

Chapter 7 Lithuania

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A. Market definition in competition and media law in Lithuania

I. Introduction

Lithuania started to form its competition policy instruments shortly after re-establishing its independence in 1990¹. The first Law on Competition was adopted as early as in 1992². Although this law possessed many very positive aspects and served as a good tool for helping to establish the foundations of a market economy environment in Lithuania, the substantial legislative adjustments were required at a later stage when the country's accession to the EU was declared to be the main political goal for the years to come. The so called Europe Agreement between Lithuania and the European Communities³, signed on 12 June 1995, represents a major benchmark on Lithuania's way towards EU integration. The Europe Agreement contained provisions obliging Lithuania to follow the EC pattern when dealing with the competition policy matters and to adjust its competition laws to the respective legislative enactments on the European level⁴. In order to comply with the requirements posed by the Europe Agreement, Lithuania enacted a new Law on Competition in 1999⁵. This law, as amended in April 2004⁶ (hereinafter – the Law on Competition⁷), is the main legislative act governing the competition policy in Lithuania at the moment of conducting this study. **7.1**

¹ The declaration on Lithuania's independence from the USSR was passed by the Supreme Council of Lithuania on 11 March 1990: "Act on the Re-establishment of the State of Lithuania" (Lietuvos Respublikos Aukščiausiosios Tarybos Aktas, "Dėl Lietuvos nepriklausomos valstybės atstatymo"), published in Valstybės žinios (Official Gazette), 1990, Nr. 9-222.

² Law on Competition ("Lietuvos Respublikos Konkurencijos įstatymas"), 15.09.1992, published in Valstybės žinios (Official Gazette), 1992, Nr. 29-841.

³ Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, OJ L 051, 20.2.1998, p. 3.

⁴ Articles 64–70 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, OJ L 051, 20.2.1998, p. 3.

⁵ Law on Competition ("Lietuvos Respublikos Konkurencijos įstatymas"), 23.03.1999, published in Valstybės žinios (Official Gazette), 1999, Nr. 30-856.

⁶ Law Amending and Supplementing the Law on Competition of the Republic of Lithuania, Repealing the Law on Monitoring of State Aid to Undertakings and Amending Article 1 of the Civil Process Code ("Konkurencijos įstatymo pakeitimo ir papildymo, Valstybės pagalbos ūkio subjektams kontrolės įstatymo pripažinimo netekusiu galios ir Civilinio proceso kodekso 1 straipsnio pakeitimo įstatymas"), 15.04.2004, published in Valstybės žinios (Official Gazette), 2004, Nr. 63-2244.

⁷ The Consolidated version of the Law on Competition can be accessed on the web-page of the Lithuanian Competition Council : www.konkuren.lt.

According to the European Commission, Lithuania did not face any major difficulties at the pre-accession stage regarding the competition policy and made fluent progress in this field⁸. The Commission has affirmed the existence of the main legal and administrative instruments in the competition field in Lithuania⁹. Any shortcomings thus are to be ascribed to grounds other than the formal existence of rules and procedures (e.g. lack of experience, shortage in resources, etc.), and this is where the main emphasis of the responsible Lithuanian authorities shall concentrate upon in the time to come¹⁰. **7.2**

1. Relevant legislation

The Law on Competition is the main piece of legislation governing the competition policy area in Lithuania. This law was adopted on March 23, 1999, and came into force on April 2, 1999¹¹. The European Commission acknowledged the close alignment of this Law to the Community *acquis* and its correspondence to the basic concepts of the EC anti-trust rules¹². The amendments made to the Law on Competition in 2004¹³ were done mostly due to the competition law reform on the European level, namely – to fulfil the requirements of the Council Regulation (EC) No. 1/2003 of 16.12.2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty¹⁴. **7.3**

The purpose of the Law on Competition is defined in Para. 1 of Article 1: to protect freedom of fair competition in the Republic of Lithuania. Both public as well as private authorities are subject to the provisions of the Law (Article 1, Para. 2; Article 4), and it applies to both national as well as foreign undertakings as long as their actions have a restrictive effect on competition in the territory of Lithuania (Article 2). The Law on Competition covers such competition law issues as prohibition of restrictive agreements (Articles 5 and 6), abuse of dominant position (Article 9), control of concentrations (Articles 10 to 15), and unfair competition (Articles 16 and 17). The Law also contains rules laying down the basic institutional arrangement of the competition control in Lithuania (Articles 18 to 22), the procedural rules (Articles 23 to 37) and rules related to judicial investigation (Articles 38 and **7.4**

⁸ See: Regular Reports (1998-2003) from the Commission on Lithuania's progress towards accession. Reports can be accessed on the official web-page of the EU: <http://europa.eu.int/comm/enlargement/lithuania/index.htm>.

⁹ E.g. 2002 Regular Report on Lithuania's progress towards accession, accessed on the official web-page of the EU: http://europa.eu.int/comm/enlargement/report2002/lt_en.pdf.

¹⁰ E.g. 2003 Comprehensive monitoring report on Lithuania's preparations for membership, accessed on the official web-page of the EU: http://europa.eu.int/comm/enlargement/report_2003/pdf/cmr_lt_final.pdf.

¹¹ Law on Competition ("Lietuvos Respublikos Konkurencijos įstatymas"), 23.03.1999, published in Valstybės žinios (Official Gazette), 1999, Nr. 30-856.

¹² 1999 Regular Report from the Commission on Lithuania's progress towards accession, accessed on the official web-page of the EU: http://europa.eu.int/comm/enlargement/report_10_99/pdf/en/lithuania_en.pdf.

¹³ Law Amending and Supplementing the Law on Competition of the Republic of Lithuania, Repealing the Law on Monitoring of State Aid to Undertakings and Amending Article 1 of the Civil Process Code ("Konkurencijos įstatymo pakeitimo ir papildymo, Valstybės pagalbos ūkio subjektams kontrolės įstatymo pripažinimo netekusiu galios ir Civilinio proceso kodekso 1 straipsnio pakeitimo įstatymas"), 15.04.2004, published in Valstybės žinios (Official Gazette), 2004, Nr. 63-2244.

¹⁴ OJ L 1, 04.01.2003, p.1.

39), as well as a chapter on liability for infringements of the Law on Competition (Articles 40 to 46). A chapter on application of the EC competition and State aid rules by Lithuanian authorities was added to the Law by the amendments made in 2004 (Articles 47 to 50).

As far as secondary regulation is concerned, substantial changes were brought about by the Resolution of the Council of September 2, 2004¹⁵. By this resolution, the Council annulled a number of exemption regulations it had adopted earlier¹⁶, and prescribed direct application of respective Community exemption regulations (with slight adjustments, for instance, regarding annual turnovers of the companies involved) in Lithuania. The implementing documents still in force include, for instance, resolution on the *de minimis* agreements¹⁷, resolution on merger notifications¹⁸, or on the assessment of dominant position¹⁹. Of particular interest for the purposes of this study is the Decision Nr. 17 of the Competition Council of February 24, 2000 On the definition of relevant markets²⁰. **7.5**

Apart from the Law on Competition, two other legislative documents assign a number of tasks to the Lithuanian Competition Council: the Law on Prices²¹ and the Law on Advertising²². Under the Law on Prices, the Council assesses the prices and tariffs on goods and services of monopolistic character supplied by state enterprises and public institutions²³. Procedural rules **7.6**

¹⁵ Resolution Nr. 1S-132 On annulment of the agreements complying with the terms set forth under Paragraph 1 of Article 6 of the Law on Competition of the Republic of Lithuania and certain resolutions of the Competition Council of the Republic of Lithuania (Dėl susitarimų, tenkinančių Lietuvos Respublikos konkurencijos įstatymo 6 straipsnio 1 dalies sąlygas, ir dėl kai kurių Lietuvos Respublikos konkurencijos tarybos nutarimų pripažinimo netekusiais galios), 02.09.2004, published in Valstybės žinios (Official Gazette), 2004, Nr. 137-5027.

¹⁶ Among others, these exemption regulations concerned block exemptions for vertical agreements, block exemptions for certain agreements in transport sector, individual exemptions in the insurance sector, individual exemptions for horizontal cooperation agreements, individual exemptions for technology transfer agreements, etc.

¹⁷ Resolution Nr. 1 On approval of requirements and conditions for agreements which due to their small impact cannot particularly restrict competition (Dėl reikalavimų ir sąlygų susitarimams, kurie dėl savo mažareikšmio poveikio negali itin riboti konkurencijos), 13.01.2000, as amended by Resolution Nr. 1S-172 of 09.12.2004, published in Valstybės žinios (Official Gazette), 2000, Nr. 6-176.

¹⁸ Resolution Nr. 45 On approval of the procedure for submission and examination of notification on concentration and of calculation of aggregate turnover ("Dėl pranešimo apie koncentraciją pateikimo, nagrinėjimo ir bendrųjų pajamų apskaičiavimo tvarkos patvirtinimo"), 27.04.2000, as amended by Resolution Nr. 1S-4 of 13.01.2005, published in Valstybės žinios (Official Gazette), 2005, Nr. 14-469.

¹⁹ Resolution Nr. 52 On the declaration of the Competition Council regarding the determination of a dominant position ("Dėl Konkurencijos tarybos paaiškinimų dėl dominuojančios padėties nustatymo"), 17.05.2000, as amended by Resolution Nr. 1S-15 of 03.02.2005, published in Valstybės žinios (Official Gazette), 2000, Nr. 52-1516.

²⁰ Decision Nr. 17 On the definition of relevant markets („Dėl Konkurencijos tarybos paaiškinimų dėl atitinkamos rinkos apibrėžimo“), 24.02.2000, published in Valstybės žinios (Official Gazette), 2000, Nr. 19-487.

²¹ Law on Prices (Lietuvos Respublikos kainų įstatymas), 26.07.1990, published in Valstybės žinios (Official Gazette), 1990, Nr. 22-542.

²² Law on Advertising (Reklamos įstatymas), 18.07.2000, published in Valstybės žinios (Official Gazette), 2000, Nr. 64-1937.

²³ Electricity, hot and cold water, and natural gas are exempted from the ambit of the Law on Prices.

implementing this law have been adopted by the Lithuanian Government in 2002²⁴, prescribing that the price-fixing measures for goods and services of monopolistic character are subject to coordination with the Competition Council. The Law on Advertising, in its turn, empowers the Competition Council to deal with the cases of misleading and comparative advertising (Article 17). In carrying out this task, the Council is entitled, among others, to take a decision establishing the fact of misleading or comparative advertising, to take a decision prohibiting certain advertisements, or to apply sanctions upon the entity at fault (Article 19). For the purposes of this study, however, neither the Law on Prices nor the Law on Advertising are of inferior importance as it is either not necessary at all or there is no need for a very thorough definition of the relevant markets when dealing with the infringements of both acts.

2. *Relevant institutions*

The responsible authority for the competition policy matters in Lithuania is the Competition Council. It is an autonomous unitary body, established by 1999 Law on Competition. This law replaced earlier institutional arrangement laid down by the Law on Competition of 1992. Under this earlier law, two administrative institutions were responsible for competition policy issues in Lithuania, namely – the State Competition and Consumer Protection Office on the one hand, and the Competition Council on the other. The Office was an executive governmental agency in charge for the investigations concerning possible violations of the 1992 Law on Competition. The Council, in its turn, was a collegial decision making body, imposing sanctions upon those who were found to be in breach of the law by the Office. Both institutions were pure governmental agencies without a formal independence as enjoyed by the current Competition Council²⁵. **7.7**

The status, tasks, powers and structure of the Council are laid down in Chapter IV of the Law on Competition (Articles 18 to 22). According to Article 18, the Competition Council is a public body implementing the state competition policy and supervising compliance with the Law on Competition, it is a budgetary institution, and acts in accordance with the legislative acts of the Republic of Lithuania and international agreements to which Lithuania is a party. The Council consists of a Chairperson and four Members, which are being nominated by the Prime Minister of Lithuania and officially appointed by the President of the Republic (Article 20). The documents regulating the internal organisation and functions of the Council, as well as laying down procedural rules for the actions and investigations of the Council have been adopted by the Council as implementing measures of a number of Articles of the Law on Competition (e.g. Article 19 Para.3, Article 20 Para. 7, Article 25 Para. 2)²⁶. **7.8**

²⁴ Resolution Nr. 756 “On the approval of the general procedure for pricing of goods and services of monopolistic character supplied by state enterprises and public institutions established by Ministries, Government institutions and county administration offices and controlled thereby” (Dėl Ministerijų, Vyriausybės įstaigų ir apskričių viršininkų įsteigtų ir jiems priskirtų valstybės įmonių bei viešųjų įstaigų teikiamų monopolinio pobūdžio prekių ir paslaugų kainų bei tarifų nustatymo bendrosios tvarkos patvirtinimo), 28.05.2002, published in Valstybės žinios (Official Gazette), 2002, Nr. 54-2127.

²⁵ More on institutional framework under 1992 Law on Competition and on the changes brought about by 1999 Law on Competition, see: *Enforcement of competition rules in Lithuania: the first decade*, accessed on the web-site of the European Bank for Reconstruction and Development: <http://www.ebrd.com/pubs/law/lit/sp04/10enforcement.pdf>.

²⁶ See: Decision of the Government of the Republic of Lithuania Nr. 822 On the approval of the statutes of the Competition Council (Lietuvos Respublikos Vyriausybės nutarimas Nr. 822 Dėl Lietuvos Respublikos konkurencijos tarybos nuostataų patvirtinimo), 12.07.1999, as amended by Decision Nr. 1178 of 22.10.1999. and Decision Nr. 1171 of 15.09.2004, published in Valstybės žinios (Official Gazette), 1999,

The main duties of the Competition Council are stated in Paragraph 1 of Article 19 of the Law on Competition. According to this Article, the Competition Council shall: **7.9**

- control the compliance by undertakings, public and local authorities with the requirements of the Law on Competition;
- establish criteria and procedures necessary for the definition, investigation and assessment of relevant markets and position of particular undertakings on these markets, as well as to carry out these activities;
- request from undertakings (both private and public) information necessary to carry out market investigations and other tasks of the Council;
- examine the conformity of legal acts or administrative decisions taken by public or local authorities with the requirements of the Law on Competition, and in the case of deficiencies to take the necessary steps to fix them;
- investigate the infringements of the Law on Competition and to impose penalties;
- if necessary, to bring actions before the court;
- adopt legal acts within the limits of its competence;
- contribute its expert knowledge to Parliament and Government in drafting laws and other legal documents related to the competences of the Council.

Particular aspects of investigative powers of the Council are disclosed in Section IV of the Law on Competition. Thus, Article 23 explicitly mentions areas which fall under the investigative competence of the Competition Council: agreements restricting competition; abuse of dominant position; examination of concentrations; cases of unfair competition. **7.10**

National courts can be involved into the competition law proceedings on various grounds. Firstly, the Vilnius Regional Administrative Court is responsible, in accordance with Article 38 Paragraph 1 of the Competition Law, for the appeals against the resolutions of the Competition Council. Secondly, the same Vilnius Regional Administrative Court is to be called upon when the authorised officer carrying out the investigation of the case decides to get access to the documentation and notes of undertaking(s)²⁷, to apply interim measures requiring a rapid action from the side of an undertaking²⁸, or to suspend business operations of an undertaking upon the respective resolution of the Council²⁹ (Article 29 Para.1). Thirdly, the Law on Competition prescribes involvement of the national judiciary in cases where the EC competition rules are at stake: (a) the Vilnius Regional Administrative Court authorises the use of force and inspections as provided for by Articles 20 and 21 of the Council Regulation 1/2003³⁰; (b) the Vilnius Regional Court is obliged to notify the European Commission and **7.11**

Nr. 62-2047; Regulation of the work of the Competition Council (Lietuvos Respublikos konkurencijos tarybos darbo reglamentas), as adopted in a new version by the Decision of the Competition Council Nr. 1S-139 of 16.09.2004, published in Valstybės žinios (Official Gazette), 2004, Nr. 149-5453; Decision of the Competition Council Nr. 119 On the Competences of the Members of the Competition Council (Dėl Lietuvos Respublikos konkurencijos tarybos narių kompetencijos), 31.10.2002, published in Valstybės žinios (Official Gazette), 2002, Nr. 111-4957; The Statutes on the Administration of the Competition Council (Lietuvos Respublikos konkurencijos tarybos administracijos nuostatai), as adopted in a new version by the Decision of the Competition Council Nr. 1S-96 of 10.06.2004.

²⁷ See Article 26 Paragraph 2 Subparagraph 2 of the Law on Competition.

²⁸ See Article 28 Paragraph 2 of the Law on Competition.

²⁹ See Article 40 Paragraph 2 of the Law on Competition.

³⁰ Council Regulation (EC) No. 1/2003 of 16 December 2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 04.01.2003, p.1.

the Competition Council in case if a complaint concerning possible violation of Articles 81 and 82 of the EC Treaty has been received, and shall renew the proceeding in case if the judgement of the Court on the application of Articles 81 and 82 EC differs from the decision of the Commission on application of the said Articles in the proceedings concerning the same subject matter (Article 50). Additionally, the judiciary could be involved in a dispute with regard to the interpretation of the provisions of the EC [competition] law, requiring it to stop the proceedings and to refer the necessary questions to the European Court of Justice under the preliminary ruling procedure provided for in Article 234 EC Treaty.

3. *EC competition rules*

By the amendments of April 15, 2004, implementing the Council Regulation No 1/2003³¹, a **7.12** new chapter was added to the Law on Competition – Chapter VII : “Application of European Union competition rules”. The Chapter authorizes the Competition Council to be the responsible institution for the application of the EC competition rules in Lithuania (Article 47). Both the EC State aid matters (maintenance of the State aid register) as well as antitrust proceedings (assistance to the European Commission in investigating antitrust cases) are covered by this Chapter (Articles 48 and 49 respectively). Article 50 prescribes the procedure in those cases when Lithuanian judiciary has to apply the EC competition rules in proceedings before it (obligation to forward the decision of the Court to the European Commission and the Competition Council; obligation to renew proceedings in case if the European Commission has adopted contradicting decision). One shall also keep in mind that the Competition Council is the body which represents Lithuanian in the work of the European Competition Network³².

II. The general approach to market definition in Lithuanian competition law

The Law on Competition in a number of its articles explicitly refers to the relevant market as **7.13** a constitutive part of a particular activity or infringement and the resulting effects. Thus, Article 9 prohibiting abuse of a dominant position by an undertaking states that such abuse shall be prohibited within the relevant market. Similarly, Article 6 allows granting an exemption to a restrictive agreement which, among others, does not impede competition in a large share of the relevant market. The definition of what constitutes a relevant market, as well as its both dimensions, is provided in Article 3 of the Law on Competition. According to this Article:

Relevant market means the market of certain goods in a relevant geographic territory (Para. 5).

Product market means the aggregate of goods which from the consumer’s point of view are appropriate substitutes according to their characteristics, application and price (Para. 6).

Geographic territory (geographic market) means the territory in which the conditions of competition in a relevant product market are essentially similar to all undertakings and which, taking into consideration this fact, can be distinguished from adjacent territories (Para. 7).

³¹ Law Amending and Supplementing the Law on Competition of the Republic of Lithuania, Repealing the Law on Monitoring of State Aid to Undertakings and Amending Article 1 of the Civil Process Code (“Konkurencijos įstatymo pakeitimo ir papildymo, Valstybės pagalbos ūkio subjektams kontrolės įstatymo pripažinimo netekusiu galios ir Civilinio proceso kodekso 1 straipsnio pakeitimo įstatymas”), 15.04.2004, published in Valstybės žinios (Official Gazette), 2004, Nr. 63-2244.

³² See: Commission Notice on cooperation within the Network of Competition Authorities, OJ C 101, 27.04.2004, p.43.

As far as application of the above mentioned concepts in the decisional practice of the Competition Council is concerned, Article 19 Paragraph 1 Subparagraph 2 is of particular significance. This Article empowers the Competition Council, firstly, to establish the criteria and procedure on how to carry out the relevant market definition, and secondly, actually to define the relevant markets when evaluating the market position of particular undertakings. Implementing the stipulations of this Article, the Competition Council adopted on February 24, 2000 a Notice on the definition of the relevant market³³. **7.14**

The Notice provides the basic principles and criteria to be followed when defining the relevant market for the purposes of the Law on Competition. This Lithuanian Notice explicitly states that the principles and criteria contained in this Notice are derived from the “Commission Notice on the definition of the relevant market for the purposes of Community competition law” as well as from the experience and laws of other countries and from the earlier practice of the Competition Council itself. **7.15**

The Lithuanian Notice thoroughly describes such issues as different competitive constraints influencing relevant market definition, product as well as geographic dimensions of the relevant market, or implications of earlier market definition as adopted either by the Council or by the European Commission or an authority of another country. Just like the Commission’s Notice, Section 2 of the Lithuanian counterpart mentions three main constraints which come into consideration when defining the relevant market: demand side substitutability, supply side substitutability and potential competition. From these three, the demand side substitutability, i.e. substitutability of the product/service within a certain territory from the point of view of the customers, is identified by the Notice as being of primary importance. The factor of potential competition, to the contrary, is excluded by the Notice from the application when defining relevant markets, and is suggested to be used at a later stage of the market examination (Article 13). **7.16**

1. Relevant product market

The wording of the definition of the [relevant] product market as disclosed in Paragraph 6 of Article 3 of the Law on Competition indicates that the demand side substitutability plays the major role when defining the relevant product market for the purposes of the competition law cases. The same approach is followed also by the Lithuanian Notice, which places the consumers’ viewpoint at the heart of the market analysis³⁴. Although, according to the Notice, characteristics and intended use of the product, as well as the price differences resulting from these particular factors, are to be analysed first when deciding on the possible scope of the relevant product market (Article 18), also other factors can be taken into account when establishing possible substitutability of the goods in question. Such factors are, among others (Article 19): **7.17**

- any factual evidence on substitutability of products,
- cross-elasticity of products (quantitative test),
- pattern of price fluctuations of particular products,

³³ Decision Nr. 17 On the definition of relevant markets („Dėl Konkurencijos tarybos paaiškinimų dėl atitinkamos rinkos apibrėžimo”), 24.02.2000, published in Valstybės žinios (Official Gazette), 2000, Nr. 19-487.

³⁴ See Para. 7.16 above.

- views of consumers and market participants,
- particular market structures,
- existing market barriers precluding a switch to alternative products,
- different consumer categories.

Which are the decisive criteria in each particular case, lays within the discretion of the Competition Council. The following analysis of the decisions taken by the Competition Council provides an insight into the practical application of some of the above mentioned aspects. **7.18**

a) Demand-Side Substitutability

As already mentioned before, the demand side substitutability has been indicated by Lithuanian legislation as the main criteria in delineating relevant product markets. In analysing the demand side substitutability, the Lithuanian Notice indicates such features as intended use of the product, product characteristics, and the price of the product as the most decisive ones in framing the position of consumers regarding possible substitutability of different items (Article 8). Additionally, the Notice mentions the test of a small but significant non-transitory increase in price of a particular product in the range of 5 to 10 % and the following economic consequences experienced by an undertaking doing so as a tool to assess the scope of particular relevant market. **7.19**

The decisional practice of the Competition Council follows this position. The majority of the decisions containing any analysis regarding the relevant markets are using the demand side argumentation to delineate particular markets. The reasoning, however, in most of the cases is very limited and is restricted to merely mentioning the respective criteria to substantiate the Council's statements. **7.20**

Thus, in its decision Nr. 8 b of May 18, 2001³⁵, the Council only stated that gasoline, diesel fuel and crude oil are not, from the consumers' point of view, *substitutable* either among themselves, or with other products, and therefore each of these three products comprises its own product market. Similar reasoning was followed by the Council in another case related to the oil products. In the decision in the case Nr. 11 b of July 10, 2000³⁶, the Council mentioned product *characteristics*, *price differences* and *intended use* of different oil products, before separating the market for gasoline from the market for diesel fuel, and then subdividing the market for gasoline into two different relevant markets according to the particular type of gasoline (A-80 on the one hand, and A-92, A-95 and A-98 on the other). In the same way, the Council decisions in the cases Nr. 8 b of June 15, 2000³⁷ and Nr. 15 b of November 9, 2000³⁸ simply mention, without any substantiation, the price, characteristics and the intended use as the sole arguments in defining the relevant product markets as the market for the services of the heat supply, and the market for the lease of heat supply equipment (collectors) respectively. Yet on another occasion, the *characteristics of the after-sale services* offered by two undertakings, among other criteria, have been relied upon by the Council to conclude that **7.21**

³⁵ Case Nr. 8 b, 18.05.2001.

³⁶ Case Nr. 11 b, 10.07.2000.

³⁷ Case Nr. 8 b, 15.06.2000.

³⁸ Case Nr. 15 b, 09.11.2000.

three companies involved into the dispute were active on the same relevant product market for IT services³⁹.

The same argumentation regarding the characteristics, price and intended use of particular products / services can be found in two other decisions of the Council. In the first case, case Nr. 12 b of December 19, 2002⁴⁰, the Council had to deal with the issues related to the agreement reached among four insurance companies to introduce a new insurance system for the vehicles in Lithuania. In deciding on what markets have been affected by the agreement in question, the Council primarily relied on the differences in *characteristics, premiums and application* of different insurance services. Based on that, the Council first differentiated between life insurance and non-life insurance services, and then further subdividing the latter into insurance services concerning accidents, illnesses, transport, etc. According to the Council, none of these particular services can be substituted by other insurance services and therefore each of them represents a separate relevant product market. The second case – case Nr. 2 b of February 21, 2002⁴¹ – represents a more detailed argumentation of the Council with regard to the use of the demand side substitutability argumentation. The subject matter of the case concerned Internet telephony services offered by a private company. The Council ruled that the Internet telephony services are separated from the voice telephony services. In doing so, the Council decided that two distinct relevant product markets shall be established for the purposes of the case at hand – market for the lease of voice transmission lines on the one hand, and market for the data transmission (Internet) on the other. The Council stated that the market for the Internet services is different from the market for the traditional Public Switched Telephone Network (PSTN) services. Firstly, the consumer *costs* associated with the use of Internet are considerably lower than those of PSTN use. Secondly, there is a big divergence in the *quality* of the two services due to the differences in their reliability, capacities, and security; the Internet transmissions are quite often delayed due to unexpected obstacles, whereas problems in using the telephone services occur much less frequently. As a result of this line of reasoning, the Council concluded that the two services in the given case constitute a separate relevant product market each.

b) Supply-Side Substitutability

The Lithuanian Notice describes the supply-side substitutability test as a tool to examine whether the suppliers of goods are able to switch their production towards the product in question in a short period of time and under small risks (Article 10). Unfortunately, there have been no decisions of the Competition Council so far where the supply-side substitutability test has been used for the purposes of defining the relevant product market.

c) Other criteria

The decisions of the Competition Council containing reasoning on the relevant product market generally follow the prescription of the Lithuanian Notice, namely that the demand side substitutability test with an emphasis on the intended use, characteristics and price of the products/services is to be applied in delineating product markets. Nevertheless, the

³⁹ Case Nr. 2s-10, 15.07.2003.

⁴⁰ Case Nr. 12 b, 19.12.2002.

⁴¹ Case Nr. 2 b, 21.02.2002.

Competition Council has used also other criteria to uphold its reasoning. Thus, in the case Nr. 2 b of February 21, 2002⁴², the Council refers to the *legal acts of the Community*⁴³ when distinguishing the market for the lease of voice transmission lines from the market for the data transmission (Internet). Additionally, a reference to the general *type of business activity* of particular company (e.g. provision of heating services⁴⁴, IT services⁴⁵, construction services⁴⁶) has been employed by the Council to define the relevant product market affected by the undertaking(s) in question.

2. *Relevant geographic market*

As already stated, the Law on Competition defines the relevant geographic market as a territory with essentially similar conditions for the competition and which thus can be distinguished from other territories. The Lithuanian Notice on the relevant market definition elaborates upon this aspect of the market analysis. Similarly to the Commission's Notice, the Lithuanian Notice generally poses a question of whether consumers would move to another territory to obtain particular good if the price for this good in the present territory was increased (Article 20). From the supply side of view, Articles 22 and 23 of the Notice indicate those kinds of constraints which could be faced by undertakings willing to establish themselves on a new market and which thus would constitute barriers for companies outside the particular area to offer their products or services in the geographic territory in question. The factors to be taken into account are, among others, the following:

- necessity to have a representation in the local area in order to be able to perform the business,
- an access to distribution networks,
- costs of setting up a distribution network,
- legislative requirements with regard to prices, tariffs, technical standards, establishment of undertakings, authorisations, packaging, etc.
- established trade flows and transportation costs, etc.

Article 24 of the Notice lists a number of "evidences" which the Competition Council shall consider when defining the relevant geographic market:

- empirical evidence on how consumers switch to other territories in the case of price increases;
- characteristics of demand, based, for instance, on national preferences for national brands, language or culture;
- opinion of consumers and competitors;
- existing pattern of consumer behaviour regarding the geographic factors;
- business flows (roots of supply);

⁴² Case Nr. 2 b, 21.02.2002.

⁴³ Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services, OJ L 192, 24.07.1990, p.10; Commission Notice: Status of voice communications on Internet under Community law and, in particular, pursuant to directive 90/388/EEC, OJ C 6/4 10.01.1998; Communication from the Commission: Status of voice on the Internet under Community law, and in particular, under Directive 90/388/EEC — Supplement to the Communication by the Commission to the European Parliament and the Council on the status and implementation of Directive 90/388/EEC on competition in the markets for telecommunications services, OJ C 369/3 22.12.2000.

⁴⁴ Case Nr. 8 b, 15.06.2000.

⁴⁵ Case Nr. 2s-10, 15.07.2003.

⁴⁶ Case Nr. 16 b, 20.12.2001.

- barriers and costs associated with diverting orders to companies located in other territories (transportation costs, rules for particular types of products, labour costs, distribution patterns, etc.).

The Competition Council has applied several of the above mentioned criteria in its decisional practice. Thus, in the case Nr. 8 b of May 18, 2001⁴⁷ and Nr. 11 b of July 10, 2000⁴⁸, the Council identified the *low transportation costs* within the territory of Lithuania as well as *homogeneous normative regulation* applicable to the whole Lithuania as the main factors to define the whole territory of the country as the relevant geographic market in these two cases dealing with the trading of the oil products in Lithuania. **7.27**

The transportation costs have also been stated as the factor influencing the definition of a relevant geographic market in the case Nr. 1 b of January 24, 2002⁴⁹, where the wholesale market for concrete was at stake. *Transportation costs*, as well as *characteristics of demand* for the product in question, its *prices*, *business capacities* of the particular undertaking and its *market share* were the relevant indicators for the Council to define the relevant geographic market as the whole territory of Lithuania. In the case Nr. 8 b of June 15, 2000⁵⁰, the Council similarly relied on the *factual circumstances in the market* – place of business activity as well as absence of any possibilities to acquire the service in question from other territorial locations – when defining the relevant geographic market for the heating services as the territory of the city Utena. **7.28**

Thus, the practice of the Competition Council shows that the relevant geographic market in the competition cases can comprise both the whole territory of Lithuania as well as more narrow areas. The limited number of decisions containing market analysis does not, however, reveal any cases where the relevant geographic market would be defined as exceeding the borders of the country. **7.29**

B. Repertoire of relevant product and geographic market in the media sector in Lithuania

The case law of the Lithuanian Competition Council does not present any decision containing a relevant market definition in the media sector⁵¹. **7.30**

In a number of cases the Competition Council has dealt with issues related to the media sector. However, none of these decisions presents any analysis of the particular markets **7.31**

⁴⁷ Case Nr. 8 b, 18.05.2001.

⁴⁸ Case Nr. 11 b, 10.07.2000.

⁴⁹ Case Nr. 1 b, 24.01.2002.

⁵⁰ Case Nr. 8 b, 15.06.2000.

⁵¹ For the purposes of this study, all decisions adopted by the Competition Council and published on its web-site were screened and evaluated. The Competition Council was questioned also concerning possible existence of non-published decisions and on the completeness of the published ones. The employees of the Council confirmed that no additional information apart from that on the Council's web-site is available and that the published decisions are complete as far as definition of the relevant markets is concerned.

involved. Thus, for instance, in the case Nr. 23 of February 8, 2000⁵², the Council, following a complaint from an undertaking, dealt with issues related to the provision of cable-TV services. In the cases Nr. 11 b of November 29, 2001⁵³ and Nr. 9 b of June 8, 2001⁵⁴ the Council, on its own initiative, investigated cases related to [misleading] advertising in newspapers. A possible situation of an unfair competition involving two newspapers was at stake in the case Nr. 10 b of October 11, 2001⁵⁵. As already stated, the Competition Council undertook no market analysis in any of the mentioned examples. An evaluation of whether such analysis was necessary in each particular case or not and whether the Competition Council correctly examines the competition cases in general, does not, however, fall within the scope of the present study.

On one occasion the Competition Council had to deal with a case the subject matter of which concerned the provision of the Internet telephony services in Lithuania⁵⁶. Although the Council broadly defined the market for the data transmission (Internet) as being one of the relevant markets affected by the activities of the companies involved, this case is not considered as falling into the category of the media market cases since the content of the case clearly shows that first and foremost the issues relating to the telecommunication services were at the core of the companies' dispute. **7.32**

C. Comparative analysis of media market definitions adopted by the European Commission and those adopted under Lithuanian national competition law

As there are no decisions of the Lithuanian Competition Council containing a relevant market definition in the media sector, the comparative analysis with the practice of the European Commission is not possible. **7.33**

Conclusions

The above analysis leads to two-fold conclusions with regard to the Lithuanian practise concerning the definition of relevant markets in competition cases. **7.34**

First, the legislative framework in the competition field in Lithuania seems to be perfectly in line with the European regulation in this field. The Law on Competition explicitly states that the aim of the law is to harmonise Lithuanian legislation with that of the EC. Thus, the structure and the wording of the Lithuanian Notice on definition of the relevant market are to a great extent identical with the Commission Notice on the definition of the relevant market for the purposes of Community competition law. Consequently, there are no reasons to question the general assessment of the European Commission that the legal framework in the **7.35**

⁵² Case Nr. 23, 08.02.2000.

⁵³ Case Nr. 11 b, 29.11.2001.

⁵⁴ Case Nr. 9 b, 09.06.2001.

⁵⁵ Case Nr. 10 b, 11.10.2001.

⁵⁶ Case Nr. 2 b, 21.02.2002.

competition field in Lithuania corresponds to the European principles⁵⁷. However, the results of this study also seem to correspond to the other acknowledgment of the Commission, namely that there is still a need for the improvement as far as the implementation of the legislative basis is concerned⁵⁸. For instance, absence of any reference to the Lithuanian Notice on the definition of relevant markets⁵⁹ in any of the Council's decisions, if seen together with a low number of decisions containing such a definition at all, does not really match the scrupulous attention paid towards this aspect of the competition law by the European Commission.

The definition of the relevant market is an essential tool when dealing with competition law matters. This has been stressed on numerous occasions by the European Court of Justice⁶⁰, and has also found confirmation in the Commission's Notice on the definition of the relevant market. The fact that the Lithuanian Competition Council has adopted its own Notice on the market definition shows that this authority is well aware of the importance and the necessity to delineate relevant markets in competition cases. Nevertheless, the majority of the available decisions, as already mentioned, are lacking such market assessment. **7.36**

Concerning the main goal of this study – to compare the practice of the Lithuanian and the EC competition authorities in defining relevant markets in cases related to the media sectors – it could not be performed due to the absence of any decisions of the Lithuanian Competition Council in the media field containing such a definition. **7.37**

⁵⁷ E.g. 2002 Regular Report on Lithuania's progress towards accession, accessed on the official web-page of the EU: http://europa.eu.int/comm/enlargement/report2002/lt_en.pdf.

⁵⁸ E.g. 2003 Comprehensive monitoring report on Lithuania's preparations for membership, accessed on the official web-page of the EU: http://europa.eu.int/comm/enlargement/report_2003/pdf/cmr_lt_final.pdf.

⁵⁹ Decision Nr. 17 On the definition of relevant markets („Dėl Konkurencijos tarybos paaiškinimų dėl atitinkamos rinkos apibrėžimo“), 24.02.2000, published in Valstybės žinios (Official Gazette), 2000, Nr. 19-487.

⁶⁰ See e.g. Case 6/72, *Continental Can v. Commission*, [1973] ECR 215, para. 14; Case 22/76, *United Brands v. Commission*, [1978] ECR 207, para.11.

D. Impact of Different Regulatory Frameworks on Market Definitions

I. Regulatory frameworks in the Republic of Lithuania having an impact on the media sector

1. Constitutional provisions

Article 25 of the Constitution of the Republic of Lithuania which is legally effective from 2 November 1992 provides that individuals shall have the right to have their own convictions and freely express them. Individuals must not be hindered from seeking, obtaining, or disseminating information or ideas. Freedom to express convictions, as well as to obtain and disseminate information, may not be restricted in any way other than as established by law, when it is necessary for the safeguard of the health, honour and dignity, private life, or morals of a person, or for the protection of constitutional order. Freedom to express convictions or impart information shall be incompatible with criminal actions - the instigation of national, racial, religious, or social hatred, violence, or discrimination, the dissemination of slander, or misinformation. Citizens shall have the right to obtain any available information which concerns them from State agencies in the manner established by law. **7.38**

2. Sector-specific regulations

- a) The 2 July 1996 Law of the Republic of Lithuania No I-1418 on Provision of Information to the Public.

This Law⁶¹ establishes the procedure for collecting, preparing, publishing and disseminating public information and the rights, duties and liabilities of public information producers and disseminators, participants therein, journalists and institutions governing their activities. **7.39**

- b) The 18 May 1999 Law of the Republic of Lithuania No VI-1185 on Copyright and Related Rights.

This law⁶² regulates:

7.40

- copyright in literary, scientific and artistic works (copyright);
- the rights of performers, producers of phonograms, broadcasting organisations and producers of the first fixation of an audiovisual work (film) (related rights);
- the rights of makers of databases (*sui generis* rights);
- exercise, collective administration and enforcement of copyright and related rights, as well as the exercise and enforcement of *sui generis* rights.

⁶¹ Official Gazette *Valstybės žinios*, 2000 n. 75-2272;

⁶² Official Gazette *Valstybės žinios*, 1999 n. 50-1598;

- c) The 1989 European Convention on Transfrontier Television which is legally effective for the Republic of Lithuania from 17 February 2000.

This Convention⁶³ is concerned with programme services embodied in transmissions. The purpose is to facilitate, among the countries which signed the Convention, the transfrontier transmission and the retransmission of television programme services. **7.41**

After the Council Directives 89/552/EEC and 97/36/EC were implemented into the Law on Provision of Information to the Public on 1 May 2004, the importance of the Convention declined, although formally it is still applicable. The Law on Provision of Information to the Public, implementing the Television without Frontier Directive, is the main legal act dealing with media as well as with broadcasting issues, this Law is also combined with the provisions of the Convention. In other words, the Convention is still a sector-specific regulation; nevertheless it is being rarely applied as the provisions of the Law on Provision of Information to the Public are harmonized with the Convention.

- d) The 18 July 2000 Law of the Republic of Lithuania No VIII-1871 on Advertising.

This Law⁶⁴ establishes the requirements of the use of advertising, liability of advertising activity operators, and the legal basis for the control of advertising use in the Republic of Lithuania. **7.42**

- e) The 15 April 2004 Law of the Republic of Lithuania No IX-2135 on Electronic Communications.

This Law⁶⁵ regulates relations pertaining to electronic communications services and networks, associated facilities and services, use of electronic communications resources as well as social relations pertaining to radio equipment, terminal equipment and electromagnetic compatibility. **7.43**

- f) The 29 June 2000 Law of the Republic of Lithuania No VIII-1780 on National Radio and Television of Lithuania.

This law⁶⁶ establishes the procedure of the founding, administration, activity, reorganization and liquidation of the National Radio and Television of Lithuania which is a public, non-profit institution owned by the State. **7.44**

- g) The 18 July 2000 Civil Code of the Republic of Lithuania.

The Civil Code⁶⁷ contains provisions regarding protection of privacy, personal rights, honor, reputation etc. **7.45**

⁶³ Official Gazette *Valstybės žinios*, 2000 n. 29-805;

⁶⁴ Official Gazette *Valstybės žinios*, 2000, n. 64-1937;

⁶⁵ Official Gazette *Valstybės žinios*, 2004, n. 69-2382;

⁶⁶ Official Gazette *Valstybės žinios*, 2000, n. 58-1712;

⁶⁷ Official Gazette *Valstybės žinios*, 2000, n. 74-2262;

h) The 13 December 1984 Code of Administrative Offences of the Republic of Lithuania.

The Code⁶⁸ provides administrative liability for dissemination of prohibited or restricted public information, infringement of requirements for broadcasting programmes, advertising, support of broadcasters, refusal to provide journalist with information or obstruction to journalist to perform his professional assignments and etc. **7.46**

The 26 September 2000 Criminal Code provides criminal liability for illegal collection and use of personal information.

i) The 5 March 2003 Resolution of the Government of the Republic of Lithuania No 290 on Information Prohibited for Disclosing in Computer Networks of Public Use.

The resolution⁶⁹ specifies which information should be banned from presentation on the internet. **7.47**

3. *Other provisions*

The Code of Ethics of Lithuanian Journalists and Publishers, 1996. The Code specifies no ethical actions of journalists and publishers which are prohibited. **7.48**

II. Regulatory authorities in the Republic of Lithuania having an impact on the media sector

1. *Lithuanian Radio and Television Commission*

a) Legal basis

The Radio and Television Commission of Lithuania is guided by the Constitution of Republic of Lithuania, the 2 July 1996 Law of the Republic of Lithuania No I-1418 on Provision of Information to the Public, its own regulations, approved by the Commission itself and the Rules for Licensing Broadcasting and Re-broadcasting Activities. **7.49**

The Commission shall comprise 13 members: one member shall be appointed by the President of the Republic, three members shall be appointed by the Seimas on a proposal from the Committee on Education, Science and Culture, one member each shall be appointed by the Lithuanian Artists' Association, the Lithuanian Cinematographers' Union, the Lithuanian Composers' Union, the Lithuanian Writers' Union, the Lithuanian Theatres' Union, the Lithuanian Journalists' Union, the Lithuanian Journalists' Society, the Lithuanian Bishops' Conference, and the Lithuanian Periodical Press Publishers' Association. Members of the Commission shall be appointed for the entire term of office of the appointing institution or the entire term of powers of the appointing organization's management body. Only a person of good repute may be appointed as member of the Commission. No appointed member of the Commission shall serve more than two consecutive terms. The legal grounds for a member's **7.50**

⁶⁸ Official Gazette *Valstybės žinios*, 2004, n. 185-6836;

⁶⁹ Official Gazette *Valstybės žinios*, 2003, n. 24-1002;

work in the Commission shall be a decision adopted by the appointing institution or organization.⁷⁰

Members of the Seimas and of the Government, members of the Council of the National Radio and Television of Lithuania, public servants of political (personal) confidence, persons linked with broadcasters and re-broadcasters by virtue of employment, also persons having a participating interest in the broadcasters and re-broadcasters may not be appointed as members of the Commission. Family members of members of the Commission may not have a participating interest in broadcasters or re-broadcasters. If appointed to the Commission, members of political parties and organisations shall suspend their membership in a political party or organisation and participation in the activities thereof until the end of their term in the Commission. **7.51**

b) Functions/ competencies

The Radio and Television Commission of Lithuania is an independent institution with powers of regulation and supervision of activities of commercial radio and television broadcasters, which is accountable to the Seimas of the Republic of Lithuania. It is an expert of the Seimas and Government of the Republic of Lithuania in matters of radio and television broadcasting. Together with the Communications Regulatory Authority, the Radio and Television Commission of Lithuania works out the strategy and the strategic plan of radio and television broadcasting. It announces tenders for the acquisition of broadcasting or re-broadcasting licenses. It establishes the tender conditions and the terms of licensing, as well as fixes the rate of a registration fee and licensing fee for tenderers. It adopts decisions concerning the tender results and the granting of licenses. It supervises the observance of terms of licensing and decisions adopted by the Radio and Television Commission of Lithuania. **7.52**

The Commission shall perform the following functions⁷¹: **7.53**

- in conjunction with the Communications Regulatory Authority, draw up the Strategy for Assigning Radio Frequencies to Broadcast and Transmit Radio and Television Programmes; also, in conjunction with the Communications Regulatory Authority and in accordance with the Strategy for Assigning Radio Frequencies to Broadcast and Transmit Radio and Television Programmes, draw up and approve the Strategic Plan for the Assignment of Radio Frequencies to Broadcasting and Transmission of Radio and Television Programmes;
- announce and organise, in accordance with the procedure established by the Law on Provision of Information to the Public and the Rules for Licensing Broadcasting and Re-broadcasting Activities, tenders for obtaining broadcasting and/or re-broadcasting licences, determine the terms and conditions of these tenders and licences, and issue licences;
- set the rate of the licence fee and the rate of the fee for the examination of licence applications;

⁷⁰ Law on Provision of Information to the Public, Art. 48(4), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁷¹ Law on Provision of Information to the Public Art. 49, Official Gazette *Valstybės žinios*, 2000, n. 75-2272

- maintain control over compliance by broadcasters and re-broadcasters with the obligations undertaken by them, also with licence conditions and the decisions adopted by the Commission;
- establish the procedure for adhering to the requirements laid down in the laws and the requirements of the European Union concerning the structure and content of programmes as well as the broadcasting of advertisements;
- maintain control over compliance by broadcasters with the provisions of the Law on Provision of Information to the Public concerning the proportion of European works and works by independent producers in the programmes broadcast, the right to broadcast events of major importance to society as well as with the requirements concerning television advertising and provisions on the sponsorship of programmes;
- maintain control over compliance by re-broadcasters with the provisions of the Law on Provision of Information to the Public concerning the re-broadcasting of programmes;
- monitor broadcasters' and re-broadcasters' programmes to maintain control over compliance with the laws and Commission decisions regulating the activities of broadcasters and re-broadcasters as well as with licence conditions;
- impose, in accordance with the procedure established by the law, the following penalties on broadcasters and re-broadcasters who have violated the requirements of the Law on Provision of Information to the Public, licence conditions or who do not comply with the decisions adopted by the Commission: reprimands, monetary penalties prescribed by the Code of Administrative Offences of the Republic of Lithuania, suspension of licence for a period of up to 3 months or revocation of licence;
- collect information about broadcasters, re-broadcasters and common-use reception networks, analyse their activities, publish information about the participants therein, prepare information and methodical materials on these issues;
- prepare and submit every 2 years to the Seimas an analytical survey of the implementation of Lithuania's audiovisual policy, the development of the market of audiovisual services, and the prospects for the expansion of national audiovisual sector, including the statistical data on the progress achieved by all the broadcasters falling under the jurisdiction of the Republic of Lithuania, also stating the reasons that impede the implementation of the said provisions and remedial measures taken or to be taken.

The Commission shall have the right to obtain free of charge from broadcasters and re-broadcasters, state and municipal institutions and agencies as well as other legal persons the information necessary to discharge its functions. Members of the Commission and the Administration shall be prohibited from disseminating information which is a commercial secret of broadcasters and re-broadcasters. **7.54**

2. *The Inspector of Journalist Ethics*

a) Legal basis

The Inspector of Journalist Ethics is a State Officer who shall supervise the implementation of the provisions of the 2 July 1996 Law of the Republic of Lithuania No I-1418 on Provision of Information to the Public. His competence is established in this Law also in the Regulations **7.55**

of the activities of the Inspector of Journalist Ethics, approved by the Seimas Resolution No. IX-2341.

The Inspector of Journalist Ethics shall be appointed by the Seimas on a proposal from the Ethics Commission of Journalists and Publishers. Only a citizen of the Republic of Lithuania of good repute with higher education qualifications and the competence necessary to perform his duties shall be appointed the Inspector of Journalist Ethics. Members of Seimas and Government as well as public servants of political (personal) confidence may not be appointed as the Inspector of Journalist Ethics. The Inspector of Journalist Ethics and members of his family may not be linked with producers and/or disseminators of public information by virtue of employment and may not have the shares of the producers and/or disseminators of public information.⁷² **7.56**

The Inspector of Journalist Ethics shall act in accordance with the Constitution of the Republic of Lithuania, other laws, international treaties of the Republic of Lithuania, decrees of the President of the Republic, and other legal acts adopted by the Seimas and Government. He should also act in conformity with the principles of legality, objectivity, justice and openness. **7.57**

The decisions of the Inspector of Journalist Ethics may be appealed against in court within 30 days after the day of their publication. The Inspector of Journalist Ethics may not hold any other elective or appointive office and receive any other remuneration, except for that prescribed for his current position and payments for pedagogical or creative activity. The Inspector of Journalist Ethics shall work in accordance with the regulations approved by the Seimas. **7.58**

b) Functions/ competencies

The Inspector of Journalist Ethics shall perform the following functions⁷³: **7.59**

- examine the complaints of interested persons regarding violation of their honour and dignity in the media;
- examine the complaints of interested persons regarding violation of the right to privacy in the media;
- assess compliance with the principles of providing information to the public set forth in this and other laws, submit proposals to state institutions for improving their implementation;

In discharging the functions specified above, the Inspector of Journalist Ethics may: **7.60**

- reprimand the producers and disseminators of public information about the noticed violations of legal acts governing the provision of information to the public and request that they be eliminated;
- request that a producer or disseminator of public information refute in accordance with the established procedure published false information, degrading the honour and dignity of a

⁷² Law on Provision of Information to the Public, Art. 50, Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁷³ Law on Provision of Information to the Public, Art. 51, Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

person or damaging his legitimate interests, or provide that person with a possibility to reply and deny such information;

- appeal to competent state institutions and the Ethics Commission of Journalists and Publishers in respect of the noticed violations of the legal acts governing the provision of information to the public.

The Inspector of Journalist Ethics shall have the right to receive, free of charge, from the producers and disseminators of public information, state and municipal institutions and agencies the information necessary for discharging the functions thereof. The Inspector of Journalist Ethics shall report at least once a year about his work to the Seimas. **7.61**

3. *The Communications Regulatory Authority*

a) Legal basis

The Communications Regulatory Authority is established under the 15 April 2004 Law of the Republic of Lithuania No IX-2135 on Electronic Communications. The activities of Communications Regulatory Authority shall be guided by the mentioned law as well as its own Regulations which are approved by the Resolution No. 1029 of the Government. **7.62**

It is an independent state institution responsible for the regulation of electronic communications activities and for the supervision of compliance with and implementation of the provisions of the Law on Electronic Communications, except where such supervision and implementation fall within the scope of competence of other state institutions.

b) Functions/ competencies

The Communications Regulatory Authority shall perform the following functions⁷⁴: **7.63**

- exercise control over, supervision of and implementation of the provisions of the Law and the legal acts implementing it, except where such control, supervision and implementation fall within the scope of competence of other state institutions as defined by the Law;
- in the cases provided for in legal acts, issue permits to use equipment and devices, import and use radio monitoring equipment;
- prepare and submit to the Government for approval the National Radio Frequency Allocation Table and implement it within the scope of its competence; prepare, together with the Radio and Television Commission of Lithuania, the Strategy and submit it to the Government for approval; 4) draw up, on the basis of the Strategy and together with the Radio and Television Commission of Lithuania, the Strategic Plan for the Assignment of Radio Frequencies to Broadcasting and Transmission of Radio and Television Programmes;
- cooperate with foreign regulatory authorities governing electronic communications activities;

⁷⁴ Law on Electronic Communications Art. 9, Official Gazette *Valstybės žinios*, 2004, n.69-2382;

- prepare and submit to the Government or an institution authorised by the Government proposals for national policy and strategy in the field of electronic communications and implementation thereof;
- prepare and submit to the Government proposals regarding price caps for universal service; prepare and submit to the Government for approval the rules for the provision of universal service;
- collect and store, in accordance with the procedure established by the Government, information about the nature of technical data on electronic communications recorded and stored by undertakings providing electronic communications networks and/or services;

4. *The Ethics Commission of Journalists and Publishers*

a) Legal basis

The Ethics Commission of Journalists and Publishers is established under the 2 July 1996 Law of the Republic of Lithuania No I-1418 on Provision of Information to the Public. Its activities are guided by the mentioned Law and by its own regulations, approved by the Commission itself on 18 December 2000. It is a self-regulatory institution of public information producers and disseminators. The Commission, comprised of 12 members to be appointed each by the Lithuanian Centre for Human Rights, the Lithuanian Psychiatric Association, the Lithuanian Bishops' Conference, the Lithuanian Periodical Press Publishers' Association, the Lithuanian Radio and Television Association, the Lithuanian Cable Television Association, Regional Televisions' Association, and the Lithuanian Journalists' Union, the Lithuanian Journalists' Society, the Lithuanian Journalism Centre, National Radio and Television of Lithuania and the Lithuanian Chapter of International Advertising Association, shall be formed and its rules of procedure shall be established by an assembly of the representatives of journalists' and publishers' organisations. Members of the Commission shall be appointed for a term of three years. The work of the Commission shall be organised by the Chairman of the Commission, who shall be elected by the Commission from among its members for a term of one year.⁷⁵ **7.64**

b) Functions/ competencies

The Commission shall perform the following functions⁷⁶:

7.65

- focus on the education of the professional ethics of journalism;
- examine the violations of professional ethics committed in the course of providing information to the public by journalists, producers of public information or responsible persons appointed by the participants therein;
- ascribe press publications, feature and video films, radio and television programmes or broadcasts to the media category of pornographic, erotic and/or violent nature;

⁷⁵ Law on Provision of Information to the Public, Art. 47(2), Official Gazette *Valstybės žinios*, 2000, n. 75-2272

⁷⁶ Law on Provision of Information to the Public, Art. 47(4), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

- supervise compliance by the producers and disseminators of public information with the requirements laid down in the laws and other legal acts regarding the public showing, reproduction and distribution of feature films, video films and video programmes, their circulation and distribution, the public showing of events of erotic nature, and the procedure for disseminating printed matter of erotic and violent nature;
- supervise the compliance of disseminated public information with the provisions laid down in the laws, prohibiting the incitement of national, racial, religious, social or gender hatred, libel and disinformation;

In performing its functions, the Commission may seek assistance from experts delegated by the ministries of culture, health and justice. All interested persons may appeal to the Commission. The Commission shall act in accordance with the Constitution of the Republic of Lithuania, the Law on Provision of Information to the Public and other laws, international treaties of the Republic of Lithuania, decrees of the President of the Republic, other legal acts passed by the Seimas and Government, as well as the Code of Ethics of Lithuanian Journalists and Publishers and the Resolution on the Ethics of Journalism adopted by the Parliamentary Assembly of the Council of Europe. **7.66**

Commission decisions concerning the violation of professional ethics or other violations shall be published immediately in the same media where the Commission has established these violations. If a producer and/or disseminator of public information fails to publish the decision of the Commission pertaining to the violation of professional ethics or other violations in its own media, the decision shall be announced on the National Radio of Lithuania. **7.67**

5. *Information Society Development Committee under the Government of the Republic of Lithuania*

a) Legal basis

Resolution No. 229 of 28 February 2001 of the Government of the Republic of Lithuania on Conceptual Framework of the National Information Society Development of Lithuania establishes the legal basis for this institution. Activities of the Committee are also guided by the Resolution No. 844 of 5 July 2001 of the Government On approval of Regulations of the Information Society Development Committee under the Government of the Republic of Lithuania. **7.68**

b) Functions/ competencies

Key objectives of the Committee:

7.69

- to participate in the process of shaping state policy for the development of information technologies and telecommunications and coordinate its implementation;
- to coordinate planning, creation and development of the ITT infrastructure complying with the European Union standards;
- in line with the ITT Development Strategy adopted by the Government of the Republic of Lithuania, to coordinate the ITT development throughout the country, to ensure equal access to ITT to all Lithuanian consumers, to promote competition between ITT service providers, and to expand communication between population and legal entities, on the one hand, and state and municipal institutions, on the other;

- to coordinate the application of modern technologies; in collaboration with ministries and other governmental institutions and public authorities, to formulate innovative technological policies for the economic development of the Republic of Lithuania, to organise the promotion and regulation of intellectual activities on the state level.

The Committee is also a coordinating institution for the control of internet content.

III. Market definitions and/or criteria upheld for market perception in the relevant sector focused legislation

In Lithuania there are no specific market definitions in the media sector, therefore below we will present the definitions used in different sectors of media, which might be useful as criteria to determine the notion of market in the field of media. The 2 July 1996 Law of the Republic of Lithuania No I-1418 on Provision of Information to the Public provides the main definitions for media sectors, the 18 May 1999 Law on Copyright and Related Rights mainly deals with music-copyright, films and books. Definitions from both of them are provided below. **7.70**

1. Publishing

The law on Copyright and Related Rights deals with magazines, books and newspapers as they are concerned with copyright, while the Law on Provision of Information to the Public mainly deals with newspapers as a means of disseminating information. **7.71**

“*Publication*” means the production of copies of a work or of an object of related rights in quantities sufficient to satisfy the reasonable requirements of the public, regardless of the method of production, provided that such work or the object of related rights has become available for the public access with the consent of the author or other owner of copyright or related rights.⁷⁷ **7.72**

“*City and district newspaper*” means a periodical which is published and circulated at least once a week in the municipal territory of a single city or district and which has at least 90 % of its circulation distributed within the municipal territory of that city or district.⁷⁸ **7.73**

“*Regional newspaper*” means a periodical which is published and circulated at least once a week in the territories of counties as defined in the Law on the Territorial Administrative Units of the Republic of Lithuania and their Boundaries and which has at least 90 % of its circulation distributed within the territory of a single county.⁷⁹ **7.74**

“*Journalist*” means a natural person who, on a professional basis, collects, prepares and presents materials to the producer of public information on his own initiative, under a contract with the producer or by his assignment and/or is a member of the professional journalists’ association.⁸⁰ **7.75**

⁷⁷ Law on Copyright and Related Rights Art. 2(14), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

⁷⁸ Law on Provision of Information to the Public, Art. 2(14), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁷⁹ Law on Provision of Information to the Public, Art. 2(26), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

2. *Music-copyright*

Definitions concerning music publishing, recording and distribution are provided in the Law on Copyright and Related Rights: **7.76**

“*Phonogram*” means the fixation of the sounds of a performance, or of other sounds, or of the representation of sounds, by technical devices in any material sound-recording medium.⁸¹ **7.77**

“*Producer of a phonogram*” means a natural or legal person, or an enterprise which does not have the rights of a legal person, which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representation of sounds.⁸² **7.78**

“*Publication*” means the production of copies of a work or of an object of related rights in quantities sufficient to satisfy the reasonable requirements of the public, regardless of the method of production, provided that such work or the object of related rights has become available for the public access with the consent of the author or other owner of copyright or related rights.⁸³ **7.79**

3. *Film*

“*Audiovisual works*” means cinematographic works or any other works expressed by cinematographic means that are comprised of a series of related images expressing a motion, with or without accompanying sounds, recorded (fixed) in a material visual recording medium.⁸⁴ **7.80**

“*Producer of an audiovisual work*” means a natural or legal person on the initiative and responsibility of which an audiovisual work is being made.⁸⁵ **7.81**

4. *Broadcasting*

“*Subscriber*” means a person who under a contract with a broadcaster or re-broadcaster receives television and/or radio programmes.⁸⁶ **7.82**

“*Terrestrial television, radio network*” means an electronic communications network which is comprised of more than one analogue or digital terrestrial television, radio station and which is intended for broadcasting and/or re-broadcasting of the same programme/programmes to the public.⁸⁷ **7.83**

⁸⁰ Law on Provision of Information to the Public, Art. 2(42), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁸¹ Law on Copyright and Related Rights, Art. 2(8), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

⁸² Law on Copyright and Related Rights, Art. 2(9), Official Gazette *Valstybės žinios*, 1999, n. 50-1598

⁸³ Law on Copyright and Related Rights, Art. 2(14), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

⁸⁴ Law on Provision of Information to the Public, Art. 2(10), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁸⁵ Law on Copyright and Related Rights, Art. 2(3), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

⁸⁶ Law on Provision of Information to the Public, Art. 2(1), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

“*Terminal equipment*” means television sets, radio receivers, and other reception equipment used to receive broadcast and/or re-broadcast programmes and other types of broadcast information.⁸⁸ **7.84**

“*Cable television, wire radio network*” means an electronic communications network intended for broadcasting, re-broadcasting and receiving programmes, changing their encoding or electromagnetic oscillation parameters and transmitting them by cable and wire distribution lines to the terminal equipment of subscribers.⁸⁹ **7.85**

“*Broadcast*” means a separate part of a programme, usually having its own name, broadcasting time, authors and hosts.⁹⁰ **7.86**

“*Microwave multichannel distribution system network*” (hereinafter referred to as the “MMDS network”) means an electronic communications network used for broadcasting, re-broadcasting and receiving programmes, changing their encoding or electromagnetic oscillation parameters and transmitting them by microwave terrestrial transmitters and by the signal reception network of such transmitters to the terminal equipment of subscribers.⁹¹ **7.87**

“*Independent producers*” means persons who do not have a participating interest in a broadcaster or who are not members of the broadcaster’s administrative bodies, also persons who are not linked with the broadcaster by virtue of an employment, service relationship or joint activity, producing audiovisual works and selling them freely or transferring them otherwise.⁹² **7.88**

“*Satellite television, radio*” means programme broadcasting and/or re-broadcasting by an artificial earth satellite (satellites).⁹³ **7.89**

“*Programme*” means the total entity of separate audiovisual works (broadcasts, films, advertisements, announcements, broadcasting of various events, etc.) that are independent in their content, structure and broadcasting time and that are transmitted to the public, irrespective of the technical means employed.⁹⁴ **7.90**

⁸⁷ Law on Provision of Information to the Public, Art. 2(3), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁸⁸ Law on Provision of Information to the Public, Art. 2(9), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁸⁹ Law on Provision of Information to the Public, Art. 2(12), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹⁰ Law on Provision of Information to the Public, Art. 2(13), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹¹ Law on Provision of Information to the Public, Art. 2(16), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹² Law on Provision of Information to the Public, Art. 2(17), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹³ Law on Provision of Information to the Public, Art. 2(20), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

“*Re-broadcasting*” means the reception of complete programmes, or parts thereof, broadcast by broadcasters to the public and the simultaneous transmission of such unchanged programmes, irrespective of the technical means employed.⁹⁵ **7.91**

“*Re-broadcaster*” means a disseminator of public information, having a re-broadcasting licence or, in cases specified by the law, not having such a licence, who re-broadcasts complete and unchanged programmes, or parts thereof, broadcast to the public and assumes responsibility for their legality.⁹⁶ **7.92**

“*Teleshopping*” means direct offers of an advertising client broadcast by television to purchase goods or services, including immovable property, property rights and obligations, in return for payment.⁹⁷ **7.93**

“*Broadcasting*” means the production of programmes and their initial transmission to the public by any type of terrestrial transmitter, cable, satellite or any other electronic communications network. It does not include communication services providing items of information or other messages on individual demand such as telecopying, electronic data banks or other similar services.⁹⁸ **7.94**

“*Broadcasting, re-broadcasting licence*” means a written document issued by the Radio and Television Commission of Lithuania granting its holder the right to engage in programme broadcasting and/or re-broadcasting activity within a defined territory and laying down the conditions for such broadcasting and/or re-broadcasting.⁹⁹ **7.95**

“*Broadcaster*” means a person who possesses a broadcasting licence or, in cases specified by the law, does not possess one and who assumes editorial responsibility for the programmes broadcast, produces and transmits them to the public himself or allows another person to transmit them unchanged; “national broadcaster” means a broadcaster whose programme broadcast by a terrestrial radio or television network is received within a territory inhabited by more than 60 % of Lithuania’s population; “regional broadcaster” means a broadcaster whose programme broadcast by a terrestrial radio or television network is received within a territory inhabited by less than 60 % of Lithuania’s population; “local broadcaster” means a broadcaster whose programme is broadcast by one radio or television station.¹⁰⁰ **7.96**

⁹⁴ Law on Provision of Information to the Public, Art. 2(23), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹⁵ Law on Provision of Information to the Public, Art. 2(28), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹⁶ Law on Provision of Information to the Public, Art. 2(29), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹⁷ Law on Provision of Information to the Public, Art. 2(32), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹⁸ Law on Provision of Information to the Public, Art. 2(33), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

⁹⁹ Law on Provision of Information to the Public, Art. 2(34), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

¹⁰⁰ Law on Provision of Information to the Public, Art. 2(35), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

The Law on Copyright and Related Rights provides several other definitions of broadcasting or re-broadcasting concerning copyright. **7.97**

“*Broadcasting*” means the transmission by means of telecommunications, including by satellite, for public reception of sounds or images and sounds, or their expression; the transmission of coded signals is considered to be transmission if a broadcasting organization provides society with special decoding devices or grants permission to acquire them.¹⁰¹ **7.98**

“*Broadcasting organisation*” means a legal person or an enterprise which does not have the rights of a legal person, the main activity of which is the preparation and transmission of programmes, as well as a cable retransmission operator preparing and transmitting its own broadcasts and programmes.¹⁰² **7.99**

“*Cable retransmission*” means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system of broadcast radio and television programmes intended for reception by the public, transmitted by wire or over the air, including that by satellite.¹⁰³ **7.100**

“*Cable retransmission operator*” means a natural or legal person, or an enterprise which does not have the rights of a legal person, running cable or microwave facilities of the reception of transmission signals and integrated reception networks.¹⁰⁴ **7.101**

5. *Internet*

The 5 March 2003 Resolution of the Government of the Republic of Lithuania No 290 “On Information Prohibited for Disclosing in Computer Networks of Public Use” provides the definition on “*the electronic means of provision of information to the public*” as the internet websites of other media means (press, television, radio), where the information, disseminated in ordinary way, is provided in electronic form.¹⁰⁵ **7.102**

6. *Definitions common to all media sectors*

“*The Media*” means books, newspapers, journals, bulletins or other publications, television and radio programmes, film and other sound or visual studio productions and other means of public dissemination of information. In accordance with this Law, technical and office documents as well as securities are not ascribed to the media.¹⁰⁶ **7.103**

“*Advertising*” means information disseminated in any form and by any means in connection with a person’s economic, commercial, financial or professional activity for the purpose of promoting the purchase of goods or services, including the purchase of immovable property **7.104**

¹⁰¹ Law on Copyright and Related Rights Art 2(26), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

¹⁰² Law on Copyright and Related Rights Art 2(27), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

¹⁰³ Law on Copyright and Related Rights Art 2(15), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

¹⁰⁴ Law on Copyright and Related Rights Art 2(16), Official Gazette *Valstybės žinios*, 1999, n. 50-1598;

¹⁰⁵ 5 March Resolution of the Government No. 290 On Information Prohibited for Disclosing in Computer Networks of Public Use Par.4, Official Gazette *Valstybės žinios*, 2003, n.24-1002;

¹⁰⁶ Law on Provision of Information to the Public Art. 2(40), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

and the transfer of property rights and obligations.¹⁰⁷

“*Provision of information to the public*” means an activity of providing public information to the public¹⁰⁸ **7.105**

“*Sponsorship*” means financial or other material assistance provided to a producer and/or disseminator of public information by a person not engaged in the activities of such sponsored public information producer and/or disseminator with a view to promoting its name, its trade mark, its image, its activities or its products.¹⁰⁹ **7.106**

“*Disseminator of public information*” means a broadcaster, re-broadcaster or any other person who transmits or disseminates by other means public information to the public.¹¹⁰ **7.107**

IV. Market definitions in the media sector, as upheld in sector specific practice of authorities and courts

In Lithuania no specific market definitions in the media sector exist. Neither are they provided by the competition regulator (Lithuanian Competition Council), nor by the media regulators. **7.108**

As it is mentioned in Part III (*Market definitions and/or criteria upheld for market perception in the relevant sector focused legislation*), the legal definitions for the media are provided in the Law on Provision of Information to the Public and some of them in the Law on Copyright and Related Rights. The practice of the relevant media regulatory authorities is poor as most of them do not provide any interpretations and do not concretize the given legal definitions.

Most of the decisions adopted by the regulatory authorities (Radio and Television Commission, the Inspector of Journalistic Ethics, the Ethics Commission of Journalists and Publishers and etc.) do not specify the above mentioned legal definitions as the decisions are adopted not for the sake of interpreting the legal definitions but for other purposes and the authorities do not try to elaborate them in respect of any other issues. **7.109**

For example, the Radio and Television Commission adopts the decisions concerning the broadcasting and re-broadcasting licences as well as the infringements of the Law on Provision of Information to the Public, but in its decisions the Commission does not elaborate the definitions of certain media sectors.¹¹¹ **7.110**

7.111

¹⁰⁷ Law on Provision of Information to the Public Art. 2(27), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

¹⁰⁸ Law on Provision of Information to the Public Art. 2(39), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

¹⁰⁹ Law on Provision of Information to the Public Art. 2(30), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

¹¹⁰ Law on Provision of Information to the Public Art. 2(10), Official Gazette *Valstybės žinios*, 2000, n. 75-2272;

¹¹¹ For the purpose of the study the decisions of the Radio and Television Commission were evaluated and it was also orally confirmed by the Commission, that the Commission is guided by the definitions established in the Law on Provision of Information to the Public and therefore does not give any specific interpretations on this issue.

The Inspector of Journalistic Ethics deals with complaints from private parties concerning the right to privacy, honor, dignity, he also publishes the annual reports of his activities, but the interpretations of legal definitions in the media sphere cannot be found in the mentioned documents issued by the Inspector as the human rights are mostly emphasized in them.

The Ethics Commission of Journalists and Publishers is mainly associated with the supervision of standards of professional ethics of journalists. The Commission is a self-regulatory institution of public information producers and disseminators; therefore, it does not have any administrative powers. When asserting the actions of journalists in a view of standards of professional ethics, the Commission deals with the moral values of the society and journalists ethics, but does not concretize or define the certain media products or services. **7.112**

As concerns the courts' practice in the media sphere, it is mainly associated with human rights such as honor, dignity and right to private life, that is not relevant to present study. Defining certain markets is as a rule the competence of the competition regulator (Lithuanian Competition Council). The Lithuanian Competition Council has not yet adopted any decision, where the relevant market in the media sector would be defined, as a consequence no case dealing with the dominant position or other issue regarding the definition of certain media sector was held in the court. Therefore, in the present study we are not able to present any practice of the courts and authorities, defining the media market or its relevant sectors. **7.113**

V. Common factors and differences between the media specific market definitions and the market definitions used in application of the competition rules

It was already mentioned that no specific media market definitions exist, therefore the comparison to the market definitions used in application of the competition rules is impossible. **7.114**

VI. The impact of the non-competition framework and practice on the work of the competition regulator, in particular when defining the relevant markets

Regulators of the media and of the competition are still much separated. It was mentioned that there are no decisions of the Lithuanian Competition Council containing a relevant market definitions in the media sector; therefore the cooperation between the regulators of media and Competition Council can be hardly found. **7.115**

It is further important to notice, that media regulatory institutions obtain quite distinct functions (see Part II *Regulatory authorities in the Republic of Lithuania having an impact on the media sector*): The Radio and Television Commission is mostly responsible for broadcasting and re-broadcasting activities, issuing the licenses; the Inspector of Journalistic Ethics is a State Officer mainly dealing with the complaints from private parties as concerns right to privacy, honor and dignity; The Ethics Commission of Journalists and Publishers is a self-regulatory institution mainly adhering the infringements of The Code of Ethics of Lithuanian journalists and publishers, adopted in 1996. Therefore, these media regulatory institutions do not provide any official definitions of the media market or any official interpretations of the definitions used in different media sectors and as a consequence the mentioned authorities do not cooperate with the Lithuanian Competition Council. **7.116**

Thus the impact of the non-competition framework on the work of Competition Council cannot be elaborated at present. **7.117**