

Defender's assessment of the RA State Commission for the Protection of Economic Competition activities in 2011

The revealed problems and registered achievements during 2011 in the area of responsibility of the Commission are presented below, though they are not exhaustive.

The RA Law "About the Protection of Economic Competition" was adopted in 2000, and the Commission in Armenia was established in 13 January 2001. In 2011 the RA Law "About the Protection of Economic Competition" was reconsidered and as a result it was complied with international standards to a high degree. The new version of the Law gave wider opportunities to the Commission for working more effectively.

Despite all this, the level of assurance of economic competition in RA is still not sufficient. According to indicators of the World Economic Forum, though Armenia has registered a certain progress by the coefficient of efficiency of anti-monopoly policy, it continued occupying low positions in the internal competition and efficiency of anti-monopoly policy level. Only in 2011, 12 commodity markets out of 13, analyzed by the Commission, were rated as highly concentrated. There were also cases of hindrance for entering the market of new economic entities by dominant entities in those markets.

Though, the number of decisions of the Commission to subject economic entities to responsibility during 2011 raised twice compared to the previous year, which resulted in the increase of about 6 times of the sums paid to the RA State Budget have, however, in appropriate cases the measures taken by the Commission did not reflect the real picture of violations of the competitive legislation existing in different commodity markets and did not make sufficient influence on the situation of the protection of economic competition in the country.

Measures taken by the Commission for termination and prevention of cases of anti-competitive operations were not sufficient. The Commission with its decisions subjected several economic entities to responsibility for anti-competitive operations. The economic entities appealed against the Commission decisions not carrying out their requirements. During the entire trial period, which can last for 2 years, the Commission did not take any measures to ensure the process of implementation of its decisions. For instance, the Commission has a power to subject an economic entity to responsibility for not implementing the Commission's decision, but the Commission waited until the trial was completed.

Measures taken by the Commission for termination and prevention of cases of unfair competition were not sufficient as well. A case was registered of production and realization of vodka by "Alex Grig" company which had almost similar name creating confusion. In this regard the Commission started proceedings in 2009, and the company appealed to court to protest the Commission's decision. The Commission applied a penalty to the company for unfair competition, as well as required from the company to eliminate the violation, that is to remove the production from circulation in 1-month period. According to RA Law "About Protection of Economic Competition" a possibility of administrative responsibility is prescribed for not implementing the Commission decisions, as well as ban on its operation suspension in case of appealing against the Commission's decision. However, during 2 years the Commission did not take sufficient measures for applying adequate means of administrative responsibility towards economic entity, which did not implement its decisions.

Though according to the last changes in the RA Law "About Protection of Economic Entities" the Commission's powers in the process of obtaining evidences regarding anti-competitive operations were extended, however, the instruments were not sufficient for the Commission to effectively carry out the control over protection of economic competition. In particular, the Commission does not have such powers in the area of inspections, which allow them to obtain evidences on hidden violations of the RA Law

“About Protection of Economic Entities”, such as anti-competitive agreement, participants of which-economic entities- take all measures to keep their agreement in secret. Competition protection authorities almost in all countries have a wide range of powers of inspection, which gives opportunities to reveal even the most confidential agreements. That is the reason, that all international experts, who are studying the RA legislation on competitiveness, suggested to endue inspection powers to the Commission.

The Commission did not take sufficient measures to raise the public awareness on issues of economic competition, which in its turn reduced effectiveness of assurance and protection of consumers' rights. Though the Commission's official website was operating, it contained insufficient information on the issues of the area. At the same time the website even didn't include statistics of the Commission's activities. The Commission's activities' publicity and transparency in respect of issues of selling low quality and expired products, groundless raising of prices of products, and other issues of public importance which appeared as a result of unfair activities of economic enties in competition sphere were not sufficiently ensured.

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The list of the identified positive developments, gaps and shortcomings is not exhaustive.

The introduced Chapter (23) of the HRD Annual Report 2011 is available in full at http://pashtpan.am/pages/downloadPdf/file_id/574.

The HRD Annual Report 2011 was developed based on the complaints received by the Staff of the Human Rights Defender, legislation analysis, trustworthy and non-disclaimed publications in press, reports of the international and local organizations as well as information received during the interviews with field specialists and human rights defenders.