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Estonian Competition Authority

The Competition Authority combined with the regulators

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Director General

Baltic Electricity Market Mini-Fora
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The new competition authority

- Merger of the former
  - Competition Authority
  - Energy regulator (Energy Market Inspectorate)
  - Communications regulator (part of the former Communications Board).
  - Railway regulator (functions of the Railway Department of the Ministry of Economic Affairs and Communications).
- A new form of authority which combines the competition authority with sector regulators.

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The goal of the restructuring

- General policy to save costs on state administration.
  - Reduction of administration costs.
  - Synergies on different regulators.
- The same approach is continuing. Merging of police and border guard, etc.

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Structure of Competition Authority

- Director General
  - General Administration
  - Competition Division
  - Railway and Energy Division
  - Telecommunicaton and Post Division

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Staff

- 52 employees
  - Competition 17
  - Telecommunication and post 15
  - Railway and energy 12
  - Director General and Administration 8

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Independence

- Independent in decision making process.
  - The decisions can be appealed by the administrative court.
  - The decisions can not be changed by the government, minister, etc.
- Head of the agency: director general.
  - Appointed and dismissed by the minister of economic affairs and communications.
  - No fixed time period.

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Independence (2)

- The divisions (competition, energy and telecommunication) are managed by the directors. The director of the division is a deputy director general.
- All decisions have to be signed by the division director and director general.

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Financing

- Financed from the state budget.
  - Annual budget for 2008 2 million EUR.
  - The budget is approved by the Ministry of Economic Affairs.
  - Independent in spending as the budget is approved by the parliament.

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The goal of the regulation

- The best regulator is the market. The regulator can never be as efficient as the market.
- The regulation (especially the price regulation) is needed in the sectors where competition is limited (natural monopolies, market domination).

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The level of competition (1)

- Natural monopolies – the customer has no alternatives.
  - Power transmission and distribution
  - Water supply
  - Gas transmission and distribution
  - Etc.
- Monopolies where the parallel network or technical alternative is possible.
  - District heating
  - Telecommunication
  - Etc.

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The level of competition (2)

- Undertaking in dominant position in the market.
- Liberal market.

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Different sectors – different approaches

- Energy
- Telecommunication and postal services
- Railway
- Liberal markets
- The different sectors are regulated according to the sector acts (Electricity Market Acts, Post Act, etc). The Competition Act is regulating all natural monopolies and market dominating enterprises.

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Energy

- Network operators – power and gas transmission and distribution. Incentive type of price regulation. The tariffs are fixed by the regulator prior their entry into the force (*ex-ante* type of price regulation). Regulated according to the Electricity Market Act.
- Power generation, wholesale and supply. Transitional period for market opening and extremely high market concentration. *Ex-ante* type of price regulation. Since market opening (2013) regulated according to the Electricity Market Act.
- Gas wholesale and supply. Market concentration 100% - clear market dominance. *Ex-post* type of price regulation regulation according to the Competition Act.

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Energy

- District heating. Exclusive rights granted by the municipalities. *Ex-ante* type of price regulation. District Heating act.
- Fuels (oil, wood, peat, etc.) – liberal market.

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Telecommunication

- The goal - soft type of regulation and vision of a functioning market.
- In Estonia there is a sufficient number of service providers.
  - 3 mobile operators
  - A number of fix line service providers.
- Technology is developing.
- The level of the market dominance is much lower than in energy sector.
- Postal services – market opening by 1.01.2009.
- Regulation mainly according to the sector acts.

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Railway

- The infrastructure is a natural monopoly and its owner has dominant position in the market. *Ex-ante* type of price regulation.
- Until 2007, the railway was overloaded. Capacity allocation by an independent regulator was necessary. Today underloaded.

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Other sectors

- In other sectors, there might be market dominating enterprises or natural monopolies.
  - Water supply – natural monopolies regulated by municipalities
  - Airport – market dominance, regulated according to the competition act.
  - Etc.

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Liberal markets

- The first priority is anti-cartel activities.
  - Criminal proceedings in Estonia. Investigation is led by the prosecutor.
- Cases of abuse of dominant position.

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Dominant position

- Any direct or indirect abuse by any undertaking or several undertakings of the dominant position in the goods market is prohibited, including:
  - directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
  - limiting production, service, goods markets, technical development or investment;
  - offering or applying dissimilar conditions to equivalent agreements with other trading parties, thereby placing some of them at a competitive disadvantage;
  - making entry into an agreement subject to acceptance by the other parties of supplementary obligations which have no connection with the subject of such agreement;
  - forcing an undertaking to concentrate, enter into an agreement which restricts competition, engage in concerted practices or adopt a decision together with the undertaking or another undertaking;
  - unjustified refusal to sell or buy goods.

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Exclusive rights or essential facility (infrastructure)

- **The infrastructure business is regulated with the competition act.**
- An undertaking with special or exclusive rights or in control of an essential facility shall:
  - Permit other undertakings to gain access to the network, infrastructure or other essential facility under reasonable and non-discriminatory conditions for the purposes of the supply or sale of goods. **Third party access.**
  - Maintain separate records on revenue and expenditure related to each product or service on the basis of consistently applied and objectively justified principles of calculation which shall be clearly specified in the internal rules of the undertaking. The calculation of revenue and expenses must enable to assess whether the price of a product or service is in a reasonable ratio with the value of the product or service. **Separation of accounts and reasonable prices.**

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Prohibited agreements

- The following are prohibited: agreements between undertakings, concerted practices, and decisions by associations of undertakings (hereinafter agreements, practices and decisions) which have as their object or effect the restriction of competition, including those which:
  - directly or indirectly fix prices or any other trading conditions, including prices of goods, tariffs, fees, mark-ups, discounts, rebates, basic fees, premiums, additional fees, interest rates, rent or lease payments applicable to third parties;
  - limit production, service, goods markets, technical development or investment;
  - share goods markets or sources of supply, including restriction of access by a third party to a goods market or any attempt to exclude the person from the market;
  - exchange information which restricts competition;
  - agree on the application of dissimilar conditions to equivalent agreements, thereby placing other trading parties at a competitive disadvantage;
  - make entry into an agreement subject to acceptance by the other parties of supplementary obligations which have no connection with the subject of such agreement.

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Challenges of the new competition authority

- Synergies in sector cases (energy, telecom, railway).
  - In the energy sector the network business is very well regulated by electricity and gas market acts.
  - The abuse of market dominant position in generation and supply is not well regulated by sector legislation.
  - In telecommunication sector some cases shall be regulated by the competition act.
  - **Use of sector know-how in competition cases.**

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Challenges of the new competition authority (2)

- Better use of resources.
  - Savings on administration costs. The administration costs are the same, that for the former Competition Authority.
- Disadvantages.
  - The sector regulator can more concentrate on specific issues of the sector.
  - The telecommunication regulator was split: market regulation to the Competition and technical regulation to the Technical Supervisory Agency. Not very common in Europe. Some type of experiment.

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Thank You for Your Attention.

Further information
www.konkurentsiamet.ee