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საქართველოს
კონკურენციის სააგენტო
Competition Agency of Georgia

EU SUPPORT TO COMPETITION AGENCY OF GEORGIA

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"A horse never runs so fast as when he has other horses to catch up and outpace." Ovid

A FEW WORDS ABOUT THE COMPETITION AGENCY OF GEORGIA

The Competition Agency of Georgia was established in April, 2014 as an Independent Legal Entity of Public Law.

The primary objectives of the Agency are to implement competition policy, safeguard the competitive environment throughout the country, in both the private and public sectors, and consequently detect and eliminate anti-competitive practices.

The Agency also has the task to spread awareness about the importance of competition, to explain the implications of the legislative framework in the field, and the role of the Competition Agency within the Georgian economic environment - in particular with regard

to its impact on SMEs and on consumers' welfare, respectively.

Considering the importance of the international dimension of competition policy, the Agency is actively involved in international events and closely cooperates with international organizations and competition authorities from other countries, through experience sharing and Memorandums of Understanding.

The competition policy is mentioned in the Georgian Constitution and identified by the EU-Georgia Deep and Comprehensive Free Trade Area (DCFTA) as one of the priority areas of action.

The Association Agreement between the EU and Georgia that entered into force on July 1st, 2016, introduced a preferential trade regime - the DCFTA - aimed at increasing market access between the EU and Georgia by harmonizing rules and regulations.

The DCFTA states, inter alia, that "The Parties recognize the importance of free and undistorted competition in their trade relations" and that each Party "shall maintain in its respective territory comprehensive competition laws" and "shall maintain an authority responsible and appropriately equipped for the effective enforcement of the competition laws" art. (203-204 DCFTA).

Content of this Newsletter:

1. Economic Development, Liberalization of Markets and Competition Enforcement
2. Interview with the Chairman of the GCA – Prof. Nodar Khaduri
3. EU funded Project "Support to the Georgian Competition Agency"



ECONOMIC DEVELOPMENT, LIBERALIZATION OF MARKETS AND COMPETITION ENFORCEMENT

Introduction

This Competition Newsletter has been prepared by the Competition Agency of Georgia in collaboration with the EU funded project "Support to the Georgian Competition Agency". It is a pilot publication intended to reach a wider public, informing about the latest developments in competition policy in Georgia. The preceding paper was focused on how the international Competition community helped make Georgian Competition enforcement more effective. The Competition Agency of Georgia will start publishing competition newsletters regularly, as part of its usual advocacy activities.

As competition advocacy represents one of the main responsibilities of every competition authority, the Competition Agency of Georgia informs other public institutions, business representatives, consumers and stakeholders about its activities and achievements.

The newsletters will contribute towards making the Agency's activities more transparent and, above all, will serve as a key tool for raising awareness about the importance of effectively enforcing the competition policy.

Finally, it will enable the Agency to gain support from the other public authorities and increase its overall credibility.

In recent years Georgia has implemented important reforms aimed at improving its business climate and attracting foreign investments. The Georgian Government is pursuing the liberalization of the economy as the most effective



method of promoting economic progress. To that end, the Government has been trying, on the one hand, to eliminate legal and administrative barriers that impede the development of the private sector, and on the other hand to facilitate the growth of small and medium enterprises. The process of market liberalisation requires a comprehensive set of rules and effective tools for the proper enforcement of competition law, so as to prevent unfair business practices.

Therefore, the Competition Agency of Georgia is entrusted with the task to implement and enforce the Georgian Competition Law and policy. In doing so, the Agency has the obligation to respect the principles of independence, non-discrimination, impartiality, transparency and accountability.

Recently, with the support of an EU funded project, the Competition Agency has drafted amendments to the Competition Law in order to make its enforcement more effective and the standing of the Competition Agency more prominent.

The adoption of the amendments will be necessary for both the further development of competition law and the improvement of the business climate in Georgia. Furthermore, it will enhance the legal stability of the Georgian market, provide instruments for the protection of SMEs competing in the market from unfair practices of dominant market operators, and create a level playing field for domestic and foreign companies, similar to the one in the EU.

In addition, the human and material resources of the Agency should be strengthened in order to extensively utilize the instruments that will be provided by the aforementioned amendments.

INTERVIEW WITH THE CHAIRMAN OF THE GCA – PROF. NODAR KHADURI



- **It has been more than two years since you were appointed as the Chairman of the Georgian Competition Agency. What have been the main challenges in the work of the Agency during that period and what can you point out as the Agency's main achievements?**

I have to admit that after serving four years as Finance Minister of Georgia, this was truly a challenging and inspirational assignment for me, entailing great responsibility, as it is common knowledge that the competitive environment and fair business practices are inseparable components of sustainable economic development.

I outlined for the young agency several objectives of vital importance immediately upon appointment. Capacity building activities, for raising the qualification level of the staff, was the principal objective. Drafting the legal amendments to the Law of Georgia on Competition was urgently needed to increase the enforcement capability of the agency. The amendments were prepared thanks to the experience and concerted efforts of European experts and GCA staff. Another key challenge was to enhance cooperation with sector regulators and various progressive steps were taken in this respect. A public awareness campaign is an ongoing process needed to create a competition culture in Georgian society and I also targeted it as a priority for us. One of the milestones of our recent efforts was the strengthening of cooperation with foreign competition authorities and international competition organizations and sharing best practices. During the last two

years the GCA has signed MOUs with multiple foreign Competition Authorities. We managed to host two very successful International Competition Conferences at Ivane Javakhishvili Tbilisi State University with the support of the EBRD and the EU Project 'Support to the Georgian Competition Agency'.

Need of law amendments to improve the enforcement tools and procedures

- **The process of preparing amendments to the Competition Law of Georgia is underway. Can you explain the main novelties proposed by the amendments?**

I can enumerate some directions related to the amendments. For example, changes in the structural set-up of the Agency and its transformation to a Collegial Body; effective enforcement of competition rules in the regulated sectors, carried out on the basis of a common single legislation – the amended Law of Georgia on Competition; amendments with respect to the improvement of enforcement tools and procedures; amendments for achieving more effective merger control; amendments regarding Procedural Fairness and State Aid regulation.

- **Besides the adoption of the amendments, what else needs to be done by the Agency, the Government or other stakeholders in Georgia to make the implementation of Competition Law more effective?**

The Competition Agency of Georgia carries out a continuous public awareness campaign that aims to establish a competition culture in different layers of society. The campaign will promote the benefits of the amended Law of Georgia on Competition and the role of the Agency in protecting SMEs and consumers' welfare by establishing fair business practices. This will result in the creation and preservation of a fair competitive environment in several commodity and service markets, and the consequent growth of Georgian economy.

Public awareness on competition issues is expanding, while the government and other public institutions and stakeholders understand the importance and necessity of the effective enforcement of competition law better.

- **The European Union has provided technical assistance to the Competition Agency of Georgia in the last two years. What are the main benefits that technical assistance project has brought for the Agency and other Georgian stakeholders ?**

As the GCA suffers from a lack of administrative and financial resources, the support of the European Union is of vital importance. Ongoing technical assistance has resulted in notable achievements for the GCA and other Georgian stakeholders. First of all, it provided GCA staff with tremendous opportunities to develop their qualifications through multiple trainings and workshops conducted by experienced European experts, as well as through study tours and internships in foreign competition authorities, the DG Competition or the ECJ. EU project experts have facilitated the cooperation process with sector regulators. The project has also helped to enhance the knowledge and skills of judges and lawyers in competition matters. Furthermore, it has promoted networking opportunities. As the GCA was established only in 2014, it is important to encourage strategic partnerships with foreign competition authorities, international organizations and academia. It has to be noted that the most important contribution of the project was to the drafting of the amendments to the Georgian Competition legislation – the draft of the amendments would not have been so sophisticated and close to the best European standards without the great efforts and experience brought by the EU experts involved in the project.

Most of the aforementioned achievements have become reality thanks to the simultaneous efforts and dedication of the EU Project “Support to the Georgian Competition Agency” and GCA teams.

I want to use this opportunity to express my gratitude to the EU for the assistance.



International Conference on Competition - 2018

- **How do you see the Competition Agency of Georgia in five years?**

I see the Competition Agency of Georgia as a Commission-like independent, strong, effective and experienced authority on the safeguarding of a fair competitive environment, a watchdog with increased capacity and knowledge to secure the effective enforcement of competition law, ensuring the necessary conditions for fair business practices. I hope to see the GCA as one of the pillars on the way to market growth, increase of consumers’ welfare and sustainable development of Georgian economy.

“...the support of the European Union is of vital importance

EU FUNDED PROJECT “SUPPORT TO THE GEORGIAN COMPETITION AGENCY”



Project Launching Conference – 2017

“Support to the Georgian Competition Agency” is a two-year project funded by the European Union and implemented by a Consortium led by B&S Europe.

With the overall objective to enhance the law enforcement capacity and professional skills of the Competition Agency of Georgia, the project aims to support institutional capacity building, improve the legal framework and improve competition culture in the country. Since January 2017, EU experts – including officials from the Lithuanian Competition Council, a member of the Consortium, work alongside local experts to support the Competition Agency of Georgia and the other stakeholders. The project will contribute to a more favourable business climate suitable to stimulate trade, to attract foreign investments, and to strengthen competitive forces in the market.

Project activities focus on the following areas:

Legal and Institutional Framework

Project experts carried out a gap analysis of the Georgian competition legislation and prepared documents with detailed recommendations for the improvement of legislative framework in accordance with European best practices.

With the aim of strengthening the institutional setting of the Agency, a Glossary of Competition Terms and several Guidelines on various competition issues were prepared. The Project continues to support the process of enhancement of competition legislation.

Capacity Building

Project experts have concluded a comprehensive analysis of the Agency's organisation and functions that led to targeted recommendations. The Agency has already taken part in over 20 tailor-made training seminars on competition enforcement issues, while additional capacity building activities are ongoing. Almost 20 GCA officials participated in study visits and internships in International organisations and leading European Competition Authorities, and more will come in 2019. Project organises specialised English language courses to facilitate the legislative approximation process, increase accuracy in translation and prepare staff for intensified international collaboration.

Collaboration with Sector Regulators and other Institutions

The Project supports the systematization of the Agency's collaboration with sector regulators and other Georgian institutions as well as with its counterparts in other countries. It includes institutional dialogue and the signing of MoUs between the GCA and other institutions, including three sector regulators, as well as workshops on competition enforcement for the regulators and the State Procurement Agency.

International Cooperation

The project supports institutional dialogue with foreign authorities as well as active participation in international events and effective interaction between the GCA and major international organisations (UNCTAD, OECD, ICN, and EU) to strengthen the standing and visibility of the Competition Agency of Georgia at International level.



Study Visit to DG COMPETITION – Brussels

Competition Culture

Targets of the Project's activities for increasing competition culture in Georgia include Parliament, Government, Sector Regulators, State institutions, business sector, SMEs, business lawyers, Judiciary etc. Since January 2017, when the Project kicked off, about 20 events have been supported in order to increase awareness about the importance of competition and the role of the Competition Agency in the Georgian economic environment. In December 2018 guided by the Project, the Agency adopted a comprehensive "Competition strategy" including an action plan for the year 2019. It will be systematically renewed in the coming years and target all main stakeholders, including SMEs, consumers and general public.

“Competition is not only the basis of protection to the consumer, but is the incentive to progress.” *Herbert Hoover*

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