Latvia.   | N: 12.12.2008.<br>C: 18.12.2008.   | Horizontal     | 1. SIA "Palink" 2. SIA "Ozolu nams" 3. SIA "Nelda" 4. SIA "A.F.P. of North America Inc." 5. SIA "LSU"   | Clearance                  |  |  |  |

| 6. | Distribution markets of the vodka, brandy, cognac, liqueur, sparkling wine and common alcohol market in territory of Latvia.   | Horizontal | 1. SIA "SPV Distributor" 2. SIA "S.D.V." 3. SIA "L.D.V." 4. SIA "MONO M" 5. SIA "S.Alko" | Clearance with commitments                                 |
|----|--|------------|--|--|
| 7. | Meat products market, which is further divided into the following segments: boiled sausages, sausages, half-smoked and dried starch sausage, smoked meat, sausages, grilled sausages, meatballs, ravioli.  | Horizontal | AS "Rīgas Miesnieks"     AS "Jelgavas gaļas kombināts"                                   | Clearance with commitments                                 |
| 8. | Daily consumer goods retail market in the supermarket sector in Sigulda, Sigulda region, as well as part Līgatne, Krimulda, Inčukalns county area, at the same time also evaluating the undertakings concerned competitiveness in the Latvian territory. | Vertical   | 1. SIA "Plesko Real Estate" [Rimi groop] 2. SIA "Ilga-Sigulda"                           | Clearance with commitments, case is in the court procedure |

|     | Cartels and Horizontal Agreements                      |  |  |                       |   |  |                                   |  |  |
|-----|--|--|--|-----------------------|---|--|-----------------------------------|--|--|
| No. | Date of initiation and closure                         | Source of information for the initiation   | Markets,<br>products   | Type of infringement  | Short description of conduct  | Analysis undertaken  | Remedies                          |  |  |
| 1.  | Initiation:<br>07.05.2003.<br>Closure:<br>20.12.2004.  | Information in mass<br>media that the biggest<br>producer of eggs called<br>to other producers not<br>to apply discounts in<br>Eastern celebration<br>period   | Egg distribution<br>market in<br>territory of<br>Latvia      | Cartel – price fixing | A concerted practice of price fixing and exchange of information existed between 1 Latvian egg producers. The coordinated action aimed at increasing the sales price of eggs and retaining the desired level. By joint planning of specific price increases for eggs of hens, the egg producers' goal was to eliminate the risks that inevitably would result if each company individually for egg price increases. In view of the evidence in the file, CC concluded that egg producers have participated in concerted practices aimed at the competition restriction. | Price dynamics analysis for the long period of time in connection with the dates when the producer's meetings in the association were held. Price dynamics analysis – is the price is such that one must be taking into account the seasonal diminish of demand. | CCL imposed fines to 11 companies |  |  |
| 2.  | Initiation:<br>14.10.2005.<br>Closure:<br>11.04.2007.  | Information in mass<br>media – flour producers<br>have said that have<br>plans to increase the<br>prices   | Flour<br>distribution<br>market in<br>territory of<br>Latvia | Cartel – price fixing | In the case was the suspicion of a horizontal price fixing agreement between flour producers  | Correlation between purchasing price of grain and selling price of flour. Purchase and sales channels. Communication between competitors.  | Infringement was not found        |  |  |
| 3.  | Initiation:<br>14. 05.2008.<br>Closure:<br>19.12.2008. | Application from the former employee, who informed that he was the witness of the conversation between the members of the boards of competing undertakings on the price increase for beer and other products | Beer<br>distribution<br>market in<br>territory of<br>Latvia. | Cartel – price        | In the case was the suspicion of a horizontal price fixing agreement between 3 producers  | Total sales volumes of<br>beer and market shares of<br>competitors, dynamics of<br>these indexes. Price for<br>different clients, dynamics<br>of prices, effect of<br>seasonality. Factors which<br>effect the price, cost<br>structure, producing<br>capacity   | Infringement was not found        |  |  |

| 4. | Initiation:<br>11.02.2009.<br>Closure:<br>12.12.2009. | Information collected in<br>the process of market<br>supervision – evidences<br>that producers exchange<br>with commercial<br>sensitive information<br>(budgets, costs, prices,<br>sale volumes etc.) | Egg distribution<br>market in<br>territory of<br>Latvia         | Cartel, other horizontal cooperation     | of the concerted action was to restrict competition.  | much the exchange of information can influence the market and distort competition: market structure and concentration, import.                                 | CCL imposed a fine. |
|----|---|---|---|--|---|--|---------------------|
| 5. | 09.12.2010.   | Testimony   | Flour<br>distribution<br>market in<br>territory of<br>Latvia    | Cartel – client allocation               | Suspicions that two flour producers agreed on client allocation. The case is still pending  | Migration of clients, sales volumes, production capacity, communication with clients, price dynamics.  |                     |
| 6. | 09.09.2011.   | Information from the cartel case (received in down raid) mentioned in the point 5   | Flour and other grain product supply for the public procurement | Cartel – collusion in public procurement | Suspicions that two flour producers agreed to divide the procurement (by subcontracting each other) in order to achieve the highest price. The case is still pending  | Analysis of agreements, prices, communication, production capacity, sales volumes in general and sales volumes to private purchasers, real ability to deliver. |                     |
| 7. | 15.06.2011.   | Information from<br>market supervision – e-<br>communication<br>between raw milk<br>producer and processor  | Raw milk sales  | Cartel – price fixing                    | Suspicions that two raw milk cooperatives form their sale price policy jointly. The case is still pending   | Analysis of price offers for<br>purchasers, cooperation<br>between involved parties<br>in the joint project of milk<br>factory building.                       |                     |
|    |   |   |   | Vertical rest                            | trictions   |  |                     |
| 1. | Initiation:<br>12.05.2004.<br>Closure:<br>03.11.2004  | Information obtained in<br>the sugar market<br>supervision –<br>agreements  | Sugar<br>distribution<br>market in<br>territory of<br>Latvia    | Resale price maintenance                 | AS "Liepājas cukurfabrika" (sugar factory) limited SIA "Greis Logistics" (wholesaler) freedom to set resale prices of sugar and limited SIA "Greis Logistics" ability to compete with other distributors operating in the market. Consequently, it was concluded that the agreement was designed to affect the resale price, which is a restriction of competition. | Analysis of agreements   | CCL imposed a fine  |

| 2. | Initiation:<br>25.02.2005<br>Closure:<br>29.03.2006.  | Own observations in the market (references of end price in packages indicated that the relevant sort of bread were sold at the same price in all the retail) | Bread<br>distribution<br>market in<br>territory of<br>Latvia                                   | Resale price maintenance    | A/S "Hansas maiznīcas" (bread producer) limited the retailers' freedom to define certain kinds of bread resale price. The goal of such activities was to influence the resale price, so that such action constitutes a restriction of competition.   | Analysis of agreements. As violator pushed that the same price was just a shot term marketing action, the analysis was undertaking on how long period of special price could be recognized as special marketing action. CCL established that special price which was applied for 4 months should be considered like regular price but not like short term action price. | CCL imposed a fine.                                    |
|----|---|--|--|-----------------------------|--|---|--|
| 3. | Initiation:<br>07.11.2007.<br>Closure:<br>23.01.2008. | Information received in<br>the merger case<br>mentioned in point 1 in<br>the table part "Mergers"<br>of this annex.  | Alcohol<br>distribution<br>market in<br>territory of<br>Latvia.                                | Resale price<br>maintenance | Analysis of agreements   | Analysis of agreements  | CCL imposed a fine.                                    |
| 4. | Initiation:<br>09.09.2010.<br>Closure:<br>08.04.2011. | Complaint from the market participant  | Rental of retail<br>space in<br>shopping<br>centres market<br>in one<br>administrative<br>area | Exclusion of competitor     | CCL established a prohibited agreement between retail chain (RIMI group) and lessor of selling space in shopping malls Marno J Ltd. Agreement took place as prohibition to lease selling spaces to other undertakings without the permission of RIMI group and as restricting the ability of competing specialised food shops to commence economic activity in particular shopping malls | Definition and analysis of relevant market (defining the commercial space in shopping malls separate from all commercial space), analysis of how the agreements affect suppliers, small competitors, consumers  | CCL imposed a fine, the case is in the court procedure |

|    | Abuse of dominant position                            |  |  |   |   |  |   |  |  |
|----|---|--|--|---|---|--|---|--|--|
| 1. | Initiation:<br>29.04.2009.<br>Closure:<br>30.11.2010. | Information received in market of retail supervision | Daily consumer<br>goods retail<br>market in<br>supermarket<br>sector in Latvia | Abuse case,<br>unjustified payments<br>for the placement in<br>the shop               | The new conception – dominant position in retail – was put into practice and developed in this case. Dominant position in retail is a special position of retailer when it is dominant only on the supply side. It was established that retailer RIMI Latvia Ltd (one of two biggest retailer in Latvia) abused dominant position in retail trade by imposing unjustified payments (discounts) on Valmieras piens JSC (milk processor) for the placement of its goods in low price shops Supernetto owned by RIMI Latvia Ltd. | Definition and analysis of relevant markets (procurement market, market in which supplier is dependent on retailer), definition and analysis of the position of RIMI, analysis of is the supplier dependent on RIMI, analysis of cooperation (agreements) between retailer and suppliers, analysis of volumes sold in RIMI, Supernetto and other shops in supermarket sector, analysis of supply prices and discounts.                         | CCL impose a fine to RIMI, case is in the court procedure |  |  |
| 2. | Initiation:<br>21.05.2009.<br>Closure:<br>13.01.2011. | Information received in market of retail supervision | Daily consumer<br>goods retail<br>market in<br>supermarket<br>sector in Latvia | Abuse case – applying unjustifiably lengthy payment period for the delivered products | It was established that one of the two biggest retailers – Maxima Latvija – abused its dominant position in retail by applying unjustifiable lengthy payment period for the production delivered by small supplier- bakery Siguldas Maiznieks Ltd.  | Definition and analysis of relevant markets (procurement market, market in which supplier is dependent on retailer), definition and analysis of the position of Maxima, analysis of is the supplier dependent on Maxima, analysis of cooperation (agreements) between retailer and suppliers, analysis of payment periods in general, analysis of financial situation of Siguldas Maiznieks (debts). Maxima instead of making payments in fair | CCL impose a fine to RIMI, case is in the court procedure |  |  |

| 2  | Turki di ana  | Compleint of the                                    | Deilessangus   | Aboreant   | DIMI has a dominant position in the  | and reasonable period, for<br>the period have paid the<br>percentage of sum which<br>should be paid for<br>products. It was analysed<br>whether these interest<br>payments could<br>compensate that the<br>supplier did not receive all<br>the sum in fair period. | No. in Coine and act         |
|----|---|---|--|--|--|--|------------------------------|
| 3. | Initiation:<br>24.02.2011.<br>Closure:<br>11.08.2011. | Complaint of the supplier of milk and milk products | Daily consumer<br>goods retail<br>market in<br>supermarket<br>sector in Latvia | Abuse case, applying of unjustified payments (discounts) to the supplier | RIMI has a dominant position in the retail trade. The complaint was about the RIMI requirement for the suppliers to give higher discounts. The supplier refused to give the greater discounts. After some time the supplier initiated to increase the prices for some products, RIMI refused the price increase, the supplier considered that RIMI pressed it to deliver on the old price (almost below costs). CCL established that RIMI would have rights to require the greatest discounts if the sales volumes would be greater then in the previous period. RIMI does not have the obligation to purchase the production from the suppliers on any price, established by suppliers. | Analysis of the volumes and prices and discounts of production purchased by RIMI from some milk processors.  | No infringement established. |