

Transparency International Georgia Publishes a Report on *Competition Policy in Georgia*

For immediate release

Tbilisi, August 3, 2012 – Transparency International Georgia has published its new report “Competition Policy in Georgia”. The report examines the existing institutional framework in Georgia and the trends in the selected sectors of Georgian economy (fuel and food market). It also provides specific recommendations which the government needs to consider in order to implement effective competition policy.

Main Findings:

- Georgia has a highly liberalized economy with few formal (legislative and administrative) barriers. Nevertheless, certain segments of the country’s market are highly concentrated. According to economic theory, highly concentrated market structure leads to high profit margins;
- A number of structural problems of the Georgian economy might be caused by lack of competition in the market and institutional framework, since liberalization and deregulation cannot succeed without effective competition policy;
- Laws regulating competition in Georgia were repealed in 2005. Consequently, there was no effective control over the protection of competition rules and principles. This created risks of well-established market players engaging in anti-competitive practice and abusing their market power;
- Recently passed competition legislation sets forth basic regulations for competition policy, which is a step forward. However, further improvements are necessary for creating conditions that are conducive to free and fair competition in the market as well as effective supervision of the competition;
- Exemptions provided in the legislation (viz., Article 8 and Article 9 of the Georgian law on Free Trade and Competition) do not conform with the EU Regulations and create the possibility of eliminating competition in respect of a substantial part of the market;
- Trends and symmetry revealed while examining commercial strategies of dominant players in the fuel and food markets might indicate the possibility of anti-competitive practices and market division, which has a negative impact on consumers, the country’s economy, investment attractiveness and economic welfare. These trends might be the result of lack of proper institutional framework, which could not certainly ensure either free and fair competition in the market or transparent and non-discriminatory access to the market;
- To help create a competitive market structure the government has to carry out effective supervision of competition in the market;
- Although there are not many formal barriers, fuel market is oligopolistic;
- It is observed that the fuel market tends to consolidate (the number of market players is decreasing) and the prices are increasing. In 2006-2011 the share of medium-sized companies in the overall fuel retail market turnover has decreased from 20% to 7%, while the employment share of these companies decreased from 47% to 17%;
- A certain anomaly is characteristic of the fuel price dynamics in Georgia – observations show that the price increase in the international market (Platts) is followed by increase in prices in Georgia. However, Georgian fuel prices do not decrease in the wake of decrease in Platts prices;

- Essential parallelism is observed among the prices of different companies operating on the fuel market as well as change in the prices;
- Symmetry, which is evident while observing commercial strategies of the players in the fuel market, might indicate that the companies are trying to coordinate their market strategies;
- The fuel import data by the Italian Customs Service and the Georgian Revenue Service are significantly different. A comparable discrepancy is observed in the fuel import data by the Bulgarian Customs Service and the Georgian Revenue Service;
- Georgia is highly dependent on food import, which is why increase in food prices internationally from the second half of 2010 put inflationary pressure on the Georgian food market;
- Food sector is a particularly important sector of the Georgian economy, as food is consumed by everyone, including those below the poverty line (in 2007-2009 spendings on food equalled 43% of the consumer basket, in 2010-2011 – 38.8%). Therefore, it is important that the food prices do not increase because of anti-competitive practices by economic agents;
- As natural milk (which varies seasonally) and meat products produced in Georgia cannot fully meet the local demand, import makes up for the shortage. Milk powder and vegetable fat are also used in dairy production;
- While falsification and violation of labelling rules are one of the major problems in the market of dairy produce, food safety is the most troublesome problem in the meat market, which is exacerbated by food additives and lack of supervision;
- Institutional factors have had an impact on the dynamics of competition in the food market. 2004 reform, which aimed to change the ineffective soviet-type control system, was suspended by the end of 2006. Inspection of the food producer/distributor companies as part of food safety supervision also stopped. Apart from this, starting in 2007 it was not required to register as a food producer and/or distributor. At this stage of the reform the law of Georgia on Food Safety and Quality gave only the rudimentary food safety definitions and principles, while mechanisms for monitoring food safety and quality were suspended. As a result, no regular state monitoring of food safety was done, which posed a serious threat to the consumers' health and life. This period saw the incidence of food and water-related poisonings increase;
- In 2009 the European Commission named sanitary and phytosanitary measures and competition as a priority before starting negotiations on the Deep and Comprehensive Free Trade Agreement between Georgia and the European Union;
- Recently adopted food/animal Food Safety, Veterinary and Plant Protection Code has combined the basic laws in the fields of food safety, veterinary and plant protection. Adoption of the regulations is, admittedly, a step forward.

Recommendations:

We propose that the Georgian Government:

- Improve the regulatory framework with a view to carrying out effective supervision of competition;
- In order to harmonize the Georgian market with the EU's:
 - decrease the thresholds of the agreements of minor importance as set forth in Article 8 of the law on Free Trade and Competition;

- ensure that the exemptions, which do not fall under the competition regulation (Article 9 of the law on Free Trade and Competition), do not create a possibility of eliminating competition in respect of a substantial part of the relevant production;
 - segregate functions effectively of the Competition and State Procurement Agency and the independent industry regulators;
 - give service fees to be charged by Competition and State Procurement Agency in the law;
- Implement the *Leniency Programme* - one of the main tools for fighting against anti-competitive practices by market players;
 - The Georgian Revenue Service juxtapose fuel import data with the customs data of the exporting countries to ensure accuracy of its data;
 - The Competition and State Procurement Agency assess and investigate the markets discussed in the report to help create a genuinely competitive market structure. The agency should establish:
 - whether the equilibrium established in the examined markets is a natural outcome.
 - whether the statistical regularity that we found is indicative of market players attempting to coordinate their prices;
 - whether the increase in prices is caused by a consolidated market structure, which weakened price competition and increased profit margins.

See detailed findings and recommendations in the report.

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