



**ALBANIAN
COMPETITION
AUTHORITY**



UNFETTERED COMPETITION PROTECTS CONSUMERS FROM THE POLITICAL INFLUENCE OF LOBBIES AND FORCES PRODUCERS TO DELIVER PRODUCTS AND SERVICES AT COST.

ALAS, COMPETITION IS RARELY PERFECT, MARKETS FAIL, AND MARKET POWER — **THE FIRMS' ABILITY TO RAISE PRICE SUBSTANTIALLY ABOVE COST OR TO OFFER LOW QUALITY** — MUST BE KEPT IN CHECK.



— Jean Tirole - Prize Lecture, December 2014, Toulouse —

INTRODUCTION

Law no. 9121, dated 28.07.2003 “On Competition Protection”, as amended in the Republic of Albania, regulates the activity of enterprises, requiring compliance with business rules for a free and effective competition in the market, which serves not only the consumer, but above all it brings progress.

The Competition Authority as an independent public institution with a mandate defined by the Law “On Competition Protection” has, as its mission, the protection of free and effective competition in the market, setting the enterprise behavior rules, as well as identifying the activities of those enterprises that their behavior prevent, restrict or distort free competition in the market.

Law “On Competition Protection” is applicable in all sectors of the economy, as well as for all enterprises, private and public, that exercise their activity in the Republic of Albania, as well as enterprises that perform their activities abroad, but the consequences are felt in the domestic market. Based on this law, the activity of the Competition Authority focuses on the identification of: (1) cartel type agreements; (2) dominant positions in the market; (3) mergers or concentrations of monopoly nature enterprises.

In compliance with the law, the Competition Authority Secretariat has the right to monitor, investigate, and then the Competition Commission composed of five members elected by the Assembly of the Republic of Albania as a collegial decision-making body decides on the measures to be taken from the concrete situation, accompanied by the relevant recommendations for each investigated enterprise.

The decision-making of the Authority, in its 13 years of existence, has covered all sectors of the Albanian economy. Problems arising from the investigation in all cases are accompanied by appropriate measures and recommendations. More than 480 decisions have been taken since 2004 to date by the Competition Commission.

The Competition Authority, pursuant to law, acts as a promoter and advocate of competition and consumer interests, as well as estimates of normative acts that could affect competition. Public communication and transparency, within the requirements of the law “On Competition Protection” is a constant priority of the activity of the Authority.

The annual report presented to the Assembly of the Republic of Albania is a complete document through which, a full account is given regarding the work done and future challenges. Moreover the Authority has a website updated with information for anyone interested.

For more information visit our website at: caa.gov.al

Prof. Dr. Juliana Latifi
CHAIRWOMAN

ABOUT ACA

The Albanian Competition Authority (ACA) is an independent public institution established to enforce Law nr. 9121, date 28.07.2003 "On Competition Protection", as amended.

The Law empowers ACA to initiate investigation procedures on its own initiative or ex officio. The law establishes the role of the Competition Authority to regulate economic activities in cooperation with the public bodies of the central and local administration, regulatory entities and other institutions. The financial penalties imposed by the ACA are not punitive in nature and are executive titles.

OUR MISSION Generate prosperity through free and effective competition in the markets, by offering better quality, lower prices and more choice for the business and the consumers.

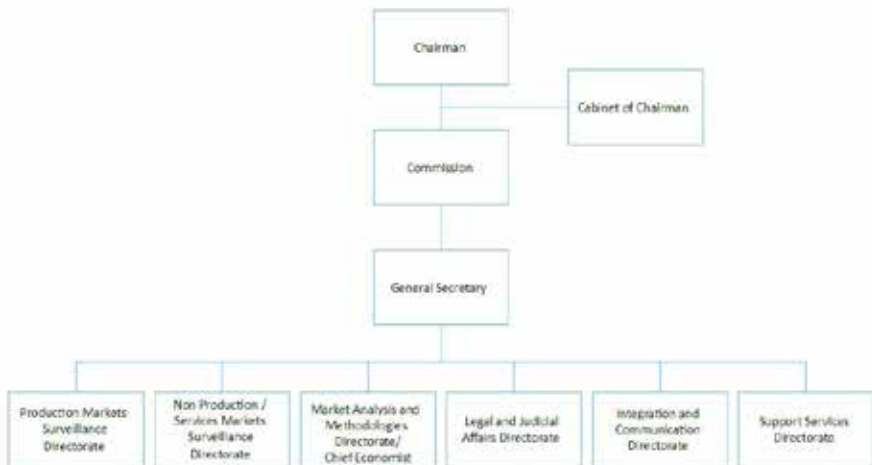


ORGANIZATION

ACA operates as a two-tier institution, composed by the Commission (the decision-making body) and the Secretariat (the executive branch). Currently, the Law provides for the election of 5 (five) Commissioners, which are confirmed by the Parliament. The Commissioners can renew their tenure twice.

The Secretary General, who is elected by the Competition Commission, manages the Secretariat. The new structure of ACA as laid down in Decision provides for an organization of the work on industry-related basis. Also, these changes led to the first appointment the Chief Economist.

NEW ORGANIZATIONAL CHART

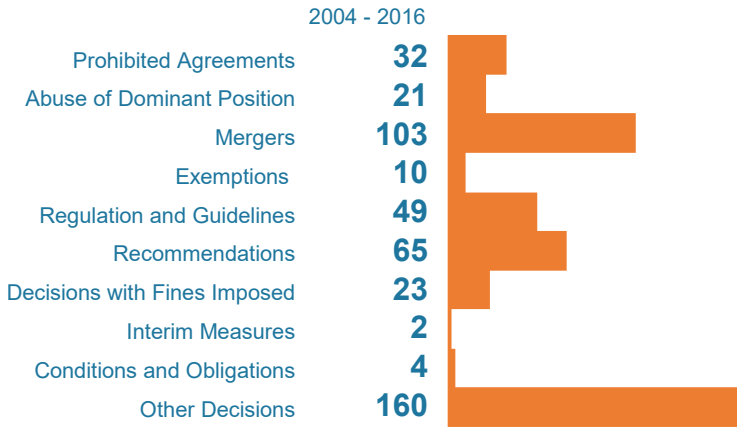


PILLARS OF THE WORK OF ACA

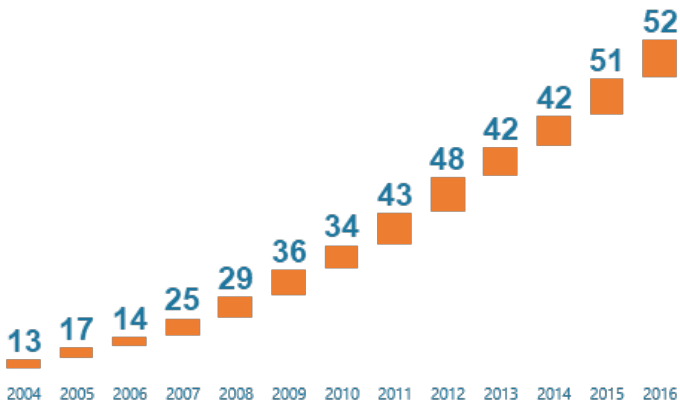
The Competition Authority acts to assure a free and effective competition in the market through the implementation of the “On Competition Protection” law, to prevent, detect and prohibit anti-competitive conduct.

PROHIBITED AGREEMENTS ABUSE OF DOMINANT POSITION CONTROL ON MERGERS AND ACQUISITIONS

STATISTICS

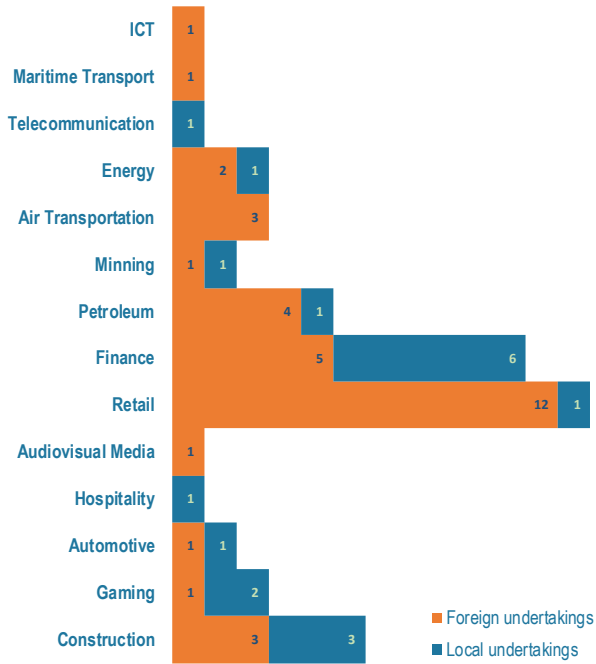


Categories / Decisions

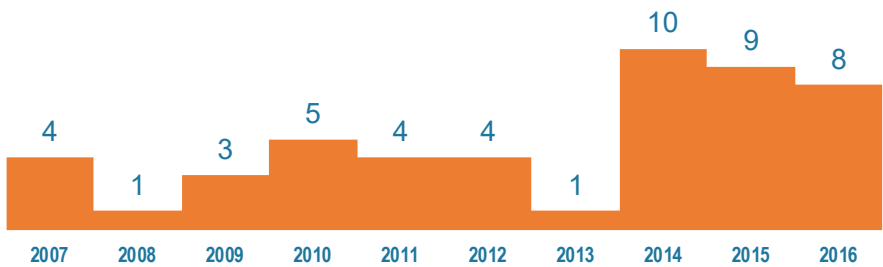


Decisions / Year

STATISTICS



Industries / Mergers



Investigation procedures / Year

THE REASONS WHY COMPETITION IS GOOD

Better products and services

Healthy competition encourages change, which will distinguish your company from others through technology, product alterations or by improving the customer experience.

Lower prices

Competition is not only good for the business, it is good for consumers. Treat them right.

More choices

Competition leads to innovation. Consumers get the opportunity to choose who gets their money, time and attention.



PROHIBITED AGREEMENTS

Agreements and practices that prevent, restrict or distort the competition are prohibited, in particular those that:



Fix Prices
Determine the amount of production / sales
Determine market share
Complicate competing firms' activities
Condition agreements

**...BUT SOME AGREEMENTS BETWEEN
COMPETITORS SHALL BE ALLOWED!**

Not all agreements between undertakings are prohibited by the law. Generally, the agreements that are made between non-competing or small-market undertakings are permitted, because they do not affect competition in the market. These agreements between parties are allowed because they can entail a positive effect in favor of the consumer. Agreements can be allowed if they do not:

impose on the participating undertakings restrictions which are not indispensable to the attainment of these objectives; and

significantly restrict competition in respect to the products or services which are subject of those agreements.

TOP SECTORS CONCERNED BY PROHIBITED AGREEMENTS

Transport Sector Example

Decision No. 154, date 01.10.2010
Prohibition of agreement in the market of new vehicle procurement.

Classic sh.p.k, Hyundai Auto Albania sh.p.k., Ultra Motors sh.p.k. and Noti sh.p.k. — used the subcontracting scheme, by purchasing the procured vehicles from each other. CC decided to prohibit the bid rigging agreement in the market of new vehicle procurement and imposed a fine of 36 million ALL to the undertakings participating in this agreement.

Public Procurement Example

Decision No. 290, date 23.07.2013
Restriction of competition in the student passes market and the urban passenger transport service.

Undertakings Ferlut, Tirana Lines, Alba Trans, Tirana Urban Trans, Urban Passenger Transport Park and Otto-al reached an agreement under which they restricted the sale of more than 50% of the quantity of student monthly passes for 2007 and about 80% of the quantity of student monthly passes for 2008-2012. CC decided to impose a fine to all undertakings participating in this agreement. The fine amounted to around 6 million ALL.

Insurance Market Example

Decision No. 443, date 30.11.2016
Measures and Obligation for Insurance Companies and Some Recommendations to the Financial Supervisory Authority

With the view to restore the competition in the compulsory motor insurance market Competition Commission decided to give some measures and obligations to the insurance undertakings operating in this industry.

These encompassed:

signing off with more than one service agreement with brokerage companies and with agents' associations and/or agents as physical persons;

increase services to insured persons in terms of damages and provision of different sales premiums by customer categories;

take the necessary steps for the implementation the Bonus / Malus system.

Food Sector Example

Decision No. 202, date 26.09.2011
Bread Production and Trading Market in the City of Vlora

Undertakings operating in the bread production and trading market agreed to increase and fix the price of bread in Vlora city. Based on the ACA in-depth investigation procedure and after hearing the parties, CC imposed about 240 000 ALL fines on the parties who participated in 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.

ABUSE OF DOMINANT POSITION

A dominant position is one of economic strength enjoyed by one or more undertakings that enables them to prevent effective competition in a market by giving them the power to behave, in regard to demand or supply, independently of other market participants such as competitors, customers or consumers.

The abuse is regarded as a type of unilateral anticompetitive behaviour of one or more undertakings having such a strong market position, which allows them to take any market conduct independently from their suppliers, competitors and clients. Therefore, the dominant position itself is not forbidden under Albanian competition law but only the abuse of such a position.

Abuse of Dominance Example

Decision No. 221, date 11.04.2012 Abuse of dominant position of the undertaking “Romano Port” in the market of loading-unloading of liquefied gas

The Competition Commission stated that “Romano Port” had a dominant position in the market of loading and unloading of Liquefied Petroleum Gas during the period under investigation. This operator had repeatedly refused to perform the unloading of LPG for the operators who had invested in storage capacities owned by them presenting unreasonable and unlawful reasons. This refusal was related to the direct economic interest of this operator in the downstream market, as on depositing and wholesale trade of LPG, bringing competition restriction in these market. The behavior of “Romano-Port”, was determined as abusive, regarding the Article 9, paragraph 2, (letter “c”) of the Law “On Competition Protection”. For this reason CC decided to impose a fine of about 7 million Lekë to “Romano Port”.



MERGERS & ACQUISITIONS

Concentrations of undertakings shall be notified to the Authority for its authorization, if, in the financial year preceding the concentration :

the aggregate worldwide turnover of all the participating undertakings exceeds ALL 7 billion, and the individual turnover in Albania of at least one of the participating undertakings exceeds ALL 200 million; or:

the aggregate turnover in Albania of all the participating undertakings exceeds ALL 400 million, and the individual turnover of at least one of the participating undertakings on the domestic market is over ALL 200 million.

WHICH MERGER AND ACQUISITIONS ARE SUBJECT TO THE CONTROL OF THE COMPETITION AUTHORITY

Mergers can be classified into three categories from an economic perspective depending on the business combinations, whether in the same industry or not, into **horizontal** (two firms are in the same industry), **vertical** (at different production stages or value chain) and **conglomerate** (unrelated industries).

The Competition Authority exercises ex ante control over operations between independent undertakings (mergers, acquisitions of control or establishment of joint ventures) that may produce negative effects on competition in the relevant domestic markets.



The competition law provides for a notification regime under which the merging parties are obliged to inform the authority, on preliminary basis, of the upcoming transaction. In case of a failure to notify, the authority may impose fines on the merging parties, the amount of which depends on whether the transaction results in competition restrictions.

SAMPLE DECISION: IMPOSING FINES FOR A FAILURE TO NOTIFY A CONCENTRATION

The Competition Commission, by decision nr. 265 dated 05.02.2013, decided to impose a fine to undertaking Viloil Sh. A. for a failure to notify about the concentration obtained through the acquisition of control over the sale and transfer of 70% quotes of the company City Investement Holding S.A to shareholders Mr. Apostol Goçi and Mr. Albano Aliko. The failure to notify about a concentration, as requested by law, is considered as an administrative violation therefore was decided to impose a small fine of ALL 100 thousand.



COMPETITION ADVOCACY



Competition advocacy is a tool for enhancing the competition culture of society.

It is also regarded as one of the institutional goals of the Competition Authority, which aims at promoting and encouraging competition through recommendations during the drafting of legislation. For example, ACA presents its remarks and recommendations for new legislation and provisions in the regulated markets (banking, insurance, telecommunication).

Competition law compels, all central and local administration institutions, including sector regulators, to request ACA's opinion, in particular, on provisions on quantitative restrictions (trading and market access); establishment of exclusive rights or special rights; and the imposition of uniform practices in prices and sale conditions. The collaboration is also achieved through Memorandums of Understanding (MoU) and by organizing round-tables with groups of interest.

LENIENCY PROGRAMME

ACA's leniency program provides full or partial immunity from fines for the undertakings that cooperate with the Competition Authority and help it detect and disrupt prohibited agreements/cartels.

The Leniency Programme implies full and genuine representation of the facts by an applicant. In order to benefit from the Leniency Programme, applicants must provide ACA with all the data and information they possess in relation to the agreement violating the competition. They must fully and continuously cooperate with ACA during the investigation and in any further proceedings.

