

ENFORCEMENT OF THE COMPETITION LAW IN REGULATED SECTORS:

- Possible violations of competition regulations in the regulated sectors of economy as well as concentration-related issues are considered by regulatory bodies (National Bank, Georgian National Energy and Water Supply Regulatory Commission, Communications Commission) based on the Law of Georgia „On Competition”.
- If one of the actors (or a party to the concentration) is not acting within a regulated sector or the action itself (subject of the dispute) has taken place in a non-regulated sector, the issue shall be reviewed/investigated by the Agency.
- Legislation provides for certain issues that the regulatory bodies and the Agency have to cooperate about.



CoMPETITION!

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MAIN AMENDMENTS TO THE LAW OF GEORGIA „ON COMPETITION“

As a result of the amendments made to Law of Georgia „On Competition” in September 2020, national competition legislation was approximated to the standards used in the EU to the fullest extent. Besides meeting the challenges the Agency faces and serving as a tool for eradicating different practical and legal shortcomings, these amendments will also assist in better protection of the rights of the parties in competition-related legal proceedings and ensuring the procedural justice.

Most of those amendments entered into force from November 4 and the present brochure aims at informing the stakeholders about the new amendments made in the legislation.

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PROCEDURAL AMENDMENTS:

- If you have information about a certain individual/group of individuals violating the requirements of the competition law as a result of which you are sustaining damages, you must apply to the Agency using the relevant **complaint** form (see the form at: www.competition.ge). Please bear in mind that in the subsequent proceedings you will be viewed as a party and you will bear the burden of proof.
- If you simply have information about a possible violation of competition law, which does not directly affect you, but you believe that the violation endangers competition, you can submit an **application** to the Agency. Please bear in mind that the Agency will take your application under advisement and launch investigation on its own initiative only in case it has a reasonable doubt to do so.
- In case of submitting a complaint to the Agency, bear in mind the following in connection with the timeframes for its consideration:
 - The Agency shall have 30 working days for making a decision about launching the investigation. This time period may be extended for a maximum of 15 working days;
 - **The investigation may last for 6 months**, based on the complexity and significance of the case, the investigation may be extended for additional 18 months.
- During the performance of its duties, the Agency is authorized to request any type of **information/documentation** (including confidential data) from an undertaking/party/interested party regarding its activities and/or concrete actions/operations. Therefore, if you receive a letter from the Agency requesting information/documentation:

- You are obliged to fully provide the Agency with the requested information/ documentation within the time period indicated in the letter or submit a substantiated application to the Agency requesting extension of the term for no more than 15 working days;
- You are authorized to ask the Agency to consider the data submitted by you as a commercial secret (in case of existence of relevant grounds for it);
- Failure to submit the data within the established time periods, submission of incorrect information and provision of incomplete data shall be considered as a failure to submit the data to the Agency and you will be fined with a corresponding amount.
- Please bear in mind that the Agency is authorized to carry out an on-site **inspection of the undertaking's activities** based on the court ruling and you will not be notified about it beforehand. Besides, during the inspection you will have corresponding rights and obligations including the right to invite a lawyer and/or other representatives during the on-site inspection. At the same time, you are obliged to cooperate with the authorized representatives of the Agency and refrain from hindering the on-site inspection process.
- Before the Agency makes a final decision as a result of the investigation, a summary meeting shall take place where the parties will have the opportunity to present their opinions. Before the summary meeting you will receive a **draft decision of the Agency** in the written form along with case materials and you will be given 25 working days for presenting additional data/evidence.
- Please bear in mind that damaging a competitor's reputation, its baseless criticism or discrediting, dissemination of information that forms misconceptions among customers that urge them to take certain economic steps and other similar actions represent **unfair competition**, which is forbidden under competition law; such actions shall result in the fine equaling 1% of the previous year's turnover.

AMENDMENTS RELATED TO THE CONCENTRATIONS:

- You are obliged to submit a **preliminary notification to the Agency** on the planned concentration, if the combined annual turnover of the parties participating in the operation on the territory of Georgia exceed 20 million GEL as of the financial year preceding the obligation to submit the aforementioned notification arose and at the same time, at least two parties to the concentration have at least 5 million GEL annual turnover each. In this case please take into account that:
 - The fee for reviewing the notification of concentration by the Agency equals 5,000 GEL;
 - Information on the planned concentration shall be published on the Agency's official website (confidential data shall be protected) and all stakeholders shall have the opportunity to present their opinions;
 - Process of analyzing the notification of concentration consists of two phases. In particular, the Agency shall assess the compatibility of the concentration with competitive environment and clear the concentration (1st phase). If the case requires in-depth analysis or there is a suspicion that the concentration may not be compatible, a second phase investigation is opened, which lasts for 90 working days;
 - If during the process of reviewing the concentration notification a suspicion arises according to which essential restriction of efficient competition is to be expected, you may offer the Agency to change the planned operation in the form of structural and/or behavioral remedy. At the same time, if the relevant steps are not taken within the established timeframes, you will be fined and the Agency shall apply to court and petition the annulment of the concentration with a view to reverting to the original conditions;
 - In case of implementing concentration without applying to the Agency, before the Agency reviews the notification or in spite of the negative conclusion made by the Agency, you will be fined.