



**AUTORITETI I
KONKURRENCËS**

2011 ANNUAL REPORT

AND

MAIN GOALS FOR 2012

Competition Authority

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Commission Chair's Greeting Remarks

Recently there has been talk about a need for establishing such a business climate that would enable "business and innovation growth." Competition policy should be at the core of economic development policies, enabling market access for new businesses and ensuring effective competition among players.

The Albanian Competition Authority mission is to protect and promote free and effective competition in the market. To achieve its goal, it has set a vision for the Competition Commission and goals for the Competition Authority activity. The degree of achievement of this core objective is also a performance indicator for this Institution.

In addition, a well-functioning market requires inter-institutional cooperation with the rest of regulators and public institutions. The enhancement of tools for increasing competition advocacy and culture has been considered as a crucial condition for a real impact on the market by the Competition Authority. Both the Government and EU-funded projects have constantly invested in this area. Furthermore, integration processes need interaction with all the stakeholders, the business community and consumers, the media and civil society—in other words, with the general public.

Being a public facility, the Competition Authority has made active efforts for using all its power under the Competition Law and Policy to protect markets against anticompetitive actions of some players that would bring harm not only to their competitors but also to consumers' wellbeing, essentially.

Legal tools used by the Competition Institution have included immediate interventions in identified cases, penalization of prohibited agreements, oversight of undertakings with market power and penalization and control of transactions resulting in concentration of market structures. Those instruments are based on justice, equality, impartiality, transparency, objectivity and professionalism; these principles have led to increased public profile of the Competition Commission and of the Competition Institution in general.

The more the Competition Institution intervenes in the market the more sophisticated anticompetitive practices among powerful market players become; therefore, increased professionalism and sophisticated investigative tools are constant challenges for the Competition Institution, which is further emphasized by the increased number of business complaints of anticompetitive behaviour.

Future challenges include increased complaint processing and the building of appropriate tactics to improve the tool of downraids. In this context, the Competition Authority has always held that it should meet those challenges successfully for it to be an institution that progressively meets the standards and requirements of Albanian economic growth.

Competition Authority capacity building has always been considered to be closely linked with increased knowledge of Competition Law and Policy and interaction with various stakeholders such as regulators, central and local bodies, judicial institutions and law firms, the media, the business community and consumers. The underlying principle is that an anticompetitive practice is not

merely an administrative violation, but a denial of an opportunity for consumers of getting products at lower prices, better quality, more choice, and, thus, higher wellbeing.

It is, therefore, a moral and legal obligation for all stakeholders to cooperate for protecting and promoting free competition in the market, which is indispensable for economic growth and wellbeing in Albania.

I. Summary of Main Developments

The Competition Authority operates pursuant to the Constitution of the Republic of Albania, the Law “On Competition Protection” and the National Competition Policy, in addition to public administration norms and best practices of European competition law.

In 2011 the Competition Institution achieved the objectives set by the Albanian Parliament Resolution on the evaluation of 2010 Competition Authority activity, the goals presented in the 2010 Annual Report and Main Goals for 2011, and by the European Union Progress Report for 2010-2011.

I.1. Competition Authority Activity Features

Authority efforts mainly focused on increasing expedition of response to complaints; increasing the types of markets under monitoring and investigation, or concentration control and assessment; completing and improving the secondary legal framework in order to reflect recent developments in the area of European Union regulations and best practices, and our experiences; enhancing instruments for strengthening competition advocacy and further liberalizing markets; consolidating the degree of expertise and building administrative capacities; and increasing competition culture by cooperating not only with business and consumer protection associations, but also with the general public.

As stated in our 2010 Report, one of the Competition Institution goals was to improve all the instruments for encouraging the business community to contact the Competition Authority with all their concerns related to competition in general. 2011 began with a considerable number of undertakings’ **complaints** in relation to potential abuse of dominant position—a clear indicator of the increased role of the Competition Authority with its interventions for restoring competition in the market. Thirteen complaints were submitted to the Competition Authority in 2011, of which five were claimed potential breach of competition pursuant to the Competition Protection Law. Following monitoring exercises based on the complaints, the Competition Secretariat advised the Competition Commission to initiate the relevant inquiry proceedings. The complaints were mainly about potential abuse of dominant position in the liquefied petroleum gas (LPG) maritime loading-unloading market; landline telephony prepaid cards market; private security service procurement market; etc.

A new development in the area of inspection was the initiation of immediate proceedings upon receiving indications from complaints or the media and the execution of dawn raids simultaneously in most of the undertakings under investigation with the purpose of **increasing investigation efficiency**, which was also one of the goals laid down in the last Annual Report. Factors contributing to the increased efficiency of inspections included lessons learnt from the past, trainings carried out under the IPA-2008-funded twinning project, and the proactive Competition Commission support in the context of implementing the procedures stipulated by Law.

In 2011, the Competition Authority completed monitoring and investigation proceedings it had started in 2010 in the market of sugar and rice imports, the market of oil import and production, and the telecommunications market, which was the subject of a significant number of complaints.

The telecommunications market was subject of investigation in other aspects of potential breach of competition in 2011, including the segments of prepaid cards based on a concern about potential abuse of dominant position by the undertaking operating in the landline telephony market. Another market, which is currently in the stage of taking a decision on potential abuse of dominant power, is the market of maritime LPG loading and unloading.

In 2011 investigation proceedings were started and completed in the market of mass consumption bread in the city of Vlora. Twenty local operators were penalized on grounds of participation in a price-fixing agreement. Four of them were penalized for failure to comply with the Competition Commission Decision on interim measures for banning the agreement as a prohibited agreement that was restricting competition in the market. In addition, an investigation was initiated last year due to concerns for a prohibited agreement in the market of physical security service.

Indications of potential competition restriction or distortion in various markets were also received through monitoring exercises, which were constantly part of the Competition Authority work. As a result, last year the Authority monitored not only those markets that had previously been subject of investigation—food products market, hydrocarbon market—but also other markets, such as services, maritime transport and pharmaceuticals.

2011 marked an **increase in the number of concentrations** that were notified to the Competition Authority. This is a sign of increased awareness among transaction parties, as well as a result of the reduced threshold turnover used in the requirement for Competition Commission authorization. The Competition Commission authorized ten cases of change in control of undertakings, mainly in the markets of insurance, banking and automobiles, where major concentrations occurred in 2011. The Competition Authority took a proactive approach to ex-post control, making efforts for identifying all actual transactions that were registered at the National Registration Centre (NCR). Thus, in close cooperation with NRC, all actual transactions meeting the legal criteria to be reviewed and authorized by the Competition Commission were checked.

Regarding **competition advocacy** efforts in 2011, pursuant to Articles 69 and 70 of the Law, the Competition Authority gave opinions on a case-by-case basis on any acts that could restrict competition in the relevant markets. The Competition Authority recommendations were mainly on those markets where potential competition restrictions were noticed due to their nature (limited number of permits/licenses) and/or regulators' actions. Some of the main markets in the focus of the recommendations include the electricity market, electronic communications market, postal service market, etc.

The efficient use of the experience gained under the IPA-2008 Twinning and Technical Assistance Projects resulted in improved tools for increasing and strengthening competition advocacy and culture. In this area, training events with the participation of financial, energy and telecommunications regulators were organized, in addition to regional seminars with the business community and

universities in the cities of Durres and Vlora. This approach will continue to be used in 2012.

Another achieved goal was the drafting of a number of bylaws under the amendments to the Competition Law and further approximation of the Albanian legislation with the EU *Acquis*. The Competition Institution's proactive approach to economic freedom observance also led to the development, approval and publication of very important guidelines on the detection of bid rigging, or concession agreement appraisal. Those efforts were also assisted by experts under the EU-funded Projects.

Last year the Competition Commission took 43 Decisions, in addition to issuing opinions on various legislative initiatives and draft-laws developed by other regulators and central agencies. The Decisions were taken pursuant to the Competition Protection Law, and included: three Decisions on interim measures to stop anticompetitive practices; one Decision on imposing fines on 20 undertakings; six Decisions on adopting regulations or guidelines; five Decisions on recommendations to regulators and other central institutions; ten Decisions on authorizing concentration transactions; and 19 Decisions on the implementation of internal Competition Authority procedures. The significant increase in the number of Competition Commission decisions and their multidimensionality reflect the amount of work the Competition Authority Secretariat has done (see Annex 1).

Judicial review of Competition Commission decisions upheld seven of the 12 appealed Decisions. This also shows that the procedures followed by the Authority are consolidated and have not been subject of objection or complaints. **Fine enforcement** under Competition Commission decisions embarked on a new stage in 2011, as most of the final Decisions either were enforced or are in the process of enforcement, with the proceeds to be received in the State Budget account. As Annex 2 shows, about 24 per cent of the total amount of fines were collected, while 20 per cent are in the process of collection. The total amount of fines is ALL1,093,503,130.

Another goal last year was to **strengthen administrative capacities** qualitatively. There was a great number of training events in 2011 (150 days), under both EU-funded Projects—the Twinning Project with the Italian and Hungarian sister authorities, and the Technical Assistance Project. Our staff also took active part with case presentations in the regional seminars OECD organized in the Regional Centre in Budapest.

I.2. About the Competition Authority

The Competition Law and National Policy aim at ensuring free and effective competition in the market, with the ultimate goal to protect consumers and provide them with benefits. The Competition Authority Mission is to make markets competitive and ensure that the market economy is functioning, in the context of consumers' wellbeing and overall national economic prosperity.

The experience has shown that where there is no competition—such as in the case of cartels or abuse of a dominant position as an extreme case of monopolies—businesses do not compete and, as a result, consumers pay higher prices, have fewer choices, and receive lower quality goods and services. It has been proven that if there is competition in a market, then prices will be lower, consumers will have more choice, and service quality will be better.

I.2.1 Benefits from Competition

For a better understanding of how the Competition Institution operates in the market, the example below shows how the Competition Authority intervenes in a market to prevent any anticompetitive practices and promote competition through its recommendations. The second part of this Section gives information on the Competition Authority organizational structure.

The market of mobile telephony is the most significant example in Albania. This market started in 1998 with AMC being the first company. It was a monopolistic market with stratospheric access prices: new subscribers had to pay a subscription fee of ALL 100,000. Telenor-Cosmote purchased 85% of AMC shares on 25 July 2000. The Albanian Government owns 12.6% of the shares through the Albanian Ministry of Economy, Trade and Energy, and minority shareholders/AMC staff at the time of privatization owned 2.4% of the shares. The market was a monopoly for about five years, first being a public monopoly, and then a private one. The introduction of foreign capital into an undeveloped market which was thirsty for telephony services brought about radical changes in it, leading to a steep increase in the number of subscribers, extensive growth of the coverage area, as well as services. All this was coupled with expensive tariffs relative to costs and tariffs in the region. Another reason for this was the small degree of landline telephony penetration.

Vodafone received the license as the second mobile telephony operator in Albania on 9 June 2001. It was a joint venture with 51% of the shares owned by Vodafone International Holding and 49% by Panafone International Holding.

All market factors and players expected powerful changes, especially in terms of reduced tariffs, following the introduction of a second operator in the market, transforming this into a duopoly. In the absence, however, of a methodology that would link tariffs to relevant costs—with tariffs no higher than 130% of costs—both companies failed to compete in terms of tariffs. Their competition was only related to marketing elements.

A market assessment showed that, in the absence of a tariff methodology that would not allow any prices in excess of 130% of costs—the Regulator has the legal duty to adopt the methodology—a benchmarking alternative could be used in order to compare service tariffs with identical or similar services in the region. According to Cullen Country Comparative Report – 2 (2006) “Albania represents the exception with prices that would rank among the highest in the EU.” The inquiry showed that both companies applied high card service fees for calls within and outside their networks, which were higher than the regional average; national termination fees that were twice as high as the average termination fee in the region; prepaid service tariffs that were twice as high as the respective average in other countries in the region, etc.

At the end of an investigation, the Competition Commission found that AMC and Vodafone had abused with their dominant positions and had set unfair prices in the mobile telephony market, which was a violation of Article 9 of the Law “On Competition Protection”. The Commission imposed a fine of ALL 211,552,000 on AMC sha and a fine of ALL 242,633,000 on Vodafone Albania sha.

It also made a series of recommendations to the Regulatory Authority (now AKEP), the implementation of which would ensure competition in the mobile telephony market. The adoption of a tariff methodology, the licensing of a third operator and, subsequently, of a fourth operator, and the introduction of number portability were also among the main Competition Authority recommendations, which the Regulator implemented gradually.

The introduction of the last two operators—Eagle Mobile and Plus—the adoption of the tariff methodology in September 2008 and the introduction of personal number portability thus led to effective competition in the mobile telephony market. This market is now dynamic, and there are signs of competition in all its segments—voice calls, SMSs, groups calls, international calls, internet data traffic—so much so that operators are now racing to provide the highest internet speed. Quantitative data are sufficient proof of the positive effect that competition has in the market benefiting consumers. Now ALL 500 gives consumers the possibility to talk for 1,000 minutes, to send 500 SMSs, and some Megabytes of internet access, while six years ago this was only enough to talk for about seven or eight minutes within the same network or between different networks, i.e. 125 times less, exclusive of the cost for 500 SMSs (about ALL 12,000) and internet access, which was not even provided.

As the example above shows, competition also has a significant impact on the competitiveness (given other factors). For instance, reduced telephony costs result in reduced overall costs that private and public entities incur in their manufacturing and service delivery processes, which, in turn, makes enterprises more competitive in a market that is increasingly open to other countries in the region and the European Common Market.

Hence, competition benefits consumers, businesses and the overall economy. Competition keeps prices and business costs at low levels. It increases consumer choices and leads to increased quality from all market players, promoting innovation in the form of new products and services and supporting economic growth.

I.2.2 Competition Authority Organizational Structure and Functions

The Competition Authority structure remained the same in 2011 as it had been set in the Parliament of Albania Decision no. 182 of 12 May 2008, with 32 staff, of which 20 were technical staff members consisting of economists and lawyers (11 and 9, respectively).

I.2.2.1 Organizational Structure

The Competition Authority is made up by the Competition Commission, which is its decision-making body, and the Secretariat, which is its administrative and investigative body. The organizational chart of the Competition Authority is shown in Annex 3.

- **Competition Commission**

The Competition Commission is a decision-making collegial body that operates pursuant to the Competition Protection Law. In 2011, the Competition Commission made visible progress both towards decision-making related to the implementation of the law in anti-trust cases, encouraging discussions in the Commission and alternative opinions, and in increasing its transparency through the organization of hearings with relevant parties and consultations with central institutions and regulators. The Competition Commission continues to exercise its legal functions with the participation of four Commissioners, including the Chair.

The **Cabinet** is an important support structure in the Competition Authority, operating pursuant to the Law and the Rules on Operation of the Competition Authority. The purpose of the Cabinet work is to monitor and support the work of the Chair and Commission, in close cooperation with the Secretariat, in order to ensure internal harmonized functioning of the Institution as a whole. The Cabinet is responsible for the organization of the Commission meetings, the writing of its decisions, the provision of legal evaluations, etc. The Cabinet assists the Chair in its relationships with third parties and the media.

- **Secretariat**

The Competition Authority Secretariat is the administrative body charged by the law with the monitoring and investigation activities to ensure free and effective competition in the market. The Secretariat has three Departments and an Analysis Unit.

The **Market Supervision Department** supervises the market behavior of undertakings pursuant to the Competition Protection Law and the National Competition Policy. The Department has three units corresponding to the three main pillars specified in the Law: the Abuse of a Dominant Position Unit, the Anti-Cartel Unit and the Merger Unit.

The **Legal and Procedures Department** prepares the legal argumentation of the Secretariat's activity products, drafts regulatory acts under the Competition Protection Law, and represents the Authority in court proceedings to defend the Commission decisions in lawsuits initiated by affected parties. The Department is organized into two units: the Procedure and Legislation Approximation Unit, and the Legal Affairs and Investigation Unit.

The **Internal Service Department** provides the necessary support for the normal operation of the Competition Authority in the fulfilment of its mission to protect free and effective competition in the market. The Department manages human resources in line with the requirements and procedures laid down in Law no. 8549 of 11 November 1999 "Civil Servants' Status," and plans the development of capacities through training by using all possible resources such as OECD, ICN, RCC, ITAP, Tirana University, etc. Another line of action in the activity of the Department is the management of the Authority finances and having full

responsibility for the preparation and management of budget funds in accordance with the legislation on the management of the Albanian State Budget.

The mission of the **Market Research and Analysis Unit** is to carry out monitoring exercises in various markets pursuant to the tasks laid down in the Competition Commission, in addition to monitoring the conditions in the market and carrying out economic analyses.

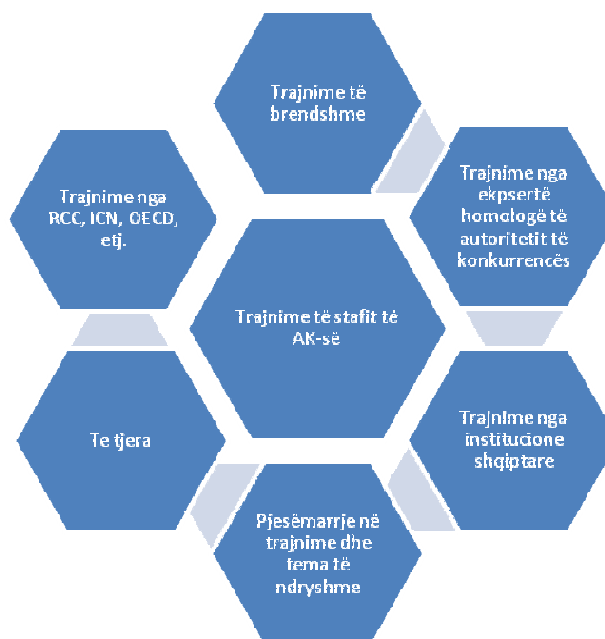
I.2.2.2 Administrative Capacity Building

Administrative capacity building was one of the challenges the Competition Authority tackled in 2011. This was also the year with the biggest number of Competition Authority staff trainings. More than 150 days of training for Competition Authority inspectors and management staff were conducted by experts from European Union Member States—Italy and Hungary. The training focused on the most important markets where the Competition Authority intervenes, horizontal allocation, abuse of dominant position, prohibited agreements, and concentration control.

In the framework of EU IPA 2008 Program, the Authority is benefiting two projects: (i) a Twinning Project, and (ii) a Technical Assistance Project. The objective of the Twinning Programme is to ensure a competitive environment in Albania pursuant to Competition Law and the Acquis Communautaire, and to increase and strengthen the efficiency and effectiveness of administrative capacities in the field of competition. The Technical Assistance Project aimed at approximating the Albanian competition law with the EU legislation, increasing competition culture and advocacy, and funding several publications in the area.

In the framework of the cooperation with the OECD regional centre in Hungary, 28 days of training with all the technical staff was carried out, focusing on various competition issues. The technical staff also took part in all seminars or round tables that other regulators and institutions organized.

The following chart shows the process of capacity building:



I.2.2.3 Financial Management

In 2011 the Competition Authority duly complied with the requirements of Law No. 10355 of 2 December 2010 "On 2011 State Budget". The management of material and cash assets was treated as an important field of work for the Competition Authority, in its efforts for due execution of all laws and regulations on the use of Budget funds.

The Finance Office takes care of the good management of appropriated budget funds contributing to the activity of the institution, and collects and processes data on the performance of financial indicators. The Finance Office contributed to the achievement of the Institution objectives.

90% of 2011 budget was executed. Annex 8 contains detailed information, which also shows that the 10-percent-execution gap was due to unfilled vacancies and procurement procedures.

II. Competition Law Implementation

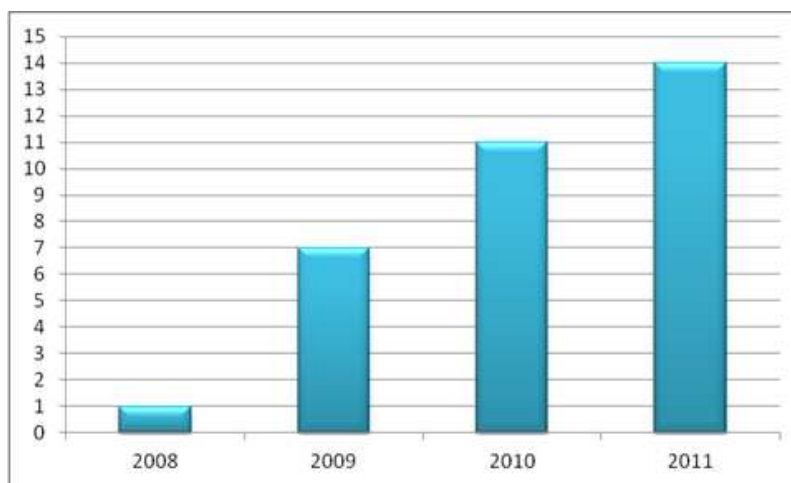
The Albanian Competition Law is an antitrust law with a high degree of compliance with the European Union legislation, the main purpose of which is to protect free and effective competition in the market. The main pillars of the Law are: prohibited agreements and abuse of dominant position, control of concentrations, and competition advocacy and culture.

This Section includes a list of all complaints lodged with the Competition Authority, followed by a subsection with the investigations carried out under the main pillars of the Law.

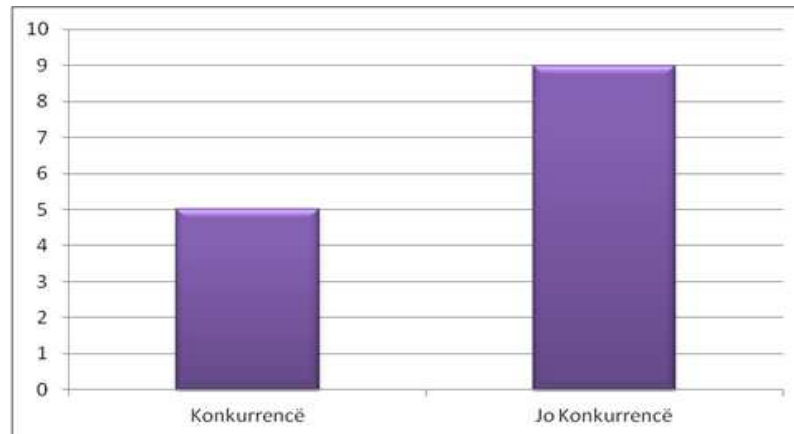
II.1. Business Complaints

The increased role of the Competition Authority in restoring competition in the market through legal instruments, including fines, interim measures, recommendations, and advocacy and culture efforts, have increased market players' confidence in the Authority. The number of complaints that are submitted to the Competition Authority has increased over time, with an extended range of markets and anticompetitive practices being addressed in 2011.

The Authority carried out the relevant procedures for five complaints falling in the Competition Protection Law, in addition to referring nine other complaints to the relevant institutions. Complaints were processed in compliance with the provisions laid down in the Competition Protection Law and the Authority Rules of Operation. In every case a proactive attitude was taken, and responses were given to every complainant in the spirit of increasing business confidence in the Competition Authority.



Graph 1: Number of complaints, by year



Graph 2: Complaints under Competition Law, and other complaints

II.1.1 Competition Restriction Complaints

Complaint from the Albanian Association of Banks

The Albanian Association of Banks submitted a complaint to the Competition Authority with regard to excluding banks from the higher education enrolment fee payment market.

After reviewing the complaint, the Competition Authority issued Decision No. 205 of 14 November 2011 “Recommendation to the Minister of Education and Science to amend Instruction No. 36 of 9 September 2011 amending Instruction No. 25 of 20 July 2011 On admission and enrolment procedures in the first cycle of full-time public higher education institutions.”

Complaints in the LPG loading-unloading and storing market in Porto-Romano

In July 2011 Mare Oil SHA submitted a complaint to the Competition Authority in which it claimed that concessionary Romano Port SHA did not allow it to unload a liquefied gas tanker ship at Porto-Romano on unlawful and unjustified grounds, i.e. it claimed that it was not allowed to store gas in its storage facilities. Following the complaint the Competition Authority immediately started its monitoring and inquiry proceedings, which are described in the following section.

Prima Gas Albania SHA, too, submitted a complaint to the Competition Authority on 12 August 2011, claiming that Romano Port SHA did not allow its LPG tanker to unload unless it submitted additional documentation.

Mare Oil SHA submitted another complaint on 1 September 2011, in which it claimed that the concessionary had prevented the unloading of an LPG tanker at the Port operated by Romano Port SHA on 21 August 2011. The ground for the refusal of the service was a request to sign an unloading contract based on its own terms and conditions.

Complaints in the telecommunications market

A company operating in the telecommunications market submitted a complaint on Albtelekom to the Competition Authority, claiming that the company

with market power was applying high interconnection fees related to prepaid cards compared with the same service Altelekom provided through its ALBLUE cards.

After reviewing the complaint, the Competition Authority decided to initiate an inquiry into the prepaid cards market, which is still on-going.

Complaint from a personal and physical security company

The Competition Authority received a complaint from an undertaking operating in the personal and physical security market with regard to anticompetitive practices in public procurement of this service. The proceedings under the complaint are described in the following section.

II.1.2 Complaints Falling outside the Scope of the Law

Complaint from AbCom

AbCom submitted a complaint to the Competition Authority in relation to some anticompetitive practices pursued by Tring in the internet service provision market. At the end of the review Tring was not found to have a dominant position in the internet service provision market, and, as a result, it could not restrict competition in that market.

Complaint from Albanian Telecommunications Union

Albanian Telecommunications Union SHPK submitted a complaint to the Competition Authority in relation to a concessionary agreement on the national broadband network in the Republic of Albania which excluded the national road broadband network, granted by Administrative Permit No. 120 of 23 August 2010 issued by the Minister of Public Works and Transport, to Albanian Telecommunications Union SHPK.

The Competition Authority reviewed the complaint and found it not to be subject of its review.

Complaint from SINTEL SHPK

SINTEL SHPK submitted a complaint to the Competition Authority whereby it claimed that Altelekom SHA had exerted pressure to sign a new interconnection offer, which, it claimed, had not been approved by AKEP. In addition, SINTEL SHPK claimed that the document had provided for very high tariffs. With regard to this the Competition Authority asked AKEP for further information in order to legally assess the complaint. The information is yet to be received.

Complaint from AMC SHA

AMC SHA submitted a complaint to the Competition Authority claiming that Vodafone Albania SHA was offering very low-price packages for subscribers who changed operators carrying the same number.

AMC SHA submitted the same complaint about Eagle Mobile SHA.

After reviewing the complaint the Authority concluded that customers had a right to choosing the operator they wanted to receive mobile telephony services and to terminating their service contracts and conclude new contracts with different operators if the terms and conditions provided by them were more

convenient. The Authority concluded that the complaint did not lie in the scope of the Competition Protection Law.

Complaint from Eagle Mobile

Eagle Mobile submitted a complaint to the Competition Authority about AMC SHA. It claimed that many Eagle Mobile subscribers had complained that they had been contacted by AMC SHA without their prior consent or despite their refusal to receive such calls. After reviewing the complaint the Authority concluded that the complaint did not fall in the scope of the Competition Protection Law.

Complaint from Plus Communication

Plus Communication submitted a complaint to the Competition Authority about AMC SHA. In its complaint Plus Communication SHA stated its concern regarding repetitive and intensive phone calls from AMC SHA which aimed at luring Plus subscribers to AMC SHA. After reviewing the complaint the Authority concluded that the complaint did not fall in the scope of the Competition Protection Law.

Complaint from Albanian Airline SHPK

Albanian Airline SHPK submitted a complaint to the Competition Authority in relation to a Decision taken by the Civil Aviation Authority to not renew the Air Operator Certificate for Albanian Airline SHPK.

In order to review the complaint as objectively as possible, a meeting with Albanian Airline representatives was organized, and Letter No. 515 Prot. of 23 December 2011 was sent to the Civil Aviation Authority with a request for further information on the Decision. In addition a joint informational meeting on the situation was asked for. The Authority is still waiting for an answer from the Civil Aviation Authority.

Complaint from Philip Morris Albania SHPK

Philip Morris Albania SHPK submitted a complaint to the Competition Authority in relation to the reference prices the Customs Authorities apply to some of its goods.

With regard to this complaint, the complainant was asked to fill in a complaint form and submit the form to the Authority. The complainant has failed to do so yet.

Complaint from Albaxeni SHPK

Albaxeni SHPK complained to the Competition Authority against Kurum International SHA, claiming that the latter had fixed market prices for construction iron rods and steel, it had fixed the price of scrap metal it collected from other companies, and it had become an obstacle in the metal scrap market taking part in various scrap metal auctions causing unfair competition. It also claimed that Kurum had taken part in auctions where it had quoted higher prices, which, it claimed, was unfair competition. The complainant asked the Competition Authority to exclude Kurum from auctions and to prohibit the participation in auctions for those companies that have unsettled liabilities towards other companies.

The Managing Director of the complainant undertaking was contacted with a request to meet with Authority staff for further clarifications and to fill in the

relevant complaint form to be submitted to the Competition Authority. The complainant failed to do so; therefore, the only document that was reviewed was the complaint.

A legal assessment of the complaint found that it was not in the remit of the Competition Authority powers to prevent companies from taking part in auctions and to force them to settle liabilities to other companies. In conclusion, the complaint did not fall in the scope of Law No. 9121 of 28 July 2003 "On Competition Protection," as amended.

II.2. Prohibited Agreements (Cartels)

Prohibited agreements were among the key priorities of the Competition Authority, as they harm social wellbeing, cause inefficiencies and transfer benefits from consumers to the parties to the agreement.

The Competition Authority carried out monitoring and investigations with the aim to discover agreements or concerted practices among operators in several markets, which are:

II.2.1 Inquiry into the Bread Production and Trading Market in the City of Vlora

Because of the media coverage of increased bread prices in the city of Vlora, the Competition Authority Secretariat carried out an immediate monitoring in Vlora in order to see whether the price increase was a result of a prohibited agreement among market operators. The monitoring found that bread prices in the city of Vlora had increased abruptly following a meeting of bakers from Vlora, where they had agreed the following: *Increase the price of a 900-gram loaf of bread to ALL 120 and the price of a 450-gram loaf of bread to ALL 60 on 23 March 2011.*

Based on the Monitoring Report, the Competition Commission decided to initiate an inquiry and take interim measures in order to stay the prohibited agreement on increasing and fixing bread prices in the city of Vlora. Following that, an in-depth investigation into the market was opened.

Based on the Secretariat in-depth investigation report and after hearing the parties, the Competition Commission imposed fines on the parties to the prohibited agreement. In addition, it recommended the Directorate General of Taxes to look into the extensive informality and failure to use fiscal cash registers among operators in this market.

II.2.2 Inquiry into Personal and Physical Security Market

Based on the findings of the monitoring exercise that was carried out following a complaint, the Competition Commission decided to initiate a preliminary inquiry into the procurement market of personal and physical security services against a group of undertakings operating in it, in order to determine whether there were any indications of competition restriction.

The methodology that was used in the investigation was based on the OECD Guidelines for Fighting Bid Rigging in Public Procurement. The guidelines specify

the types of bid rigging and the methods how bidders collude to eliminate competition, and they provide for the methods of how to reduce behaviour coordination in procurement and the risk of bid rigging, and how to raise procurement staff awareness of bid rigging, etc.

Pursuant to the Commission decision, the Secretariat is currently carrying out an investigation under the Competition Protection Law, the Procedure Code and the Rules on Investigative Proceedings. At the end of the proceedings, the Secretariat is going to submit a report to the Competition Commission, including an assessment of the behaviour of the undertakings under investigation and an evaluation of whether any bid rigging was determined.

II.3. Abuse of a Dominant Position

II.3.1 In-Depth Investigation into the LPG loading-unloading market in Porto-Romano

Based on the Secretariat finding following the complaint review and immediate monitoring exercise, the Competition Commission adopted Decision No. 196 of 29 July 2011 whereby it decided to initiate a preliminary inquiry into the LPG maritime loading-unloading market in Porto-Romano Port.

Given the very high degree of concentration in the market of LPG import and wholesale, and that the refusal to allow the complainant's tanker ship to unload could present a risk of irreparable damage to competition, the Competition Commission adopted Decision No. 197 of 29 July 2011 whereby it decided to take an interim measure and order Porto Romano SHA to facilitate the processing of the LPG tanker ship commissioned by Mare Oil SHA immediately, but no later than five days from the notification of that Decision. Romano Port SHA appealed against Competition Commission Decision No. 197 of 29 July 2011. The judicial review is still on-going.

While the above was going on, Prima Gas Albania SHA, too, submitted a complaint to the Competition Authority on 12 August 2011, claiming that Romano Port SHA did not allow its LPG tanker to unload unless it submitted additional documentation. After reviewing Competition Commission took Decision no. 198 of 25 August 2011 whereby it decided to take an interim measure and order Porto Romano SHA to facilitate the processing of the LPG tanker ship commissioned by Prima Gas Albania SHA immediately, but no later than five days from the notification of that Decision.

While an investigation was being carried out in September 2011, Prima Gas Albania SHA and Mare Oil SHA submitted another complaint claiming that the concession holder had asked them to sign a service agreement including its terms and conditions as a condition for allowing the unloading of their tanker ships.

Pursuant to the Competition Protection Law, during the inquiry the Secretariat carried out inspections at Romano Port SHA and Prima Gas Albania SHA, and held meetings with Mare Oil SHA and Prima Gas Albania SHA in the Competition Authority premises.

Based on the preliminary inquiry report findings, the Competition Commission adopted Decision No. 201 of 20 September 2011 whereby it decided to initiate an in-depth investigation into the market of LPG maritime loading and

unloading market against Romano Port SHA, in order to determine whether there had been an abuse of dominant position in that market.

At the end of the in-depth investigation, the Working Group prepared a final report, whereby it stated that it had found Romano Port SHA behaviour in the LPG loading and unloading market in breach of Article 9 of the Competition Protection Law, because it had set conditions and/or refused to provide the service of LPG loading/unloading. The report found that Romano Port SHA: (i) had obstructed the trade in the goods of the complainants in the period of July 2011-15 September 2011 which was covered by the investigation in the market of LPG import and wholesale as it had refused to unload their LPG tanker ships in the period covered by the investigation on grounds of additional documentation; (ii) had demanded from both entities operating in the LPG import and wholesale market to sign service agreements with additional obligations for them as a condition for allowing the unloading of any tanker ships commissioned by them.

Before issuing a final decision, the Competition Commission has organized a hearing with the entity under investigation and has given it access to the in-depth investigation report and the investigation file. The Commission has also given the undertaking under investigation the possibility to submit their written and oral arguments to the Commission.

II.3.2 Preliminary inquiry into the Prepaid Card Market

After reviewing the complaint submitted by Alban Tirana Nacendo AI and the report prepared by the Secretariat, the Competition Commission adopted Decision No. 204 of 14 November 2011 whereby it decided to initiate a preliminary inquiry into the landline telephony prepaid card market.

Albtelecom SHA operates at two market levels: the wholesale market of phone call origination, termination and switching, where it has already been found to have significant power in the market, with its tariffs being regulated by AKEP; and the retail market of providing landline telephony services through prepaid cards, which is an unregulated market segment.

Albtelecom SHA owns 100% of the prepaid card phone call market (origination, termination and switching). Currently, all prepaid card service providers have to use Albtelecom network in order to provide phone calls based on prepaid cards. The fact that Albtelecom SHA applies lower retail prices through its ALBLUE card vis-à-vis other undertakings operating in the prepaid card market might lead to market bottlenecks or even cause those undertakings to exit the market.

II.3.3 Preliminary Inquiry into the Market of Wholesale and Retail of Access for Telecommunications Operators and End-Users

After it reviewed AKEP Assessment of broadband access wholesale market and physical infrastructure access market, the Competition Authority took under its Secretary-General's Decision No. 10 of 14 June 2011 the initiative to open an inquiry into any potential abuse of dominant position by Albtelecom SHA in the market of wholesale and retail of access for telecommunication operators and end-users.

Under the inquiry, the Working Group requested information from AKEP, Albtelecom SHA and the undertakings operating in the market on how wholesale

and retail line tariffing was done, the number of customers, copies of agreements with operators, fees applied by Albtelcom, etc.

At the end of the inquiry proceedings, the Working Group prepared a Report, where it found that Albtelcom had a dominant position in the market of wholesale and retail line market, in addition to the overall market. In the retail segment Albtelcom provided transmission capacity in the form of leased lines and dedicated urban lines and LAN to LAN services. Major customers included financial institutions and banks, national companies and government institutions. An analysis of the segment showed that wholesale buyers of Albtelcom SHA leased lines were end-users.

There are no legal barriers to providing landline networks and services at national level, including urban areas, in the market of landline telephony and leased line services. There is a great number of other private operators in this market.

The leased line market has acquired a new format after AKEP last material, which was issued based on consultations with various stakeholders. This dynamic market was liberalized following the enactment of Law No. 9918 of 19.05.2008, "On Electronic Communications in the Republic of Albania" on 26 June 2008 and its implementation regulations, especially through the introduction of general authorizations. The entry into force of the Law removed any legal barriers to providing electronic communications networks and services nationally, which existed in the older Law.

After it reviewed the Leased Line Market Inquiry Report, the Competition Commission decided not to continue with any further investigations into that market, as this required specialised technical assistance, given its characteristics and rapid developments.

II.3.4 Investigation into the Market of Importing and Wholesaling Rice and Sugar and the Market of Importing and Manufacturing Vegetal Cooking Oil

As reported last year, based on the respective Secretariat's Report in late October 2010 the Competition Commission decided to initiate a preliminary inquiry into the market of importing and wholesaling rice and sugar and the market of importing, manufacturing and wholesaling vegetal cooking oil.

At the end, based on the behaviour of undertakings in the relevant markets, price dynamics, market access and an analysis of distribution channels, the inquiry found that the markets under investigation did not show any signs of competition restriction due to concerted practices or agreements or signs of abuse with dominant position. The Competition Commission decided to: (a) conclude the preliminary inquiry into the market of importing and wholesaling rice and sugar and the market of importing, manufacturing and wholesaling vegetal cooking oil; and (b) continue to monitor both markets.

II.4. Market Monitoring

The main monitoring body is the Market Research and Analysis Unit, which performs the tasks assigned to it by the Competition Commission in the relevant

decisions. The Unit also acts on the basis of indications that might lead to investigation proceedings.

II.4.1 Monitoring the Market of Importing and Manufacturing Wheat and Flour

Assessment of behaviour of undertakings in the market of importing wheat and producing flour has constantly been in the focus of the Competition Authority due to the impact on consumers that increased bread prices have. The evaluation of competition indicators in this market was based on an analysis of DG Customs data on wheat imports and the information on flour prices applied by the largest flour wholesalers in Tirana. The analysis consisted of an evaluation of wheat import prices and flour prices, and structural changes to wheat importing market. The market assessment did not find any signs of restricted competition; however, the market is still under monitoring.

II.4.2 Monitoring the Market of Maritime Passenger Transport Services

Based on the situation taking place in the Port of Vlora in the second quarter of the year with regard to the service of passenger and vehicle ferry line from Vlora to Brindisi, the Competition Authority decided to start monitoring the market of maritime passenger transport services. The purpose of the monitoring was to assess the behaviour of operators in the market of maritime transport services in order to determine any restrictions, distortions or obstacles to market competition. Being a new market, the monitoring focused on both an assessment of the legal framework and an evaluation of operators' behaviour in the specific markets of Durres, Vlora and Saranda. The monitoring found that the suspension of services by the undertakings operating in the Port of Vlora had been subject of an assessment by the Port of Vlora Authority, following which the situation became stable.

II.4.3 Monitoring the Pharmaceutical Market

In 2011 the pharmaceutical market continued to be monitored and assessed by the Competition Authority, following a concern raised in one of the Parliamentary Economic Committee sessions. The objective of the monitoring was to assess the procedure of medicament registration in the Republic of Albania, and evaluate how the right to trading in medicaments was being used by pharmaceutical manufacturers in the Albanian market. The assessment did not find any elements of abuse of medicament trading rights in the market by pharmaceutical manufacturers vis-à-vis suppliers and medicament importers.

II.5. Concentrations

The number of concentration notifications to the Authority and authorization applications submitted to the Competition Commission increased in 2011. The increase was due to the reduced turnover threshold for undertakings participating in concentrations that are subject to authorization by the Competition Commission.

In the context of market oversight, the Competition Authority reviewed the entire National Registration Centre database and started to inform all those undertakings that met the legal requirements to apply for authorization with the Competition Commission.

Ten concentration cases were reviewed and authorized in 2011, in the form of takeovers, mergers or newly incorporated companies. There had been only six cases in 2010. The review of the concentration cases focused on the positive market impact from a consumer’s perspective and increased market efficiency, as well as the potential to create or strengthen any dominant position in the market of the concentrated undertakings. Annex 4 has a list of the main characteristics of concentration cases.

The table below shows a summary of the dynamics of transactions under Competition Authority review in 2010 and 2011:

<i>Change of control as a result of:</i>	<i>Number of authorized concentrations in 2011</i>	<i>Number of authorized concentrations in 2010</i>
Merger of two or more undertakings or parts thereof that are independent from each other	1	0
Acquisition of (direct or indirect) control of one or more undertaking or parts thereof	9	5
Establishment of a joint venture performing all the functions of an independent entity	0	1
Total	10	6

i. Merger of two or more undertakings or parts thereof that are independent from each other

The concentration cases under review by the Competition Commission included only one case of merger by acquisition involving the banks Alpha Bank S.A. and EFG Eurobank Ergasias S.A. The transaction did not bring about any changes to the structure of the banking market in Albania, since Eurobank did not have any subsidiaries, branches, related companies, assets or any other form of activity in Albania. The concentration was authorized by Decision no. 206 of 18 November 2011 “On authorizing the concentration through merger by acquisition between Alpha Bank S.A. and EFG Eurobank Ergasias S.A.”, since the transaction did not create or strengthen a dominant market position of the undertaking in question.

ii. Acquisition of (direct or indirect) control of one or more undertaking or parts thereof

Two concentrations through acquisition with the same acquiring undertaking—Auto Master SHA—took place in the market of dealers in new automobiles in 2011. The analysis showed that the concentrations involving **Auto Master SHA-**

Tirana Auto SHPK and **Auto Master SHA-Tirana SHPK**, which were authorized by Competition Commission Decisions No. 169 and No. 170 of 7 January 2011, did not create or strengthen a dominant position in behalf of Auto Master SHA in the respective market.

Two concentration cases with takeover were reviewed in the voluntary private pension industry. The first one was carried out between **Sigal Life Uniqa Group Austria SHA** and **Capital SHA**, and was authorized by Competition Commission Decision No. 183 of 29 March 2011 “On authorizing the concentration through purchase of 51% of the shares in Capital SHA by Sigal Life Uniqa Group Austria SHA”. The concentration did not change the overall structure in the market of voluntary private pensions in Albania, as it only caused a change in the structure of share ownership within Capital SHA. The concentration did not indicate any signs of significant competition restriction in the whole market or a part thereof due to established or strengthened dominant position in behalf of Sigal Life Uniqa Group Austria SHA.

The second concentration case in the voluntary private pension market was between **SICRED SHA** and **SIGMA I.P.P. SHA**, which was authorized by Competition Commission Decision No. 186 of 12 April 2011. The analysis showed that the participating companies operated in different product markets. The concentration did not change the overall structure in the market of voluntary private pensions in Albania, as the transaction only caused a change in the structure of share ownership within Sigma I.P.P. SHA.

Decision No. 188 of 26 May 2011 “On authorizing the concentration through purchase of 100% of shares in **Delta Max d.o.o.** by **Delhaize the Lion Nederland B.V.** from Hitomi Financial Limited”. In Albania Delta Max owned 100% of Euromax SHPK. The concentration did not cause any changes to the market share owned by Euromax SHPK because the acquirer of control was not present in the Albanian market before the concentration took place and as a result the market structure did not change after the concentration. In addition, the transaction did not create or strengthen a dominant position of Euromax in the respective market.

The concentration through takeover of **Man SE** by **Volkswagen Aktiengesellschaft** was authorized by Competition Commission Decision No. 195 of 22 July 2011 “On authorizing the concentration through acquisition of 55.9% of voting rights and 53.71% of initial capital in Man SE by Volkswagen Aktiengesellschaft”. The analysis showed that there was no overlapping of businesses plied by both parties in Albania and as a result no markets were affected by the transaction. The completion of the transaction was not expected to have an impact on the domestic market. Nor was it expected to establish or strengthen a dominant position for the company following concentration.

In 2011 a concentration took place in the insurance market between **Vienna Insurance Group AG** and **Intersig SHA**, which was authorized by Competition Commission Decision No. 199 of 15 September 2011 “On authorizing the concentration through the purchase of 75%+1 shares in Intersig SHA by Vienna Insurance Group AG”. Given that before the concentration Vienna Insurance

Group owned a controlling portion of shares in Sigma SHA and InterAlbanian SHA, the affected Albanian insurance market segments were analysed, especially three non-life segments: motor insurance, property insurance and health insurance. In the case of the concentration between VIG and Intersig SHA, the combined market shares accounted for less than 40% in two market segments (property insurance and health insurance), while there were similar market shares in the health insurance market segment in the case of the combination between Sigma and InterAlbanian. Following the concentration between VIG and Intersig, the leading company in the market—Sigal—is expected to be challenged by Vienna International Group in the context of a bipolar competition in the insurance market.

The complete acquisition of control of **Haggar Cigarette & Tobacco Factory Ltd** by **Japan Tobacco Group from Japan** through the purchase of 100% of the shares was authorized by Competition Commission Decision No. 200 of 15 September 2011, because the transaction did not have an impact on the Albanian market and neither created nor strengthened a dominant position in the domestic market for the participating undertakings.

Decision 208 of 5 December 2011 “On authorizing the concentration between **XLWorld Europe S.r.l.** and **Xerox S.p.a.** with the purpose of acquiring **Eagle Connect SHPK** and **Voice Star SHPK**”. The assessment of the transaction found that it would not have a negative impact on competition or competitors in Albania as Voice Star SHPK and Eagle Connect SHPK were owned by the same company and neither the acquirer nor the parent company were active in the Albanian market. The transaction did not cause an overlapping of businesses at horizontal level, nor did it strengthen the market position of Eagle Connect and Voice Star.

Reviewed Cases not Considered as Subject to Authorization by the Competition Commission

Under Article 6 of the Regulation on the implementation of undertaking concentration procedures, nine transaction cases were submitted to the Competition Authority in 2011. They were not considered to be subject to authorization by the Competition Commission as they did not meet the criteria laid down in Articles 10 or 12 of the Competition Protection Law with regard to changed control of undertakings participating in concentrations or did not reach the threshold laid down in the Law.

Banking Market :

The purchase of shares owned by **Akif Bank A.S.** (24%) by **Calik Holding S.A.** and of one share by **Gap Guneydogu Tekstil Sanayi ve Ticaret A.S.** was carried out by replacing the ownership of shares in CFH where the major shareholder, Calik Holding, increased its ownership share from 75% to 99.99% without changing the structure of control in BKT, as the latter continued to be owned by CFH.

The transfer of 100% of the banking shares owned by Raiffeisen Bank International AG (“RBI”) to Raiffeisen SEE Region Holding GmbH (“SEE Holding”), which is a subsidiary entirely owned by RBI indirectly, consisted of a qualitative change of control of the Albanian undertaking Raiffeisen Bank SHA, from direct control to indirect control by RBI (through SEE Holding). Since SEE Holding itself

is owned by RBI, then the transaction is a restructuring within the group. As a result, the transaction was not subject to Competition Commission authorization.

The transaction between Credit Agricole SA and Sacam International SAS with the purpose of concerted action in relation to a voluntary public offer to acquire 4% of Emporiki Bank of Greece SA listed shares by Credit Agricole SA was not a concentration under Article 10 of Law No. 9121 of 28 July 2003 “On Competition Protection”, as amended, since it did not bring about a change in the quality of control of Emporiki Bank of Greece SA, where Credit Agricole SA already has control. In addition, it did not have an impact on the Albanian financial market, where Emporiki Bank of Greece SA owns Emporiki Bank of Albania.

Telecommunication Market

Albtelekom-Eagle Mobile merger: The merger between Albtelecom SHA and Eagle Mobile SHA was a transaction which was assessed by the Competition Authority for any potential impact on the market, but it was not subject to Competition Commission authorization.

Since the transaction target company—Eagle Mobile—was entirely owned by the acquiring company—Albtelecom—the legal assessment found that the merger consisted of a change in the organizational/management structure of both participating companies and not in the quality of control of Eagle Mobile. Pursuant to Article 10 (1) (a) the operational merger of Albtelekom SHA and Eagle Mobile SHA was not a concentration requiring a review and approval procedure by the Competition Commission because the undertakings were not independent from each other but were controlled by, and members of the same group, Çalik Holding.

However, since after the merger significant structural changes in the telecommunications market were expected, Competition Commission Decision No. 210 of 21 December 2011 gave recommendations to AKEP, suggesting it requested the merged company separates the accounts of the landline telephony business from the mobile telephony business for the sake of increased transparency and prevention of abuse of dominant position of the operator with market power.

Vodafone Restructuring: Another transaction in the sector was the transfer of 50% of Vodafone Albania SHA shares to another incumbent shareholder: Vodafone Europe (50%). After the transaction, the Vodafone Albania share ownership would be entirely in the hands of one of its shareholders: Vodafone Europe. The transaction consisted of a quality change of control from joint control (Vodafone Panafon and Vodafone Europe) into single control (Vodafone Europe) of the Albanian undertaking Vodafone Albania. Since both Vodafone Albania shareholders were members of the same group—Vodafone Group Plc—the transaction was a restructuring within the same group. Thus the expected transaction, pursuant to Article 10 (1) (b) of Law No. 9121 of 28 July 2003 “On Competition Protection,” as amended, was not a concentration.

Energy Industry

Transaction in Energji Ashta: The companies owning Energji Ashta SHPK—Verbund and EVN—were planning a new structure of equity ownership in Energji

Ashta SHPK. Under the new structure, the plan was for all Energji Ashta SHPK shares to be contributed to the capital of the holding companies that were established to that purpose. The share ownership in both holding companies would be 51% by Verbund and 49% by EVN, coinciding with the same shareholding structure in Energji Ashta SHPK. Under the planned structure, Verbund would continue to keep control of the industrial management with regard to the execution of electrical power plants and the management of Energji Ashta SHPK. The new structure of holding companies was not a change in the structure of control of Energji Ashta SHPK. The transaction was within the Verbund AG group and did not change the market structure or the quality of control of Energji Ashta SHPK.

The pre-notification of the purchase of Sofigas SHPK assets by Messer Albagass SHPK was deemed as a direct control acquisition through asset transfer from Sofigas to Messer Albagass, which was a concentration under Article 10, but it did not meet the turnover threshold criterion under Article 12 (1) of the Law, and, therefore, was not subject to Competition Commission authorization.

Food industry: The Concentration Unit assessed on its own initiative a merger through transfer of all the shares in OERT SHPK to Sucralba SHPK. The legal assessment showed that the transaction was a merger by acquisition of OERT SHPK with Sucralba SHPK. Since both companies were owned by the same member the operation was not considered as a concentration under Article 10 even though it met the turnover threshold criterion under Article 12 (1) of the Law and, as a result, it was not subject to Competition Commission authorization and was not required to be notified to the Competition Authority.

II.6 Judicial Review and Execution of Competition Commission's Decisions

In 2011 the Competition Authority tended to court proceedings with regard to appealed cases in the relevant courts in relation to Competition Commission decisions. Unlike in the past, where Competition Commission decisions were mainly appealed on grounds of the procedures followed by the Authority, there was a substantial change in 2011 in the area of appeals because now stakeholders have become more aware of the Competition Authority and Law role.

Reviewed cases and legal representation in court now refers more to the merits of the case, violations laid down in the Law, abuse of dominant position, prohibited agreements and failure to notify concentration by the specified time-limits. There are positive changes in the judicial system decision-making, too, especially with regard to reasoning, as its focus now is beyond procedures, to concentrate on anticompetitive behaviours as specified in the Competition Law, such as in cases on abuse of dominant position, price compression, predator prices, refusal to trade, etc., and the interpretation of prohibited agreements such as bid rigging, price fixing, market allocation, etc.

The judicial review upheld eight out of 120 Competition Commission decisions, which are now in the process of enforcement by Tirana Judicial Enforcement Office. Two Competition Commission decisions are still in judicial review proceedings. In two other cases Tirana District Court quashed Competition Commission decisions. The judgments have been appealed against at a higher instance court. A summary of judicial review of Competition Commission Decisions is presented in Appendix 5 and Appendix 6.

Pursuant to Article 80 of Law No. 9121 of 28 July 2003 “On Competition Protection” and the Civil Procedure Code, the Authority submitted all the required documentation to facilitate the execution of enforceable acts by the Enforcement Office in relation to seven Competition Commission Decisions.

III. Competition Advocacy and Culture

Competition advocacy and culture are two parts of a single formula which is very important for the implementation of the Competition Protection Law and the National Competition Policy, because they also include market factors and players. A good operation of markets requires observance of free market principles by both regulators and public institutions, which might cause competition distortion through various regulations or staff practices, and the business community, which should be very proactive in the fight against anticompetitive practices.

III.1. Competition Advocacy

Competition promotion and advocacy is one of the other pillars of the implementation of the Law, the increased strength of which was one of the goals last year. The achievement of this goal was made possible by enhancing the instruments of cooperation with other central institutions and regulators and strengthening the proactive role that the Competition Authority plays in the observance of economic freedom.

III.1. 1. Assessment of regulations and draft regulations

Compared with 2010, the number of regulations submitted for comments to the Competition Authority by public institutions increased in 2011. This is a significant indicator which is related to the institutions' awareness of making draft regulations that are more favourable to competition. In 2011 the Competition Commission took a number of decisions on recommendations related to several draft regulations affecting various markets. A list of all assessments carried out by the Competition Authority is shown in Appendix No. 7. The most significant ones include:

- 1) Decision no. 174 of 25 January 2011 of the Competition Commission (CCD) gave recommendations on the transparency and commissions applied in the banking services market, as elements affecting customer choice and increasing competition in the market. The recommendations suggest that the public institutions (Bank of Albania and the Consumer Protection Commission) improve the instruments implementing the legal framework on commercial bank transparency (especially in those cases where commercial banks unilaterally increase their service fees and do not inform customers about this), and take measures to increase transparency by instructing commercial banks to post and update information on their websites, especially with regard to their business terms and conditions and service provision. The recommendations also included a suggestion for establishing an ombudsman that would protect consumers against abuse by the banking system.

- 2) CCD No. 177 of 25 February 2011 recommended that ERE clarify the duration of the “transitional period” and the condition terminating it in its Regulation on the allocation of interconnection capacities, and specify market offers after the transitional period so that operators can compete, which, in turn, would benefit customers in terms of the price they pay. In addition, the recommendation proposed to do away with the restrictions on the number of auction bids, give priority to requests for satisfying the needs for transmission and interconnection, and especially provide for a method to cope with hydropower emergencies.
- 3) CCD No. 178 of 25 February 2011, recommended ERE to amend the rules of procedure on purchasing electricity from KESH SHA or other domestic or foreign dealers. This was related to an amendment to a provision in the Regulation on the procedures of purchasing electrical power from the Public Wholesale Supplier and domestic and foreign dealers. This involved changing the electricity purchasing authority with regard to electricity amount differences from KESH SHA to the Public Wholesale Supplier, as well as replacing KESH SHA with the Public Wholesale Supplier throughout the Regulation.
- 4) CCD No. 205 of 14 November 2011 recommended the Minister of Education and Science to amend his Instruction No. 25 of 20 July 2011 in order to avoid competition restriction in the market of financial services and provide for an option to pay school enrolment fees in both the Albanian Post Offices and commercial banks.
- 5) Competition Commission Decision No. 210 of 21 December 2011 focused on the competition impact of the merger between Albtelecom SHA and Eagle Mobile, and recommended AKEP to include in its merger authorization a requirement for the new company to separate landline telephony accounts from the mobile telephony accounts in order to enable a verification of the source of revenue generation and prevent any discrimination against Eagle Mobile competitors in the mobile telephony market. In addition, the recommendation suggest that the new company was required transparency, obligation for access and interconnection through the joint use of facilities in the relevant market, and in the case of joint offers combining segments from the landline and mobile telephony and internet market, the operator should be asked to apply for AKEP authorization so that end users are protected.

With regard to the assessment of regulations or draft regulations submitted for comments, legal assessments were carried out from the perspective of Law No. 9121 and its implementation legislation. More specifically, the following list includes some of those assessments:

- 1) Legal assessment of draft regulation “On the quality of electrical power distribution and sales services”, and draft agreement “On supplying tariffed consumers with electrical power”. The Competition Authority assessment of those pieces of legislation was that it agreed on them in principle, while proposing some changes to them in relation to the transparency of the price and value of the consumed electrical power; payment of damages to

customers; imposing of fines to the supplier (in case of failure to send a bill as per the contract conditions).

- 2) Legal assessment of draft agreement “On the service of initial and periodic check of meters”. With regard to this draft agreement, the Competition Authority gave the opinion that it was not in conflict with the provisions of Law No. 9121 of 28 July 2003 “On Competition Protection”. Some suggestions were given, however, to clarify and better align the provisions, including contractor’s right to changing tariffs unilaterally; and the rewording and/or revision of some definitions, since they were either unclear or repetitive.
- 3) Opinion on State Aid Commission draft decision on State Aid Schedule related to postal and financial services provided by Posta Shqiptare SHA and other services that are in line with Posta Shqiptare SHA activity. The Competition Commission gave a partial opinion on the draft decree, stating that it agreed on it in principle, while also recommending to revise the five-year period of the aid taking into account a commitment to liberalizing postal services as soon as possible. It also suggested taking into account the interests of those parties that would be affected by the decision.
- 4) Legal assessment of Draft Regulation on the criteria of granting or revoking the status of qualified client. After giving its approval of the Draft Regulation, which was submitted pursuant to Law No. 9121 “On Competition Protection”, the Competition Authority suggested that it also included obligations, tariffs, service conditions or other technical elements in order to ensure effective and normal operation of the qualified client.
- 5) The Competition Authority also gave an opinion on the Draft Regulation on the approval of new connections with the distribution system and the new connection agreement, developed by ERE. In this respect, the Competition Authority stated that the role and function of the Distribution System Operator and the Public Retail Supplier should be separated and clearly specified in order to make the electricity market more operational and competitive.
- 6) Opinion on ERE application for amending interconnection capacity allocation rules. With regard to the amendment, the Competition Authority stated that regarding the technical reasons claimed by the parties. ERE was the competent body to make a fair situation assessment. In addition, the Authority suggested that the enhanced interconnection capacities and the positive changes should ensure non-discriminatory, transparent and competitive access for all licensees in the electricity market.
- 7) Opinion on the submitted application for excluding third-party access to the Trans-Adriatic-Pipeline (TAP) project. In the assessment it addressed to ERE, the Competition Authority stated in principle that the requested exclusions might lead to competition restriction. Based on consultations with IPA 2008 Project experts, the Competition Institution suggested the following: a possibility to shorten the period of exclusion of third parties

from access; providing for a share of the access for third parties in the domestic market, and providing for exit points in the project in order to enable access for the domestic market at any time.

- 8) Legal assessment of the Draft Law on Renewable Energy Sources. In its assessment, the Competition Authority stated its reservations with regard to those provisions in the Bill that could lead to restrictions of effective competition in this market segment (Article 17). Thus it recommended that the Bill included a clear obligation for transmission and distribution tariffs to be non-discriminatory towards producers and beneficiaries and non-discrimination on grounds of location or low supply of energy. The Draft Law should specify that the Government would develop promoting policies and establish sufficient transmission capacities.

In addition, in 2011 the Competition Authority reviewed a series of other laws and regulations to compare them with the domestic competition law, including two regulations, Water Regulatory Authority Methodology, amendments to the Law “On Electronic Communications in the Republic of Albania”, etc. Since their content was not found to affect competition, the Competition Authority comments were positive and are not detailed in this Report.

III.1.2. Inter-Institutional Cooperation and Competition Law Implementation Guidelines

III.1.2.1 Inter-Institutional Cooperation

The Competition Authority pays special attention to cooperation, reciprocity and information exchange with central and local institutions and especially with regulators.

The cooperation with regulators and other institutions supervising specific markets in Albania is a significant part of our institutional activity. The Competition Authority has cooperated closely with the Bank of Albania, the Financial Supervisory Authority, the Electronic and Postal Communications Authority, the Energy Regulatory Authority, the Water Regulatory Authority, etc. Competition Authority staff consulted with the staff of those institutions in the context of various procedures the Authority carried out and joint bilateral or multilateral training events focusing on the relationships between the Competition Authority and other regulators or possible interventions that the Competition Authority might make in their respective markets or industries with the goal to protect free and effective competition.

The Competition Authority had close cooperation with the Public Procurement Agency, too. This is an area where the Competition Authority has always carried out investigations. It has also published important materials aiming at preventing and detecting bid rigging in public procurement.

In the framework of cooperation with the Albanian Parliament and the European Integration Committee, the Competition Authority responded to various

requests and filed the information required by the Committee in the context of fulfilling our Institution's obligations under the SAA.

Several memoranda of understanding were signed, and some are in the process of negotiation. One such memorandum of understanding was the one with the Foundation for Economic Freedom. The MoU aims at strengthening cooperation between both organizations. It also provides that all draft bylaws to be adopted by the Competition Authority are to be published on the Foundation's website. The idea is to collect third party comments and for the Competition Authority to use the website to be informed about all draft regulations of central and local institutions that need to be assessed by the Competition Authority.

Early this year, the Competition Authority signed a memorandum of understanding with the Directorate General of Trademarks and Patents. The Authority is in the process of signing an MoU with the Civil Aviation Authority, which aims at increasing cooperation to protect competition in the civil aviation industry and identify any anticompetitive practices in this industry through information exchange and bilateral cooperation.

III.1.2.2 Law Implementation Guidelines

The constant improvement of competition advocacy tools has always been considered an on-going challenge of the Competition Authority. In this dynamic process, we expect an increase in the number of secondary legislation acts to be submitted to the Competition Authority for comments, following the adoption of the Guidelines on competition evaluation in concession granting procedures, in addition to the Guidelines on the evaluation of legislation impact on competition, adopted in 2008.

As it was also reported in 2010, the Competition Authority adopted the **Guidelines on fighting bid rigging in public procurement**, the publication of which was funded by IPA-2008 Technical Assistance.

The Guidelines facilitate the implementation of the Competition Protection Law in the area of bid rigging in public procurement. The Guidelines help not only the Authority staff in their work, but also procurement officers and the general interested public.

Above all, the Guidelines are addressed to businesses participating in public procurement procedures, so that they become aware that bid rigging is a serious violation of the Competition Protection Law and hurts the public interest in getting real value for money.

Guidelines on competition evaluation in concession granting procedures

The purpose of the Guidelines is the assessment of concession agreements from a competition perspective. The assessment may be carried out for existing concessions (*ex post* evaluation) with a view to proposing improvements in future concession agreements, and prior to formal approval of a concession agreement by competent public authorities (*ex ante* evaluation). A concession agreement includes a special and/or exclusive right to an operation, which, pursuant to Law No. 9121 of 28 July 2003 "On Competition Protection", as amended, is subject to evaluation by the Competition Authority.

Concession agreement development and granting procedures are generally complex and have a potential to lead to competition distortions in the market. For this reason, it is important for responsible institutions to contact the Competition Authority pursuant to Articles 69 and 70 of Law No. 9121 of 28 July 2003 “On Competition Protection”.

Through increased awareness of potential anticompetitive aspects, the list will guide the rest of the administration in seeking advice from the Albanian Competition Authority and in eliminating or reducing anticompetitive effects of proposed concession agreements. As a result, despite the improved business climate and market distortion prevention/reduction, the abovementioned procedures, if implemented, will also be a powerful tool for competition advocacy and state aid rules, in addition to increasing administrative cooperation among institutions. Therefore it is important to understating not only the need for seeking the Competition Authority opinion on concessions but also the need for fulfilling a legal obligation.

III. 1.3. Secondary Legislation

The legal framework on competition consists of Law No. 9121 of 28 July 2003 “On Competition Protection”, as amended, and its implementation secondary legislation. In the context of approximating competition legislation, the Competition Authority has developed and adopted regulations that help not only the Authority staff in assessing and interpreting primary legislation provisions, but also third parties in assessing market competition. In 2011, the Competition Commission adopted three regulations on block exemption, on Competition Authority investigation proceedings, and on small value agreements.

The Competition Authority has made efforts for complying with the legal requirement laid down in Article 6 of Law 9121 of 28 July 2003 “On Competition Protection”, as amended, which states that block exemption regulations are to be adopted.

Three block exemption regulations: “**On technological transfer agreement categories**”; “**On exempting research and development agreement categories**”; and “**On exempting specialization agreement categories**” are completely aligned with the European legislation: (i) Commission Regulation (EC) No 772/2004 of 27 April 2004 on the application of Article 81(3) of the Treaty to categories of technology transfer agreements; (ii) Commission Regulation (EU) No 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements; (iii) Commission Regulation (EU) No 1218/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements). They provide for exemption for those categories of agreements which, in terms of market and economic efficiency, are not prohibited under Article 4. The undertakings are the ones to assess the agreements among themselves and come to a decision. However, in any case, an approval by the Competition Commission may be sought, which makes an assessment of a prohibited agreement and determines whether it is subject to exemption.

The **Regulation on investigation procedures implemented by the Competition Authority** was developed with support from the Technical Assistance Program, fully aligned with Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty. It provides for the rules to be applied during investigation proceedings when reviewing prohibited agreements or a potential abuse of dominant position. The Regulation is a novelty as it lays down provisions on the right to appeal, the right to access to investigation files, the organization of hearings, the right of third parties to access to the process, etc.

The **Regulation on agreements of minor importance** was aligned with the European Commission Notice on agreements of minor importance which do not appreciably restrict competition under Article 81(1) of the Treaty establishing the European Community (de minimis). The adoption of the Regulation achieves full approximation and lays down those categories of agreements which are not prohibited based on the relevant market share under Article 4 of the Law. In any case, the Regulation also includes provisions that require agreements leading to restrictions or distortions of competition in the market, regardless market shares or other agreement features, are to be considered as restricting competition and, thus, are to be prohibited.

III.2. Competition Culture – public and media relations

Public awareness and increased competition culture are among the constant work priorities of the Competition Authority. In addition, information on the Authority activities is an obligation in the context of transparency regarding the activity of the Institution and its officers. For these reasons, the Competition Authority pays special importance to public information both directly on its website and various publications and indirectly on audio-visual and printed media.

III.2.1. Public Relations

Website: The Competition Authority official website provides detailed information on our Institution's activities, and is a means of connecting with the general public, businesses and the media. The website is updated daily with the latest Competition Authority cases and information, the Competition Protection Law, the secondary legislation, the Competition Commission activity, and other publications. All Competition Commission decisions are posted on the Authority official website as soon as they are taken. It also includes information on expected concentrations, which gives interested parties an opportunity of stating their comments on them. The Competition Authority official website is available in both Albanian and English.

Publications: Special attention is paid to the publication of various competition materials, which help businesses, central institutions, regulators, etc. Some of the Competition Authority publications include:

1. Competition in public procurement: “How to Prevent and Detect Bid Rigging in Public Procurement” (booklet);
2. Competition in public procurement: Red flag leaflet;
3. Summary of primary and secondary legal framework on competition;
4. Competition law in Albania (booklet);
5. Evaluation of regulatory impact and competition in the regulated markets (booklet);
6. Concessions, competition and state aid rules: an analytical list for identifying some critical issues (booklet);
7. 2010 Annual Report, and Main Goals for 2011.

III.2.2. Media Relations

The printed and audio-visual media pay special attention in covering the Competition Authority activity. Communication with the media was done through press releases, interviews, press conferences, participation in various television programs, etc. The direct communication with the public has had an impact on increasing competition culture and awareness both among the specialized public (academia, economists, businessmen, public officials, etc.) and the general public that is directly affected by the Competition Authority decisions.

The Authority Cabinet prepared press releases on the Competition Authority decisions and various activities, which were circulated among domestic media and the representatives from foreign media in Albania. In addition, the Authority maintains constant contacts with specialized international media in the area of market intelligence such as MLEX, ILO, etc.

IV. International Cooperation

An increased role for the Albanian Competition Authority in regional and international competition networks was one of the goals in 2011. In addition, the Competition Institution is part of the inter-institutional integration network, which plays a coordination role in a specific chapter and contributes to the fulfilment of obligations and reporting under other chapters.

IV.1 Cooperation with European Commission

According to the European Commission Report on Chapter 8 “Competition Policy”, the Competition Authority had made some progress in the area of competition, with considerable progress with regard to competition protection and the area of competition in general.

Chapter 8: Competition policy.¹ There was some progress in the area of antitrust, including mergers. The government adopted regulations on Investigation Procedures, on the functioning of the Albanian Competition Authority (ACA), on Agreements of Minor Importance ("de minimis"), and group exemption regulations for technology transfer agreements, research and development agreements and specialisation agreements respectively. These regulations are aligned with the acquis in all essential respects. The Albanian Parliament issued a resolution binding all executive bodies to consult the ACA whenever primary and secondary legislation is drafted.

There was no progress as regards the administrative capacity of the ACA. Its staff of 35 remains unchanged and efforts are required to strengthen it in line with the tasks assigned to the ACA.

The ACA adopted two decisions concerning anti-competitive agreements (cartels) and two decisions concerning abuses of dominant positions. The ACA issued fines of approximately €245,500 for infringements of the competition rules. Seven proposed mergers were notified to the ACA and were authorised without conditions. The ACA concluded enquiries into the banking, pharmaceuticals and energy sectors, and subsequently issued recommendations to the Albanian government. It also initiated in-depth investigations in the bread markets and in the markets for loading/unloading and depositing liquid natural gas in port facilities.

Conclusion: Albania has made moderate progress in the area of competition. However, the responsible authorities lack the appropriate administrative capacity, and measures are still required in order to safeguard the operational independence of the State Aid Commission. Preparations are overall on track.

Following the 2011 Stabilization and Association Report the Competition Authority analysed the recommendations in the Report under Chapter 8 “Competition Policy”, and identified specific tasks and responsibilities laid down in

¹Ministry of Integration translation.

the Report, to make them into a plan of administrative actions. Specific responsibilities were assigned with regard to the implementation of those recommendations, to various Authority units and departments, together with objectives related to legal initiatives and strengthening of institutional capacities.

As the institution coordinating Chapter 8 “Competition Policy”, the Competition Authority has paid utmost attention to progress reporting on things occurring not only in the area of competition but also in the areas the Institution reports about. The Authority has cooperated closely with the members of the Inter-Institutional Working Group on Chapter 8 in order to reflect the current situation realistically and clearly as regards the legal framework, implementation activities, competition evaluation process and interventions in regulated markets, giving opinions on special and exclusive rights, etc.

In the meetings with the European Commission the Authority reported on the current situation in Albania and the progress achieved in the areas of responsibility. The Competition Authority has ensured participation in the Sub-Committee Internal Market and Competition under the Stabilization and Association Agreement in April 2011. In the meeting, the Competition Authority presented the results achieved in the process of approximating and implementing legislation in the area of competition and state aid.

IV.1.1 Competition Authority Obligations Stemming from the Stabilization and Association Agreement

The Stabilization and Association Agreement is the instrument that will facilitate Albania’s gradual integration into the European Union. It provides the framework required to strengthen the rule of law. The Agreement foresees the adoption of the *acquis communautaire* in the domestic juridical system of Albania. The approximation of legislation is the establishment of a legal and institutional framework which will allow the Albanian market to integrate with the internal European market with the primary aim to benefit and defend the interests of Albanian citizens.

Obligations for the Competition Authority under the SAA are related to the fulfilment of Copenhagen economic criteria for EU membership; more specifically from Articles 71 and 72 of the SAA, which lay down obligations and responsibilities for the Competition Authority in the context of protecting competition against anticompetitive practices that might affect trade between the Community and Albania (Article 71 “Competition and other economic provisions”) and tasks assigned to the Competition Authority in the case of exclusive or special rights, which, with the October 2010 amendments to Law 9121 of 28 July 2003 “On Competition Protection” receive a special focus through specific provisions on the implementation and observance of those rules (Article 72 “Public Undertakings”).

IV.1.2 Periodic Reporting

The Authority maintained regular contacts with the **Ministry of European Integration**, and submitted to it regular reports on the progress made in the area of legislative and implementation activities within the timeframes laid down in the National SAA Implementation Plan, and reports on the concordance with the

Acquis of the legal acts adopted in the area of competition. The Competition Authority reported upon the Ministry of Integration requests covering the area of competition and other areas for which the Authority coordinates Chapter 8 “Competition Policy”. The following reporting continued: periodic bimonthly reporting to the European Community—through the Ministry of Integration—with regard to legislative developments, measures, projects and institutional capacities during the reporting period; annual reporting with regard to all developments in the areas of competition, cooperation and investigation proceedings, Competition Commission decisions, various market processes and monitoring exercises, institutional capacity building, legislation revision and updating in line with the latest Community law in this area, etc. Being one of the institutions responsible for one of the main chapters to be negotiated by Albania, the Competition Authority pays utmost attention to the European integration process, and gives accurate, rigorous, timely and realistic replies on the situation in the area of competition during the reporting periods. The Stabilisation and Association Agreement provides for the adoption of the *acquis communautaire* in the domestic juridical system of Albania. The approximation of legislation is the establishment of a legal and institutional framework which will allow the Albanian market to integrate with the internal European market with the primary aim to benefit and defend the interests of Albanian citizens.

IV.1.3 IPA 2008 Assistance Projects

The IPA 2008 Support for the Competition Authority and the State Aid Department Project provides assistance for the Competition Authority and the State Aid Department under the Ministry of Economy, Trade and Energy, and consists of two programmes: Expertise/Technical Assistance Programme and Twinning Programme.

The goal of the Technical Assistance Project is to contribute to ensuring a competitive environment in Albania through the introduction of draft legal amendments in the primary and secondary competition legislation in order to further harmonize the Albanian primary competition law with the ***acquis communautaire***; reviewing the existing primary and secondary legislation in order to assess its compliance with the European legislation, translation of various parts of the *acquis* and the publication of various competition materials, organization of conferences and seminars for specific stakeholders, etc. The Project was implemented from April 2010 till December 2011.

Both Project Programmes were funded with an aggregate amount of EUR 1.5 million. They aimed at promoting competition, facilitating the implementation of competition policy and rules, approximating legislation, exchanging experience, increasing staff professionalism, increasing public awareness and culture in relation to competition policy and rules, increasing competition advocacy and culture, providing assistance for publications and translation of materials, organizing public events with specific stakeholders, etc.

The Twinning Project provides assistance in increasing the professionalism and experience of the Competition Authority staff through the organization of training and provision of expertise by Italian and Hungarian experts from the respective Competition Authorities, in relation to examining real and hypothetical

cases on prohibited agreements, abuse of dominant position and control of concentrations, strengthening of relations with regulators in such industries as the sectors of finance, banking, telecommunications, energy, etc., organization of joint events with regulators from other countries in the region, cooperation with the courts, etc.

The goal of the Project is to strengthen the Competition Authority institutional capacities, which was one of the recommendations in the European Union Progress Reports in the past few years, in addition to build capacities in the specific regulators and the judicial system in relation to the implementation of competition rules. The main target group of the Project includes businesses, law students and Magistrates' School students, judges, representatives from central and local public institutions, and the general public.

IV.2. Cooperation with OECD (RCC Budapest)

Staff training has always been a priority goal for the Competition Authority. In this context, the Competition Authority has planned and implemented various training methodologies aiming at developing human resources and increasing professionalism, by setting measurable targets in the area of vocational training for its employees with a view to increasing the performance of the Institution.

Every beginning of year the Authority writes a training strategy for that year, providing for staff training in the country and abroad. In 2011 the Competition Authority employees were trained by making use of all possible forms of training.

Another important forum where issues of competition policy and specific anticompetitive cases are discussed is the Organization for Economic and Cooperation (OECD) in its Regional Centre for Cooperation (RCC) where Albania takes active through its staff and presentation of reviewed cases.

IV.3. Cooperation with the International Competition Network (ICN) and Other Authorities in the Region

The Competition Authority, as a member of ICN, has taken part in working groups organized by the network. ICN network deals with issues in the area of competition, and competition legislation and policy aiming at strengthening cooperation among competition authorities in order to achieve convergence in the area of legislation and law implementation.

We have intensified our cooperation with the Competition Commission of the Republic of Kosovo. In this context, there have been reciprocal visits at the level of heads of institutions and experts, to exchange experience and solve any issues.

V. Priorities of work for 2012

Economic freedom and good functioning of the market are the challenges for the Albanian economy, and the strengthening of the implementation of the Competition Protection Law is a necessity for overcoming the current economic situation and for maintaining sustainable economic development in Albania. This mission requires a competition institution with increased professional and public profile and an environment that is increasingly promoting free and effective competition in the market.

Thus, in the present year there will be two main lines of action for the Competition Institution: increase the speed of market interventions through increasing the professionalism of the Authority staff; and strengthen inter-institutional cooperation and interaction with other regulators and public institutions which play a very important role for economic freedom and good functioning of the market.

In a more detailed way, the Competition Authority main goals in 2012 are:

V.1. Competition Law Implementation

Increasing market efficiency on the basis of competition and a level playing ground for all competitors is one of the main goals for the Competition Authority for 2012. The basic tools for increasing the implementation of the law are the review of complaints, fast interventions, and monitoring of major markets and of those markets where there are indications of competition restriction.

There are a number of investigative on-going proceedings, while main priorities for 2012 are going to focus on restoring free and effective competition in markets with monopolistic structure or dominated markets or in markets with indications of anticompetitive practices. The main markets where Authority efforts will focus on in 2012 include the public procurement market (bid rigging); telecommunications (prepaid landline telephony); electrical power (supervision of monopoly undertakings in various segments of the electricity market—production, transmission, distribution); ex-post supervision (behaviour of undertakings in the market of air transport services).

Constant completion and enhancement of the secondary legal framework with various regulations and guidelines are elements of another direction of work for the Authority, with a direct impact on the enforcement of the Competition Law. The following are in the process of adaptation and adoption: EU consolidated notice on the control of concentrations between undertakings; guidelines on the evaluation of abuse of dominant position in the market (mainly in the case of predatory prices, price compression, and discounts and rebates). In addition, the following have been planned to be adopted: regulation on Competition Law implementation in the Telecommunication Market; protection of industrial property rights in the pharmaceutical industry; methodologies for calculating consumer damage, abuse through exclusionary practices, etc.

V.2 Competition Advocacy and Culture

In order to strengthen competition advocacy as another very important aspect of the implementation of the Competition Protection Law, the Competition Authority should increase its proactive role in the inter-institutional cooperation.

Submitting all draft laws and regulations to the Competition Commission for comments is an obligation for all public institutions or regulators. This obligation is not always observed. In this context, the consolidation of legislation evaluation as an element of the Regulatory Reform is a tool in which the Competition Authority has invested.

Increasing awareness of potential anticompetitive aspects of legislative proposals, the use of a check list will guide other institutions in seeking advice from the Competition Authority on how to eliminate or, at least, reduce any anticompetitive effects of legislative proposals. In order to achieve this goal the Competition Authority will aim at establishing an “inter-institutional working group on competition issues”, with representatives from respective ministries and public institutions, and plans to invest in its training by using IPA-2008 project funds and expertise.

The research into markets where exclusive or special rights have been granted will be another tool for increasing advocacy for competition law and policy. Such research will make possible the identification of recommendations for further liberalization of these sectors or market segments. In addition, workshops with representatives from public institutions will be organized in relation to the implementation of the concession assessment guidelines, since the seeking of the Competition Commission evaluation prior to granting exclusive and special rights is a legal obligation which needs to be observed in order to improve the business climate.

In order to increase competition culture not only among businesses but also in the general public by using the experience of other countries, the Competition Authority will also cooperate with the Ministry of Education and Science in order to include competition lessons in pre-university education using various cognitive tools depending on difference age-groups characteristics. In addition, under the EU-funded Twinning Project regional workshops in Shkodra and Tirana will be organized.

V.3. Development of a New Competition Policy

The existing Competition Policy paper was adopted by Competition Commission Decision No. 43 of 28 December 2006, pursuant to Article 24 (a) of Law No. 9121 “On Competition Protection”. This document is based on three main arguments: (i) economic and political conditions necessitating the adoption of Competition Legislation and establishment of the Competition Authority; (ii) market supervision from a competition perspective; and (iii) implementation of European Union standards on the protection of free and effective competition in the market.

In 2012 efforts will be made for updating this document in light of new economic, political and social conditions, new and improved instruments of market

supervision, and the latest developments in the European Union acquis. Taking into account the Competition Protection Law amendments of 2010, an update of the Competition Policy is a necessity for reflecting these legal amendments and the improvements they have brought about in the work of the Competition Authority.

Furthermore, the document will be a product of a broad-based cooperation, including the Albanian Parliament, the Council of Ministers, regulators, central and local institutions, the business community and consumer protection organizations, and the media, in order to enable not only comprehensive comments but also awareness raising in relation to respective responsibilities.

V.4. Administrative Capacity Building

Administrative capacity strengthening through planned trainings as per various department requests and European Commission Progress Report recommendations will be carried out through participation in training seminars organized by the EU project supporting the Competition Authority (Twinning Project), OECD RCC, ICN, etc.

The Competition Authority staff will take part in workshops or conferences organized by public bodies on the protection of free and effective competition in the market through prevention and detection of anticompetitive practices such as prohibited agreements, abuse of dominant position, control of concentrations, etc.

In 2012 the Authority capacities are expected to grow by increasing the number of staff under 2012 State Budget Law. This will complete the staffing structure in line with the increased demand for staff in the Concentration Unit and the Market Research Unit, which also meets the suggestions in the European Commission Progress Report.

Annex 1 – Statistical Data on Competition Commission Decisions

Year	Total Decisions	Concentrations	Abuse of dominant position	Prohibited agreements	Exempted agreements	Regulation and guidelines	Recommendations to public institutions	Decisions imposing fines	Other
2004	13	2				6	1	-	4
2005	17	-				2	3	1	11
2006	14	4				-	1	1	8
2007	25	9	1	3		4	2	5	2
2008	29	11	1		1	4	5	-	7
2009	36	8	1	2	1	2	10	2	10
2010	34	6	3	2	-	7	5	2	9
2011	43	10	2	2	-	6	5	1	17
Total	211	50	8	9	2	31	31	12	68

Annex 2: Execution of fines imposed by the Competition Commission, as of 31 December 2011

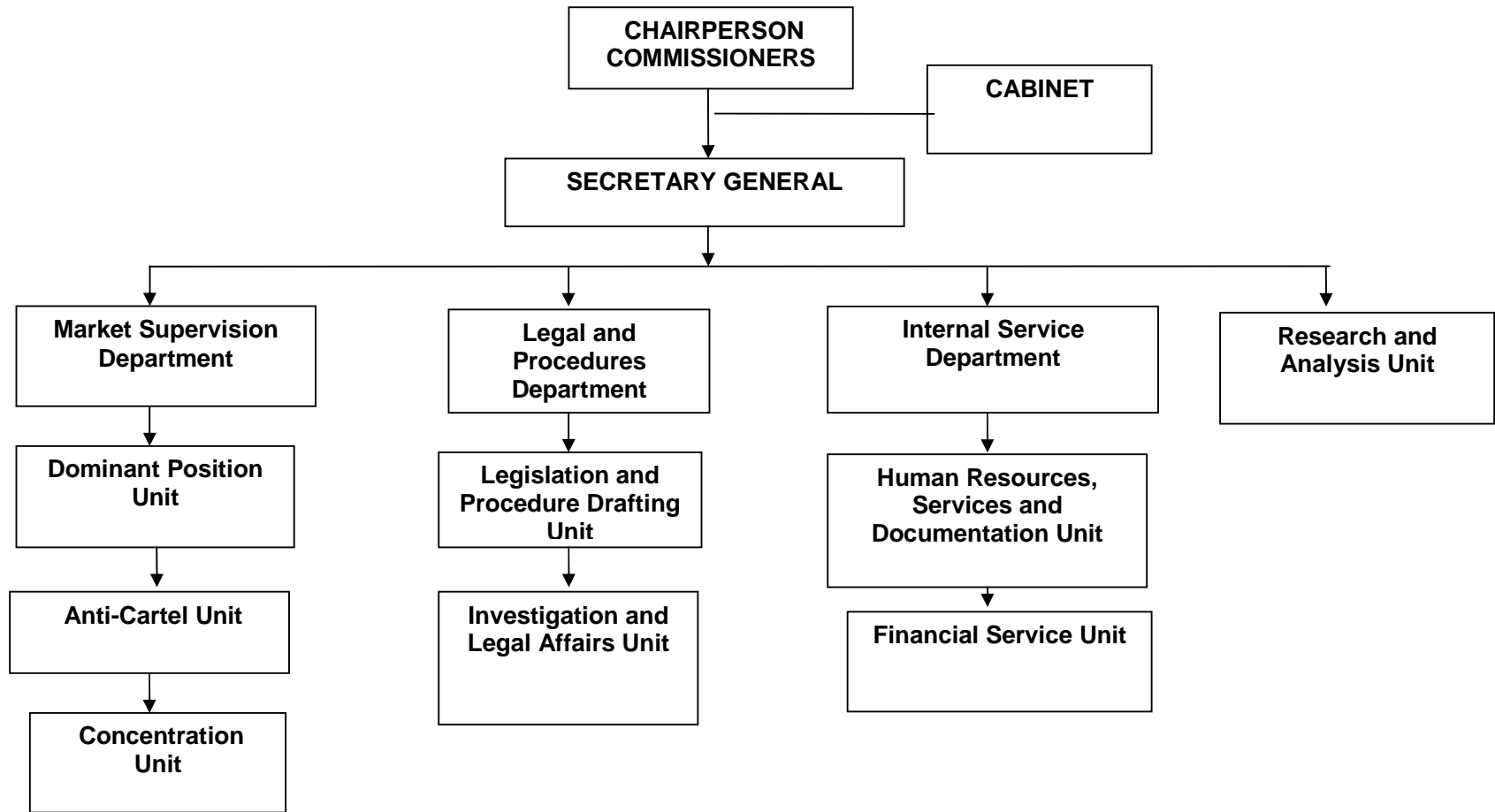
<i>Fines imposed by CA</i>	<i>Amount (in ALL)</i>	<i>Share of total²</i>
Total fines	1,093,503,130	100
Fines collection by Judicial Enforcement Services	258,966,139	23.7%
Fines in the process of collection by Judicial Enforcement Services ³	214,152,000	19.6%
Fines for which no court order has been issued yet ⁴	620,384,991	56.7%

² Percentages are rounded.

³ Execution of the fine against AMC of ALL 211,552,000 was stayed by the Supreme Court until the completion of the proceedings.

⁴ Still in judicial review or pending an enforcement order.

Annex 3: Competition Authority Structure



Annex 4: Notified and Authorized Concentrations

No	Concentration case	Respective market	Decision No.	Authorizati on Date	Procedure
1	Auto Master Sha – Tirana Auto Shpk	New automobile dealership	169	07.01.2011	First Phase/simplified notification form
2	Auto Master Sha – Hyundai Albania Shpk	New automobile dealership	170	07.01.2011	First Phase/simplified notification form
3	Sigal Life Uniqa Group Austria Sha- Capital Sha	Private Voluntary Pension Market	183	29.03.2011	First Phase/simplified notification form
4	Sicred Sha – Sigma I.P.P Sh.a	Private Voluntary Pension Market	186	12.04.2011	First Phase/simplified notification form
5	Delhaize “The Lion” Nederland B.V - Delta Maxi Serbia d.o.o	Retail trade in foodstuff products and consumer's products in unspecialized shops	188	26.05.2011	First Phase/simplified notification form
6	Volkswagen Aktiengesellschaft - MAN SE	Truck manufacture and dealership market	195	22.07.2011	First Phase/simplified notification form
7	Vienna Insurance Group AG - Intersig Sh.a	Insurance market (accident and health insurance, motor insurance, fire and other property insurance, etc.)	199	15.09.2011	Second Phase/complete notification form
8	Japan Tobacco Group, (JT) - Hagggar Cigarette & Tobacco Factory Ltd., (HTCF)	MMC cigarette trade ⁵ and other tobacco product trade	200	15.09.2011	First Phase/simplified notification form
9	Alpha Bank S.A - EFG Eurobank Ergasias S.A	Retail banking and corporate banking market	206	18.11.2011	First Phase/simplified notification form

⁵ MMC includes all machine-made cigarettes.

10	Xerox Spa - XL World Europe Srl	Telemarketing services	208	05.12.2011	First Phase/simplified notification form
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Annex 5. List of Commission Decisions on fine execution

No	Commission Decision	Court Enforcement Order	Referred to enforcement	Enforcement Status
1	No. 38 of 16 May 2006 "Fine against Çalik Seker Konsorsyum"	Decision No. 3354 of 12 November 2010	Yes	Executed
2	No. 59 of 9 November 2007 "Fine against AMC SHA and Vodafone SHA"	Decision No. 3359 of 9 November 2010 (only for the part pertaining to AMC)	Yes	Suspended by Supreme Court Decision of 18 February 2011
3	No. 63 of 3 November 2007 "Fine against Procredit Holding AG"	Decision No. 3358 of 22 November 2010	Yes	Executed
4	No. 66 of 18 December 2007 "Fine against undertakings operating in the concrete market"	Decision No. 3357 of 22 December 2010	Yes	Executed
5	No. 67 of 24 December 2007 "Individual sanction against Mr Kajo Hallka"	Decision No. 3356 of 10 December 2010	Yes	Pending (Application for referring the case to Fier Judicial Enforcement Office, because Mr Hallka lives in Fier)
6	No. 123 of 8 September 2009 "Fine against Albanian Airlines MAK SHPK"	Decision No. 3355 of 12 November 2010	Yes	Pending enforcement
7	No. 59 of 9 November 2001 "Fine against AMC SHA and Vodafone SHA" (only for the part pertaining to Vodafone)	Decision No. 4281 of 22 July 2011	Yes	Executed

Annex 6. Judicial review of Competition Commission decisions

Case	Subject-matter	Court	Completion
1. La Petrolifera Italo Albanese vs. CA	Appeal against CCD No. 140 of 10 March 2010	Tirana District Court	Dismissed / Decided for CA
2. ARMO SHA vs. CA	Appeal against CCD No. 150 of 20 July 2010	Tirana District Court	Accepted by the court / decided against CA
3. NOTI SHPK vs. CA and Classic SHPK vs. CA	Quashing CCD No. 154 of 1 October 2010	Tirana District Court	Joint case - Pending
4. Ultra Motors Shpk vs. CA	Quashing CCD No. 154 of 1 October 2010	Tirana District Court	Dismissed / Decided for CA
5. Hyundai Auto Albania Shpk vs. CA	Quashing CCD No. 154 of 1 October 2010	Tirana District Court	Dismissed / Decided for CA
6. Romano Port SHA vs. Competition Authority	Quashing CCD No. 197 of 29 July 2011	Tirana District Court	Pending
7. Atlas SHA vs. CA	Quashing CCD No. 125 of 8 October 2009	Tirana District Court	Accepted by the court / decided against CA
8. Vodafone Albania SHA Vs. CA	Quashing CCD No. 59 of 9 November 2007	Tirana Court of Appeal	First Instance Court Decision upheld / decided for CA
9. Ultra Motors Shpk vs. CA	Quashing CCD No. 154 of 1 October 2010	Tirana Court of Appeal	First Instance Court Decision upheld / decided for CA
10. Hyundai Auto Albania SHPK vs. CA	Quashing CCD No. 154 of 1 October 2010	Tirana Court of Appeal	First Instance Court Decision upheld / decided for CA
11. Çalik Seker Konsorsyum Yatirim AS vs. CA	Quashing CCD No. 38 of 16 May 2006	Supreme Court	Dismissed by the Court / decided for CA

12. Insurance companies vs. CA	Complete Quashing CCD No. 54 of 19 January 2007	Supreme Court	Dismissed by the Court / decided for CA
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Annex 7: Evaluations carried out by the Competition Authority in 2011

No.	Subject-matter:	Initiative:	Competition Authority evaluation	Response to the Recommendation
<u>1.</u>	Opinion on draft-agreement on water and sanitation services	Letter No. Extra Prot of 14 January 2011 from the Water Regulatory Authority requesting an opinion on the draft-agreement on water and sanitation services	The Competition Authority stated its opinion on this Draft Regulation in its participation in a consultation workshop “Towards a model water and sanitation agreement”, organized by the Water Regulatory Authority on 21 January 2011, where the Draft Regulation was discussed. More specifically, CA representatives stated that from a competition perspective, an assessment of the draft regulation submitted by the Water Regulator did not result in any specific comments or suggestions in relation to CA area of responsibility, as the draft agreement did not have an impact on competition.	
<u>2.</u>	Legal assessment of the Draft Regulation “On the quality of electrical power distribution and sales services”, and draft agreement “On supplying tariffed consumers with electrical power”	Letter No. 53 of 24 January 2011 from ERE requesting an opinion on Draft Regulation “On the quality of electrical power distribution and sales services”, and draft agreement “On	The Competition Authority, in its Letter No. 53/1 of 9 February 2011 “Re Draft Electricity Agreement”, to ERE, stated the following: I. The Competition Commission Decision No. 159 of 19 November 2010 recommended the expedition of the process of revising the tariffed client agreement by setting obligations for the Retail Public Suppliers to protect consumers through observance of service quality parameters. The Competition Authority appreciated ERE’s initiative for approving a template contract between Cez Shpendarje SHA and its tariffed customers. I. The submitted proposals were not in conflict with Law No. 9121 of 28 July 2003 “On Competition Protection”, and, therefore, agreement in principle was given.	

		<p>supplying tariffed consumers with electrical power”</p>	<p>1. Given the general public interest and the fact that Cez Shperndarje SHA had a monopoly in the respective electricity distribution market, the Competition Commission suggested several changes in the submitted draft agreement.</p> <p>The Competition Commission recommended that the agreement should:</p> <ol style="list-style-type: none"> 1) Provide for the electricity bill for tariffed customers to include a breakdown of the electricity price and amount by production, transmission and distribution, in order to make its pricing transparent for consumers; 2) Provide for the procedures and mechanisms for paying damages to tariffed customers, as the draft agreement did not have any clear provisions on damages to tariffed customers (in case of damage caused to their electrical equipment, machinery, etc.); 3) Clearly specify the time-limit and method of submitting electricity bills to customers, and provide for sanctions to be imposed on the supplier in case of failure to submit a bill as per the terms and conditions specified in the agreement. The penalties might be the same as the ones consumers have to pay for each day of delay in paying their electricity bills (0.1% of the billed amount); 4) Specify how the billing of the electricity used in common premises and facilities is to be made; 5) Provide for billing based on time-bands for tariffed customers at the time of concluding the agreement, in addition to reflecting it specifically in the final bill issued to a customer (as already stated in the draft agreement); 6) Provide for electricity meters to be certified by the Metrology Directorate, too, and for the Electricity Regulatory Authority to set the time-limits for the installation of electricity meters in transparent casing so that their reading is accessible to customers; 7) Include in its Section 8.2.1 precise voltage quality parameters on the basis of which any deviation is allowed (for instance, 220V, from which a deviation as per Section 8.2.1 is allowed). 	
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<p>3.</p>	<p>Assessment of draft agreement “On the service of initial and periodic check of metering devices”.</p>	<p>Letter No. 175 of 8 April 2011 from the Energy Regulatory Authority requesting an assessment of the draft agreement “On the service of initial and periodic check of meters”.</p>	<p>The Competition Authority, in its Letter No. 175/1/2 Prot. of 28 April 2011 “Assessment of draft agreement on the service of initial and periodic check of metering devices”, sent to the Energy Regulatory Authority, stated that: The Draft Agreement was not in conflict with the provisions of Law No. 9121 of 28 July 2003 “On Competition Protection”.</p> <p>Some suggestions were given, however, to clarify and better align the provisions</p> <ol style="list-style-type: none"> 1. Section 12.1.4 in Part XII of the Agreement ... provides for the Contractor’s right to apply unilateral changes to service fees subject to its service costs... In our opinion, since service fees are regulated, then Section 12.1.4 should underline that the unilateral tariff change in these cases shall be applied in accordance with the provisions in Annex 4 of the Agreement. 2. We suggest the following changes in Annex 2 “Definitions”: The definitions “Disputes” and “Transmission System Operator (OST)” should be reworded in accordance with the legislation in power, as they are unclear; 3. In addition, the definitions related to the concepts of “Verification”, “Regular verification of a metering device”, “Verification outside a metering device”, “Authorization”, “Certification”, “Control meter”, should be revised as they are repetitive. 	
<p>4.</p>	<p>Opinion on State Aid Commission draft decision on State Aid Schedule related to postal and financial services provided by Posta Shqiptare SHA and other services that are in line with Posta Shqiptare SHA activity.</p>	<p>Letter No. 77 of 8 February 2011 from METE, requesting comments on the State Aid Commission draft decision.</p>	<p>The Competition Authority, in its Letter No. 77/1 of 11 February 2011 “Response to request”, sent to METE, stated the following:</p> <ul style="list-style-type: none"> - In the absence of a plan of the Albanian Post and of the draft agreement to be signed by the Minister of Innovation and Albanian Post, the Commission could only give a partial opinion on the draft decision, agreeing with it on principle, but only if it was in line with the legal reference specified in Articles 3 (14) and 11 of the Postal Service Law, in relation to “reserved services”; - Revise the five-year period of the state aid under Paragraph 5 of the draft decision, in order to take into account the commitment to liberalizing postal services as soon as possible; - The Commission recommended that the decision took into account the views and comments of those stakeholders that would be affected by the 	

			State Aid Commission decision.	
5.	Assessment of the Draft Rules on standard procedures for economic damage billing	Letter No. 98 of 16 February 2011 from ERE, requesting comments	The Competition Authority, in its Letter No. 98/1 of 9 March 2011 “Re Draft Rules on standard procedures of economic damage billing”, sent to ERE, stated that the Draft Rules was not conflict with Law No. 9121. In addition, the Commission wanted to draw attention to the fact that the Rules should better ensure equity between parties given the enhancement of consumer’s position.	
6.	Recommendations on the Draft Regulation on allocating interconnection capacities	Letter No. 65 of 27 January 2011 requesting comments, and Letter No. 78 of 8 February 2011 from ERE, requesting comments	Competition Commission Decision no. 177 of 25 February 2011 “Recommendations on the Draft Regulation on allocating interconnection capacities”: 1. Recommended that, in the development of the interconnection capacity allocation regulation, the Energy Regulatory Authority should a. specify the duration of the “transitional period” or the relevant condition the fulfilment of which would terminate the transitional period; b. specify what would be offered on the market (market operators) after the transitional period so that licensed operators or those who have invested in operating in the electricity market can compete by providing services resulting in direct benefits for tariffed customers; c. not impose any restrictions on the number of auction bids; d. give priority, in the allocation of reserved capacities, to satisfying the needs for transmission and interconnection for tariffed customers; e. specifically provide for, in the allocation of reserved capacities, the methods of coping with hydropower emergencies.	
7.	Opinion on WRA Draft Tariff Setting Methodology	Letter No. 209 of 12 May 2011 from WRA requesting comments on the Draft Tariff Setting Methodology	The Competition Authority, in its Letter No. 238 Prot. of 7 June 2011 “Opinion on WRA Draft Tariff Setting Methodology”, sent to the Water Regulatory Authority, stated that from the perspective of Law No. 9221 “On Competition Protection”, the Methodology was not in conflict with the Law, and, therefore, it did not have any objections to it.	
8.	Assessment of the Draft Regulation on the criteria for granting and	Letter No. 322 of 14 June 2011, archived by CA	The Competition Authority, in its Letter No. 262 Prot. of 30 June 2011 “Re Draft Regulation on the criteria for granting and revoking the status of qualified client”, sent to ERE, stated that the Draft Regulation submitted	

	revoking the status of qualified client, submitted to ERE	with No. 251 on 15 June 2011	for comments was in line with Law No. 9121 “On Competition Protection”. The Draft Regulation took into consideration CA recommendations laid down in its Decision No. 90 of 7 October 2008 “Recommendations on the liberalization and enhancement of competition in the electricity sector”. In order to ensure further free and effective competition in the sector, it is important to ensure non-discriminatory access and transparency in that market segment in accordance with the Rules on the Albanian electricity market, adopted by ERE Board of Commissioners Decision No. 68 of 23 June 2008, Section XIV.7 of which lays down the technical elements of using the status of a qualified client in the electricity market. Based on the above, CA proposed that the submitted Draft Regulation should specify the <i>obligations, status fees, service terms and conditions and time-limits for the instalment of meters, or any other technical elements in order to make the operation as a qualified client effective and normal.</i>	
9.	Opinion on the Draft Regulation on the approval of new connections with the distribution system and the new connection agreement	Letter No. 229 Prot. of 2 June 2011 from ERE, requesting comments	The Competition Authority, in its Letter No. 252 Prot. of 16.6.2011 “Opinion on the Draft Regulation on the approval of new connections with the distribution system and the new connection agreement”, sent to ERE, stated that based on the current model of the electricity market, the Draft Regulation on new connections should clearly specify the role and function of OSSH and FPP, in order to make the electricity market more functional and competitive. CA noted that in the submitted Draft Regulation CEZ Shperndarje was considered as a sole operator, without taking into account the fact that two important segments (OSSH and FPP) operate in it, on which the Commission had given respective recommendations in its Decision No. 159 of 19 November 2010.	
10	Opinion on the Draft Corporate Governance Code	Letter No. 348 of 8 August 2011 from METE, requesting comments on the Draft Corporate Governance	In its Letter sent to the Minister of Economy, Trade and Energy, re an opinion on the Draft Corporate Governance Code, the Competition Authority stated that after reviewing the Draft Code and its basic corporate governance principles, from the perspective of Law No. 9121 “On Competition Protection” it was not in conflict with the Law.	

		Code		
11	Opinion on ERE application for amending interconnection capacity allocation rules	Letter No. 423 of 23 September 2011 "Amendment to interconnection capacity allocation rules"	The Competition Authority, in its Letter No. 448 of 5 October 2011 "Re application for amending the interconnection capacity allocation rules", sent to ERE, state that regarding the technical reasons claimed by the parties. ERE was the competent body to make a fair situation assessment. The Authority also suggested that the enhanced interconnection capacities and the positive changes should ensure non-discriminatory, transparent and competitive access for all licensees in the electricity market.	
12.	Opinion on the submitted application for excluding third-party access to the Trans-Adriatic-Pipeline (TAP) project	Letter No. 457 of 12 October 2011 from ERE, requesting comments on the application for excluding third party access to Trans-Adriatic Pipeline (TAP).	The Competition Authority, in its Letter No. 496 Prot. of 9 November 2011 "Opinion on the submitted application for excluding third-party access to the Trans-Adriatic-Pipeline (TAP) project", sent to ERE, stated the following: <i>"In principle, the applied-for exclusions might result in competition restriction. The submitted information did not allow for a complete assessment of the degree of competition restriction. Discussions and consultations with IPA-2008 Project experts resulted in the following suggestions:</i> <ul style="list-style-type: none"> - <i>A possibility to shorten the period of exclusion of third parties from access;</i> - <i>Granting exclusion for 80% of the operation capacity, leaving 20% of the capacity accessible by third parties in the domestic market;</i> - <i>Provision of exit points in the project design, in order to make it technically possible for the domestic market to benefit at any time."</i> In addition, noting the cooperation between experts from both institutions, the Competition Authority suggested that such cooperation should continue.	

13.	Assessment of the Albanian Association of Banks complaint regarding the amendments to the Education Minister's instruction on payment procedures for enrolment fees in the lower cycle of public higher education institution for full-time students	Letter No. 452 of 6 October 2011 from the Albanian Association of Banks regarding exclusion of banks from the higher education enrolment fee payment market.	Competition Authority Decision no. 205 of 14 November 2011 "Recommendation to the Minister of Education and Science to amend Instruction No. 36 of 9 September 2011 amending Instruction No. 25 of 20 July 2011 On admission and enrolment procedures in the first cycle of full-time public higher education institutions." decided to recommend the Minister of Education and Science to amend Instruction No. 36 of 9 September 2011 in order to prevent competition restrictions in the market of financial services and make possible for enrolment fees in the first cycle of studies in full-time public higher education institutions to be made at both Albanian Post Offices and commercial bank branch offices.	
14.	Opinion on Draft Council of Ministers' Decree "On Draft Amendments to Law no 9918 of 19 May 2008, "On Electronic Communications in the Republic of Albania"	MolICT Letter No. 166 of 1 April 2011 requesting comments on the Draft Council of Ministers' Decree	The Competition Authority, in its Letter No. 166/1 Prot. of 28 April 2011 "Opinion on Draft Council of Ministers' Decree "On Draft Amendments to Law No. 9918 of 19 May 2008 "On Electronic Communications in the Republic of Albania", sent to MolITC, stated that, after reviewing the submitted Draft Council of Ministers' Decree, it did not find any provisions that were in conflict with Law 9121.	
15.	Assessment of the Draft Law on Renewable Energy Sources	Letter No. 514 of 23 November 2011 requesting comments on the Draft Law on Renewable Energy Sources	The Competition Authority, in its Letter No. 514/1 of 19 December 2011 "Opinion on the Draft Law on Renewable Energy Sources", sent to METE, stated that the Law aims at promoting and encouraging the production of energy from renewable sources, and will have an impact on free and effective competition in the market of energy production. The Commission, however, expressed its reservations with regard to Article 17 of the Bill, which might result in restriction of effective competition in this market segment. In addition, the Commission suggested that the Bill should clearly specify that transmission and distribution fees for producers and users of renewable energy will not be discriminatory on grounds of	

			location or low amount of energy. The Draft Law should specify that the Government would develop promoting policies and establish sufficient transmission capacities.	
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Annex 8. Competition Authority actual budget

	Plan	Actual	Remaining	In %
Personnel expenses	41,620,000	36,911,576	4,708,424	88.7%
Social insurance contributions	5,200,000	5,054,843	145,157	97.2%
Supplies and services	8,109,000	8,043,101	65,899	99.2%
Investment	4,000,000	2,735,060	1,264,940	68.4%
Total:	59,379,000	53,194,580	6,184,420	90%

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