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TABLE OF CONTENTS

1. Amendments to Competition Laws and Policies, Proposed or Adopted3

2. Enforcement of competition laws and policies.....4

 2.1. Actions against anticompetitive practices, including agreements, abuse of monopoly (dominant) position and unfair competition.....4

 2.2 Mergers and acquisitions15

3. The Role of Competition Authorities in the Formulation and Implementation of Other Policies....17

 3.1 Competition advocacy17

 3.2 Activity of the Committee as an appellate body in the sphere of public procurements18

 3.3 International activity19

4. Resources.....20

 4.1 Financial resources20

 4.2 Human resources20

Figures

Figure 1. Structure of Violations of the Legislation on Protection of Economic Competition which were Terminated by the Committee in 2015.....5

Figure 2. Structure of Violations of the Legislation on Protection of Economic Competition with Regard to Industries.....5

Figure 3. Fines Imposed on Offenders by the Bodies of the Committee in 2014-2015, UAH million.....6

Figure 4. Structures of Penal Sanctions Imposed by the Bodies of the Committee on the Offenders in 2015, UAH million6

Figure 5. Structure of Violations in the Form of Anticompetitive Concerted Practices of Economic Entities in 20157

Figure 6. Structure of Violations in the Form of Abuse of Monopoly (Dominant) Position in 2015.....9

Figure 7. Structure of the Violations in the Form of Anticompetitive Actions of Bodies of State Power, Bodies of Local Self-Government, Bodies of Administrative and Economic Management and Control in 201512

Figure 8. Structure of Violations in the Form of Unfair Competition in 201513

Figure 9. The Number of Applications for Authorizing the Concentration of Economic Entities Considered by the Committee in 2010 – 201415

Figure 10. Dynamics of the Number of Applications Considered by the Bodies of the Committee in the Course of Exercising Control Over Concerted Actions of Economic Entities and Granted Authorizations for Performing Such Practices Proceeding from the Result of Consideration.....16

Figure 11. The number of complaints about violations of the law/laws on public procurement submitted by the appellate body in 2014-2015.....18

Figure 12. The number of decisions adopted by the Board in 2014-201519

Figure 13. The number of accepted, appealed and cancelled decisions of the Board in 2014-201519

Figure 14. The number of Employees of the Committee’s Central Administration Possessing University Education in terms of Degrees as of December 31, 2015.....21

Figure 15. The number of the Employees of the Committee’s Regional Offices Possessing University Education in Terms of Degrees as of December 31, 201521

1. Amendments to Competition Laws and Policies, Proposed or Adopted

1. In 2015, the work of the Antimonopoly Committee of Ukraine aiming at improving legislation on economic competition protection was focused on the tasks under the Association Agreement between Ukraine and the EU, Agreement on a coalition of parliamentary fractions "European Ukraine", Sustainable Development Strategy "Ukraine - 2020", Program of the Cabinet of Ministers of Ukraine. Its priority objectives were the following:

- - Regulatory support of implementation of the Law of Ukraine "On State Assistance to Economic Entities";
- - Development and publication of principles of determining penalties applicable for violation of legislation on economic competition protection;
- - Development of legal regulations regarding the publication of the Committee's decisions concerning cases of infringements;
- - Development of legal regulations regarding reforms of the control system of concentrations between undertakings in accordance with the EU regulation on mergers of undertakings.

2. In 2015, Verkhovna Rada of Ukraine adopted in second reading and in general the Law of Ukraine № 416-VIII "On Amendments to the Budget Code of Ukraine concerning decisions of authorized body on state assistance" on 05.14.2015, developed by the Antimonopoly Committee of Ukraine jointly with EU experts.

3. The main objective of the Law is to establish a mechanism for preventing the allocation of funds from the state budget for state support to economic entities at the legislative level, which can lead to negative effects on competition.

4. Under the provisions of the Law, since the formation of the draft State Budget of Ukraine for 2019, budget requests, which envisage the provision of state assistance to economic entities by the state budget in any form, shall be accompanied by decision made in the established manner by the Authorized body on state assistance. Implementation of the Law will facilitate the effective use of the Law of Ukraine "On State Assistance to Economic Entities", and the fulfilment of Ukraine's obligations arising after the signing of the economic part of the Association Agreement between Ukraine and the EU and other international obligations of Ukraine, in particular those arising from the Treaty establishing the Energy Community.

5. On December 28th, 2015 the Antimonopoly Committee of Ukraine issued a decree number 43-rp "Some aspects of the implementation of the Law of Ukraine "On State Assistance to Economic Entities" (hereinafter - Decree No 43-rp).

6. Decree No 43-rp issued to create legal and institutional mechanisms for the implementation of the Law of Ukraine "On State Assistance to Economic Entities" in the part concerning the monitoring of state assistance to economic entities, keeping a register of state assistance to economic entities, and submitting information on current state assistance to economic entities to the Antimonopoly Committee of Ukraine.

7. In particular, the following documents were ratified by Decree No 43-rp: The Procedure of conducting monitoring of state assistance to economic entities; The Procedure, forms and requirements for

submission of information about the current state assistance to economic entities to the Antimonopoly Committee; the Procedure of keeping and access to the register of state assistance to economic entities.

8. On 18.08.2015, the Antimonopoly Committee of Ukraine issued Decree No 25-rp "On Approval of the Amendments to the Regulation on concentrations" (hereinafter – Decree No 25-rp).

9. In particular Decree No 25-rp, including the deadlines established by the Committee to send a request for the submission of additional information; for submission of additional information by an applicant (s) on the Committee's request; for making decision by the Committee concerning concentration.

10. In order to implement the fifth paragraph of Article 255 of the Association Agreement between Ukraine and the European Union and for the certainty of the principles of calculating fines imposed for violation of legislation on economic competition protection, the Committee had adopted the Guidelines on the application of the provisions of the second and fifth parts of Article 52 of the Law of Ukraine "On Protection of Economic Competition" and the first and second parts of Article 21 of the Law of Ukraine "On Unfair Competition" from 15.09.2015 No 16 pp.

11. On November 12th, 2015, Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Transparency of the Activities of the Antimonopoly Committee of Ukraine"

12. The Law envisages that the Antimonopoly Committee of Ukraine shall publish decisions on applications and cases of concentration and concerted actions; cases of violation of legislation on economic competition protection and unfair competition on the official web portal of the Antimonopoly Committee within 10 working days from the date of such decision, except for information that is defined as confidential.

13. The Law is developed to implement the Association Agreement between Ukraine and the European Union and improve the effectiveness of the control system of economic concentrations by increasing cost factors, and in case they are achieved it requires the approval of the Antimonopoly Committee on the concentration of undertakings, assessment of the impact of such concentration on competition in Ukraine was adopted by Verkhovna Rada in the second reading on 26th of January, 2016.

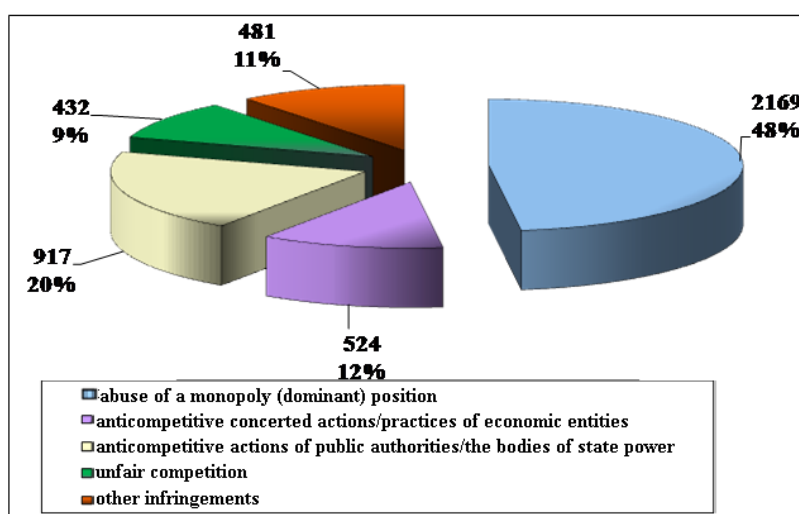
2. Enforcement of competition laws and policies

2.1. Actions against anticompetitive practices, including agreements, abuse of monopoly (dominant) position and unfair competition

14. The Committee considered 5 048 applications and appeals in respect of violations of the legislation on protection of economic competition in 2015 that is 11.6 percent more than in 2014.

15. Following the results of measures taken by the Committee, **4 523** violations of the legislation on protection of economic competition have been terminated. Out of those mentioned, **2 169** infringements were related to the abuse of a monopoly (dominant) position, **524** – to anticompetitive concerted practices of economic entities, **917** – to anticompetitive actions of public authorities (bodies of state power, bodies of local self-government, bodies of administrative and economic management and control), **432** – to unfair competition.

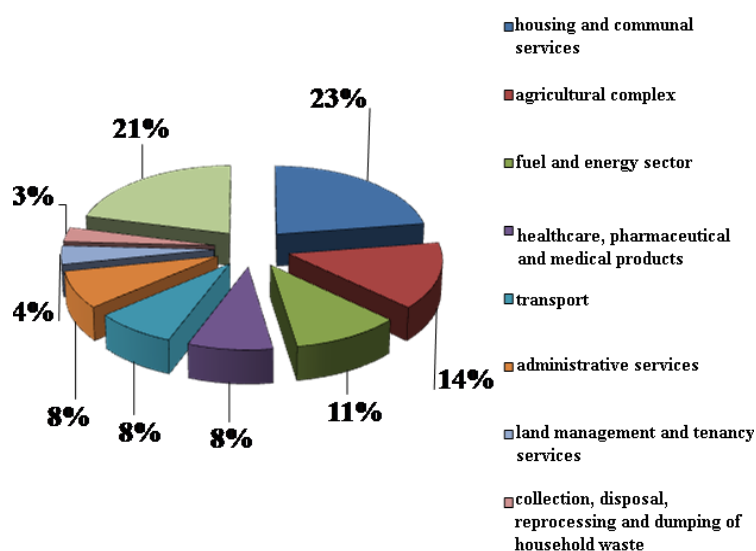
Figure 1. Structure of Violations of the Legislation on Protection of Economic Competition which were Terminated by the Committee in 2015



16. Out of the total number of terminated violations: **2 215** violations (49 percent) were suppressed by the adoption of decisions on application of responsibility provided for by the Law; **2,308** violations (51 percent) – by means of the bodies of the Committee issuing recommendations.

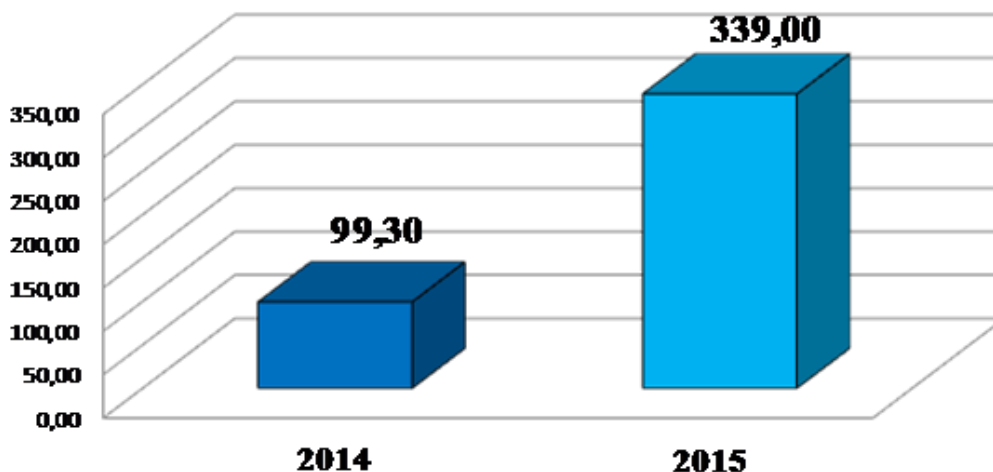
17. The largest number of violations of the legislation on protection of economic competition was detected in the market of housing and communal services (22,64 percent), of agribusiness (14,28 percent), of fuel and energy sector (10,63 percent), of healthcare (8,34 percent), of transport (7,98 percent), of administrative services (7,98 percent), of land management and tenancy services (3,96 percent), of collection, disposal, reprocessing and dumping of household waste (3.12 percent). Violations of the legislation on protection of economic competition in other markets with regard to which the Committee’s decisions had been taken in 2015 constituted 21.07 percent.

Figure 2. Structure of Violations of the Legislation on Protection of Economic Competition with Regard to Industries



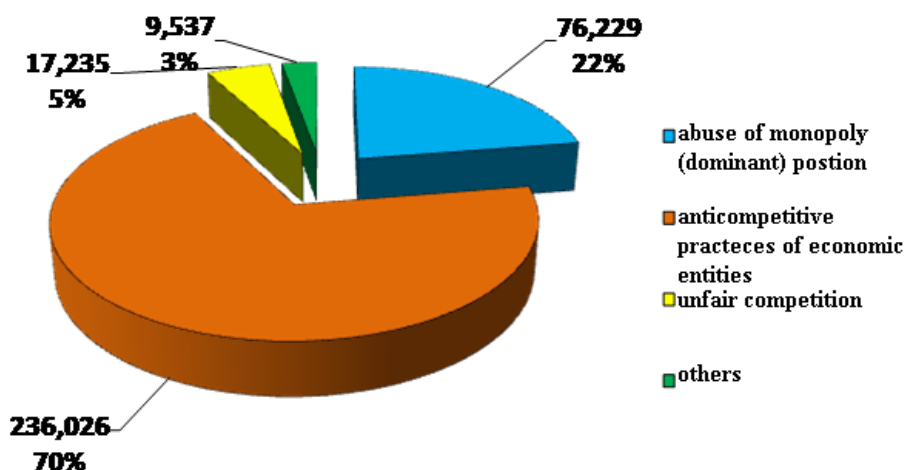
18. During 2015 the Committee and its bodies have imposed fines on offenders of the legislation on protection of economic competition a total of UAH 339.0 million that is 3.4 times more than in 2014.

Figure 3. Fines Imposed on Offenders by the Bodies of the Committee in 2014-2015, UAH million



19. Out of the total amount of penal sanctions imposed in 2015, more than **UAH 236.0 million** were imposed for violations in the form of anticompetitive concerted practices of economic entities; more than **UAH 76.2 million** – for violations in the form of the abuse of monopoly (dominant) position; more than **UAH 17.2 million** – for violations in the form of unfair competition and more than **UAH 9.5 million** – for other violations.

Figure 4. Structures of Penal Sanctions Imposed by the Bodies of the Committee on the Offenders in 2015, UAH million



20. The largest fines were imposed in the following cases:

- in the total amount of 203 616 thousand of UAH in the case of anticompetitive concerted actions of economic entities in the services market of organization of retail sales in non-specialized stores mostly with food assortment in Kyiv city - on LLC "Fozzy-Food", LLC "Fora", JSC "Furshet", SE "Traverse Market" SE "Food Center" SE "Furshet Center", LLC "Auchan Ukraine Hypermarket", LLC "Foodmarket", LLC "ATB-market", LLC "Eco", LLC "Adventis"

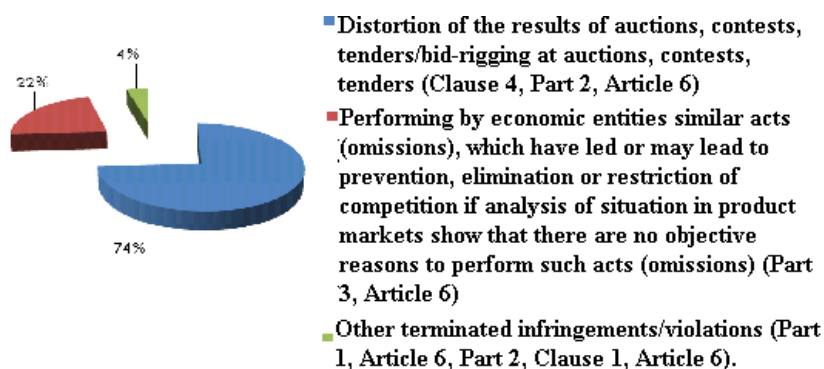
EFI "Billa-Ukraine" LLC "Kray-2", LLC "NOVUS Ukraine", PJSC "X 5 Retail Group Ukraine", LLC "Spar-center", LLC "Mepromah", LLC "METRO Cash & Carry Ukraine" and of "ASNilsen Ukraine";

- In amount of 44 504.917 thousand of UAH in the case of abuse of monopoly (dominant) position on the national market of telecommunications services for TV programs distribution in digital format (standard DVB-T2 (MPEG-4) - on LLC «Zeonbud»;
- In the total amount of 18 718.0 thousand of UAH in the case of abuse of monopoly (dominant) position in the market for the sale of aviation fuel with refueling aircrafts within the territories of International airport "Kharkiv" and the International Airport "Odessa" - on LLC "LUKOIL Aviation Ukraine";
- In amount of 14 067.786 thousand of UAH. in the case of dissemination of misleading information, including false information about the type of products - on LLC «Simferopol wine-cognac factory»;
- In amount of 2 379.417 thousand of UAH in the case of abuse of monopoly (dominant) position in the market for temporary storage of vehicles on the parking lot near the international airport "Kharkiv" – on LLC "NEW SYSTEMS AM";
- In the total amount of 2 040.0 thousand of UAH in the case of anticompetitive concerted actions of undertakings which coordinated their actions while participating in the tender for the purchase of health-service medical institutions with sanatorium and restorative treatment of insured persons and their families – on LLC “Kleonika” and LLC "Sanatorium-resort center".

2.1.1 Anticompetitive concerted practices

21. The bodies of the Committee terminated 524 violations in the form of anticompetitive concerted practices of economic entities in 2015. The largest number of violations in the form of anticompetitive concerted practices was detected in the markets of agribusiness – 27.86 percent; transport – 14.7 percent; fuel and energy sector – 12.41 percent; healthcare, pharmaceutical and medical products – 9.16 percent. Violations related to distortion of the results of auctions, contests, tenders (bid-rigging at auctions, contests, tenders) constituted the biggest share – 74 percent (387 cases) out of the total number of anticompetitive practices detected by the Committee.

Figure 5. Structure of Violations in the Form of Anticompetitive Concerted Practices of Economic Entities in 2015



2.1.1.1 Case example #1

22. The Committee considered a case of violation of legislation on economic competition protection by economic entities, which operate under such brands as: Silpo (LLC "Fozzy-Food"), Fora (LLC "Fora"), Furshet (PJSC "Furshet"), SE "Traverse Market" SE "Food Center" SE "Furshet Center"), Auchan (LLC "Auchan Ukraine Hypermarket"), Velyka Kyshenia (LLC "Foodmarket"), ATB (LLC "ATB-market"), ECO (LLC "Eco"), Caravan (LLC "Adventis"), 41 BILLA (EFI "Billa-Ukraine"), Kray and Krayna (LLC "Ktay-2"), NOVUS (LLC "NOVUS Ukraine"), Perekrystok (PJSC "X 5 Retail Group Ukraine"), SPAR (LLC "Spar Centre") Bimarket (LLC "Bimarket"/"Mepromah"), METRO (LLC "METRO Cash & Carry Ukraine") and research company LLC "ASNilsen Ukraine» as anticompetitive concerted actions in the market.

23. The Committee has found that trading networks coordinated their pricing policies, imposed unfavourable and unequal conditions for cooperation to suppliers of goods. Such actions of the trading networks became possible due to the adjusted by research company LLC "ASNilsen Ukraine" exchange of information between trading networks, due to which the latter received access to information about current activities of each other without wasting resources.

24. Information exchange, whose centre became LLC "ASNilsen Ukraine", has created a significant asymmetry in the information security of market participants (retailers, suppliers, customers), so that trading networks, having the maximum amount of information about the product and the market, received an opportunity to make disadvantageous conditions of cooperation for suppliers (primarily domestic small and medium ones) and for consumers - unreasonably high prices while lowering the average quality of goods that enter the circulation and squeezing high-quality products.

25. Each of the trading networks conducted practice of:

- significant delayed payments for delivered products;
- provision by trading networks additional services (presentation of the goods on the shelves, monitor their availability in sufficient quantity on the trading floor;
- control over expiration dates of the goods; monitoring the aesthetic look of the goods; putting up stickers, establishing price lists, etc.) without adequate justification for their content and price;
- shifting risks on commercial producers (return of unsold goods) and so on.

26. The listed above resulted in increased costs for suppliers and, consequently, to an increase in the cost of products supplied to trading networks. In addition to these high prices for products, a trading network adds another trade allowance on a percentage basis in relation to a product price.

27. The Committee has made a decision declaring that: trading networks along with LLC "ASNilsen Ukraine" committed a violation, stipulated by the first part of Article 6 and the first paragraph of Article 50 of the Law of Ukraine "On Protection of Economic Competition", in the form of anticompetitive concerted actions in the services market of organization of retail sales in non-specialized stores mostly with food assortment in Kyiv city;

28. trading networks have committed violations stipulated by part three of Article 6 and the first paragraph of Article 50 of the Law of Ukraine "On Protection of Economic Competition", in the form of anticompetitive concerted actions by committing similar acts in the services market of organization of retail sales in non-specialized stores mostly with food assortment in Kyiv city;

29. Violators were fined with a total amount of 203.6 million UAH.

2.1.1.2 Case example #2

30. The Committee found that the Department of capital construction of the Odessa Regional State Administration held tender for the purchase of works on the construction of a kindergarten of 110 places in the village of Carolino-Bugaz Ovidiopol district of Odessa region, which was part of LLC "Sophora Yug" and LLC "Production and Trade Company "Kvadrat". Competitors agreeing their actions during the preparation and participation in tender, ensured coordination of their economic behaviour that led to the elimination of competition between them during the tender.

31. The defendants were imposed with fines of total 793.6 thousand of UAH.

32. Actions of the limited liability company PJSC "Krivoy Rog Mining Equipment Plant" and LLC «Company "Mining machines" Lviv regional territorial office of the Committee recognized the anticompetitive concerted actions, concerning distortion of the tender results.

33. In particular, the documents submitted by listed companies contained the same errors, the same differences with the form given in the tender documentation, formalized in common design.

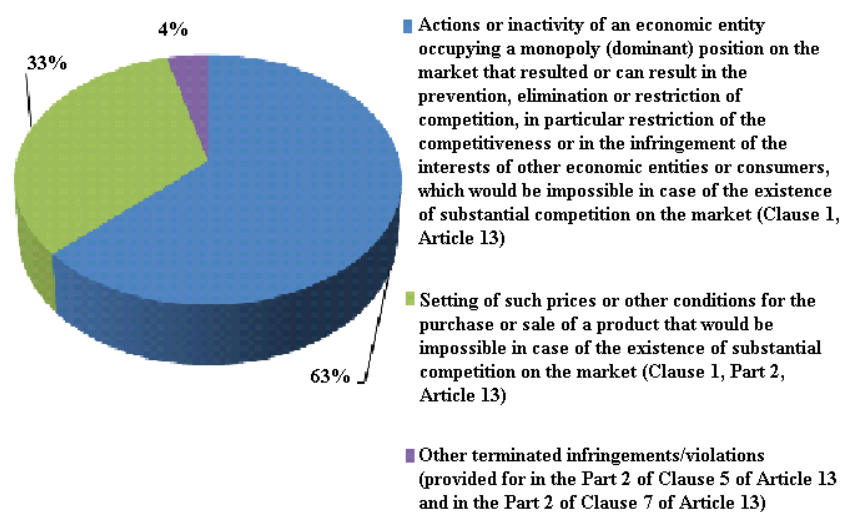
34. By the decision of the administrative board of the department, PJSC "Krivoy Rog Mining Equipment Plant" and the "Company "Mining machines" were fined with 68 thousand of UAH each.

2.1.2 Abuse of monopoly (dominant) position

35. The bodies of the Committee detected and terminated 2 169 violations in the form of the abuse of monopoly (dominant) position in 2015. In particular 592 violations were detected and terminated proceeding from the results of the consideration of cases; 1 577 cases of acts (omissions) that contained signs of violation of the laws on protection of economic competition were detected and terminated on the basis of the Committee's recommendations.

36. Economic entities which abuse its monopoly (dominant) position were fined in 2015 by the bodies of the Committee a total of UAH 76 229.824 million.

Figure 6. Structure of Violations in the Form of Abuse of Monopoly (Dominant) Position in 2015



2.1.2.1 Case example #1

37. By the decision of the Committee it was recognized that the limited liability company "Zeonbud" (hereinafter - LLC "Zeonbud", Company) committed violations in the form of abuse of monopoly (dominant) position on the national market of telecommunications services for TV programs distribution in digital format (standard DVB-T2 (MPEG-4) through the establishment of tariffs for TV programs distribution in digital format (standard DVB-T2 (MPEG-4) (hereinafter - services), which would be impossible to establish in case of the existence of significant competition in the market.

38. In 2014, the Committee declared LLC "Zeonbud" as the one that holds the monopoly (dominant) position on the national market of telecommunications services for TV programs distribution in digital format (standard DVB-T2 (MPEG-4) with a share of 100 percent during the period from September, 2011, to October, 2014

39. During the investigation of this case LLC "Zeonbud" testified that it used to set tariffs for services not on the basis of their economic activities, and without any changes applied the actual size of tariffs of consolidated group of broadcasting, radio and television that existed as of September, 2011. Thus, the tariffs were set by the Company not based on calculation of planned costs at economically reasonable levels, but based on the size of the actual tariffs of an economic entity that operates on a different product market.

40. At that, LLC "Zeonbud" applied tariff discounts that are not supported by any economic calculations, and included them in the tariff costs that are not directly related to the provision of services.

41. Some TV and radio broadcasting organizations and LLC "Zeonbud" concluded a cease-obligation agreement on debt forgiveness, according to which the Company exempts those organizations from the obligation to pay the debt. After analysing these agreements, the Committee found that debt forgiveness by the Company through releasing certain broadcasting organizations from paying the debts has no economic justification and leads to a distinction between broadcasting organizations, which pay for services provided by the Company and receive discounts according to the agreements, and broadcasting organizations which do not pay for provided services, while gaining the opportunity to be released from the obligation to pay the debt formed.

42. In addition, it proves the ability of LLC "Zeonbud" to refuse from some broadcasting organizations' debt payments for services that would not be possible in case there was competition on the national market of telecommunications services for TV programs distribution in digital format (standard DVB-T2 (MPEG-4) when the Company would be forced to optimize their costs (both planned and actual ones).

43. During the investigation of the case the planned and actual profitability of "Zeonbud" was analysed. During the period from November, 2011, to March, 2013, the actual profitability exceeded the approved (average) profitability of the Company. At that, LLC "Zeonbud" used a discount of 25 and 50 percent during that period. And even when, starting from April, 2013, the actual profitability has become less than that approved, LLC "Zeonbud" continued providing 50% discounts.

44. Such tariff policy confirmed the lack of economically reasonable approaches to the calculation of planned and actual profitability, which in its turn suggests that the tariffs were set by "Zeonbud" on economically unjustified level.

45. During the investigation of this case salary costs for LLC "Zeonbud" staff were analysed and it was found that even while reducing the profitability of activities and provision of 25% and 50% discounts for services, LLC "Zeonbud" was able to maintain a stable level of salaries for employees of the Company

during 2011 - 2014, furthermore, this level is much higher than the average rates in the field of telecommunications.

46. The Committee has proved that the Company set tariffs, even with the use of discounts and debt forgiveness, enabled LLC "Zeonbud" to conduct break-even business activities during 2012 - 2013.

47. In October, 2015, LLC "Zeonbud" provided information to the Committee, according to which, in particular, by the order from 10.07.2015 No 04-OD "On approval of tariffs of LLC "Zeonbud" for the services of distribution of TV programs of broadcasters in the digital multichannel television network of LCC "Zeonbud" in the MX-1, MX-2, MX-3, MX-5" (hereinafter – the Order) the Company set tariffs for telecommunications services for TV programs distribution in digital format (standard DVB-T2 (MPEG-4). The analysis of these tariffs shows that their size had been 47% - 52% reduced compared to the size of tariffs operating according to the order from 04.04.2011 № 1/04, depending on the transmitters' power.

48. By the Order of LLC "Zeonbud" from 10.07.2015 No 04/01-U, 12% discounts (in August and September, 2015) on the Company's services provided from 01.07.2015 were applied to all the tariffs set by the Order for all TV channels under condition they have no debt. By the Order of LLC "Zeonbud" from 01.09.2015 No 06 / U-01, the paragraph 1.1 of the Order of the Company from 10.07.2015 number 04/01-OD was amended. According to these amendments in the calculation of the prices of the services provided by the Company in August, 2015, it was decided to apply 12% discount to tariffs for all TV channels without exceptions, regardless of existing indebtedness for the Company's services provided by the LLC "Zeonbud" from 01.07.2015.

49. LLC "Zeonbud" was imposed a fine of 44.5 million UAH for the violation committed.

2.1.2.2 Case example #2

50. The Committee recognized the actions of LLC "LUKOIL Aviation Ukraine" within the period of November, 2014, till July, 2015, which consisted in setting the overprices for services for the sale of aviation fuel with refuelling aircrafts, abusing of a monopoly (dominant) position within the territories of International airport "Kharkiv" and the International Airport "Odessa", by setting such prices and conditions of product sales, which would be impossible to set under conditions of existence of significant competition in the market.

51. During the investigation it was found that the services price of LLC "LUKOIL Aviation Ukraine" for the sale of one ton of aviation fuel with refuelling aircrafts (excluding VAT) within the territories of International airport "Kharkiv" and the International Airport "Odessa" in November 2014 was significantly higher than the price of similar services in other airports in Ukraine.

52. For the violation committed, LLC "LUKOIL Aviation Ukraine" was fined with 11.5 million UAH and obliged to terminate the infringement mentioned above by initiating amendments to the service contracts for the sale of aviation fuel with refuelling aircrafts in the part of establishment of transparent and predicted price changes for these services.

53. In addition, it was found that the company LLC "LUKOIL Aviation Ukraine" provided discount on the sale of aviation fuel with refuelling aircrafts at the International Airport "Odessa" to a certain economic entity without objectively justified reasons.

54. Such actions of LLC "LUKOIL Aviation Ukraine" violated the legitimate interests of other air carriers who stayed vulnerable at the absence of well-functioning market mechanism with significant competition between market participants.

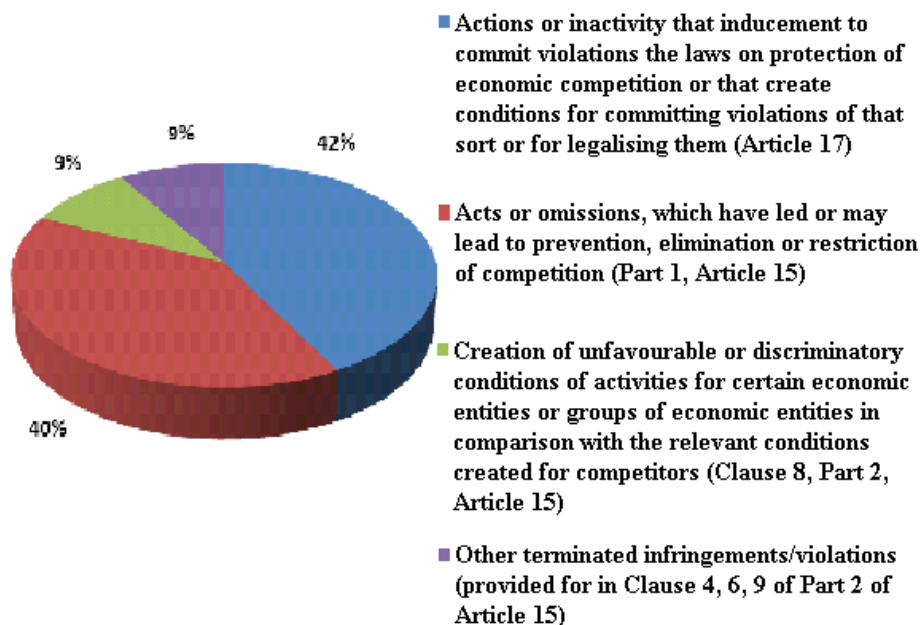
55. LLC "LUKOIL Aviation Ukraine" was imposed with a fine of 7.2 million UAH for the violation committed.

56. LLC "LUKOIL Aviation Ukraine" appealed to the Commercial Court of Kyiv city with a claim for recognition of the Committee's decision invalid. The Commercial Court of Kyiv city refused LLC "LUKOIL Aviation Ukraine" in its claim and confirmed the legality of the decision of the Antimonopoly Committee of Ukraine regarding the violation of legislation on economic competition protection committed by LLC "LUKOIL Aviation Ukraine".

2.1.3 *Anticompetitive actions of bodies of state power, bodies of local self-government, bodies of administrative and economic management and control*

57. During 2015 the bodies of the Committee has terminated 917 infringements/violations in the form of anticompetitive actions of bodies of state power, bodies of local self-government, bodies of administrative and economic management and control. With regard to 623 violations out of the total number of mentioned violations the bodies of the Committee have adopted decisions proceeding from the results of the consideration of cases and with regard to 294 acts that contained signs of such violations – the bodies of the Committee have terminated such acts by issuing recommendations.

Figure 7. Structure of the Violations in the Form of Anticompetitive Actions of Bodies of State Power, Bodies of Local Self-Government, Bodies of Administrative and Economic Management and Control in 2015



2.1.3.1 Case example #1

58. Administrative board of Kiev regional territorial office found violations of law on economic competition protection in actions of Fastiv City Council, which consisted in inclusion of conditions of authorization cancellation which are not stipulated by law into the Procedure of placement of outdoor advertisement in Fastiv city. As a result, discriminatory conditions of activities were created for certain economic entities in comparison to competitors. By the decision of the administrative board of the department of Fastiv City Council, the Procedure of placement of outdoor advertisement in Fastiv city shall be aligned with the acting Law of Ukraine.

2.1.3.2 Case example #2

59. Ternopol regional territorial office of the Committee considered the case on anticompetitive practices of Pochayev City Council, which consisted in the application of different interest rates of land lease of the same purpose for certain economic entities that lease such land, which caused higher expenses for them while using the land compared to competitors.

60. Such actions are considered as violations of the law on economic competition protection in the form of anticompetitive practices of local self-government bodies, as a result, discriminatory conditions of activities were created for certain economic entities in comparison to competitors.

61. Pochayiv city council was obliged to stop violating.

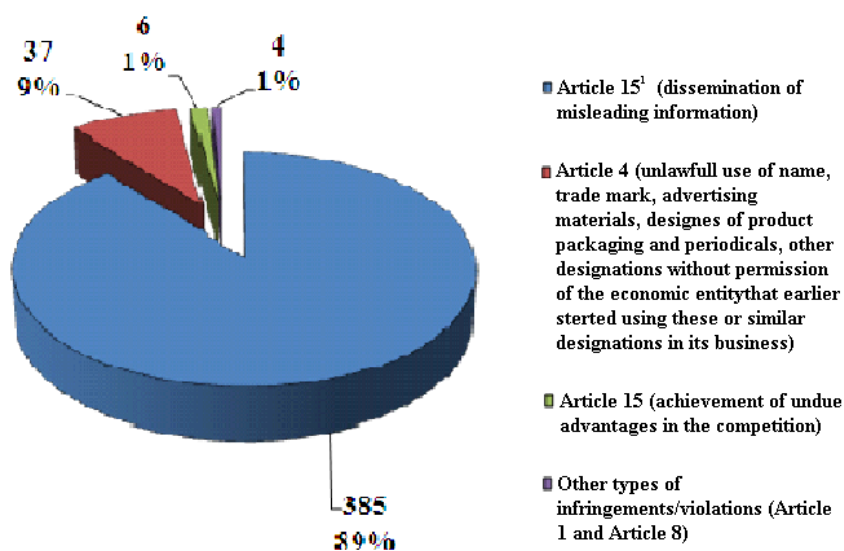
62. Pursuant to the decision of Ternopol regional territorial office, Pochayev City Council announced its approval of the Procedure of setting lease tariffs, establishing the same rent prices based on the value of normative monetary evaluation of the lands intended for the same intended use.

2.1.4 Unfair competition

63. The bodies of the Committee terminated **432** violations of the Law of Ukraine “On Protection against Unfair Competition” in 2015. With regard to **117** infringements/violations in the form of unfair competition out the total number of mentioned violations the bodies of the Committee have adopted decisions on imposing penal sanctions; with regard to **315** acts, that contained signs of such violations – the bodies of the Committee have terminated such acts by issuing recommendations to economic entities.

64. For violations of the legislation on protection of economic competition the bodies of the Committee during 2015 have imposed fines a total of more than **UAH 17.2 million**.

Figure 8. Structure of Violations in the Form of Unfair Competition in 2015



2.1.4.1 Case example #1

65. The Antimonopoly Committee of Ukraine has recognized that the limited liability company "Simferopol Wine and Cognac Factory" (Dnipropetrovsk city) has committed a violation stipulated by Article 151 of the Law of Ukraine "On Unfair Competition" in the form of dissemination of misleading information, having disseminated false information to uncertain number of people, due to the chosen method of information presentation about the kind of products on labels of alcoholic drinks rum gold /

alcoholic solid "Cane" drink called «Captain Jack» and «BLACK JACK» «rum gold» and rum black/ alcoholic solid "Cane" drink called «Captain Jack» and «BLACK JACK» «rum black» that could affect the intent of the people to purchase the products of this economic entity.

66. While considering the case it was established that the company indicated on their products labels on different sides at the same time: on the label - "rum", and on the counter label - "Cane" alcoholic solid drink" (hereinafter - Drinks), and taking into account the overall composite design of the label, and the fact that in the points of sale of these products it is placed next to authentic rum, whose price is higher than the cost of the products of the limited liability company "Simferopol Wine and Cognac Factory", a potential buyer can identify the specified product as authentic rum, not as alcohol solid "cane" drink, and get interested in such products, taking it for rum, buy it instead of authentic rum.

67. At the same time, the name and type of alcoholic beverages should be clear to consumers, characterize the product specifically and accurately, reveal its nature, origin, provide the opportunity to distinguish certain kind of alcoholic drinks from other similar kinds of alcoholic drinks.

68. Considering that the Drinks and rum are different products in their consumer properties (the Drinks do not include ingredients inherent for such alcoholic drink like rum), placing the information on the label of the Drink of product type rum along with parallel indication on the contra labels of these Drinks that they are strong alcoholic "cane" drinks cannot give the consumer the possibility to decide on the type of the product. As a result, the consumer can buy the Drinks instead of rum.

69. Thus, placing false information on the labels of Drinks in the chosen method by the defendant that its products is RUM, may mislead consumers about the actual type of product and affect the intent of consumers on the purchase of goods of the defendant rather than the products of other market participants, which produce and sell rum.

70. LLC «Simferopol Wine and Cognac Factory" was imposed with a fine 14 million 67 thousand 786 UAH for the violation of legislation on protection against unfair competition.

2.1.4.2 Case example #2

71. For example, Interim administrative board of the Antimonopoly Committee of Ukraine has recognized the actions of "Universal agency" Pro-Pharma" as violation, stipulated by Article 151 of the Law of Ukraine "On Unfair Competition" in the dissemination of misleading information, which consisted in distributing commercials about drug "PANKREAZYM" on TV channels of Ukraine containing false information about the speed of drugs' action, namely "PANKREAZYM will remove heaviness just in 15 minutes", "There are 15 minutes between heaviness and lightness" in the period from November 11, 2013, to March 30, 2014, and distributing false information about the speed of drug's action, such as placement of image of clock arrows in shape of forks and spoons, which indicate the amount of time of 15 minutes in the commercial during the period from April 14, 2014, to May 11, 2014.

72. Thus, it was found that information on the rate of action of the medicinal drug "PANKREAZYM" distributed by "Universal agency "Pro-Pharma" in its commercials, has not been confirmed by relevant researches and could mislead consumers as this information is false.

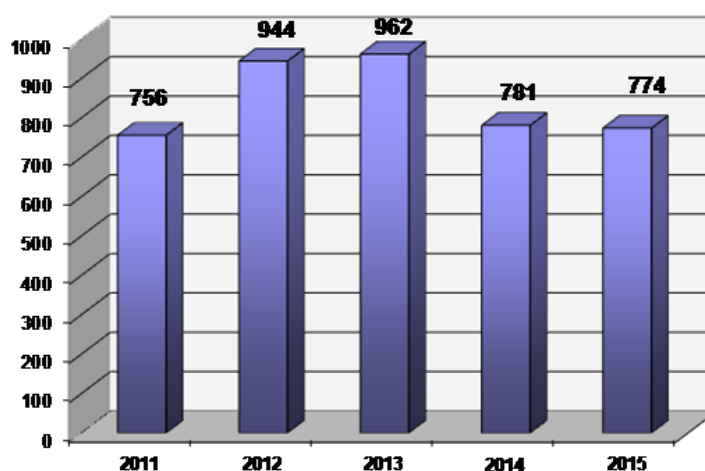
73. For the violation committed "Universal agency "Pro-Pharma" was fined with 700.0 thousand UAH. The fine was paid; the violation was terminated.

2.2 *Mergers and acquisitions*

2.2.1. *Statistics on number, size and type of mergers notified and/or controlled under competition laws*

74. In 2015 the Committee considered **774** applications for authorizing concentration (in 2014 – 781 applications). More than **83.6** percent (647 applications) out of the total number of such applications were submitted from foreign investors or enterprises with a share of foreign investments. The share of such applications has increased by 2.8 percent in comparison with 2014.

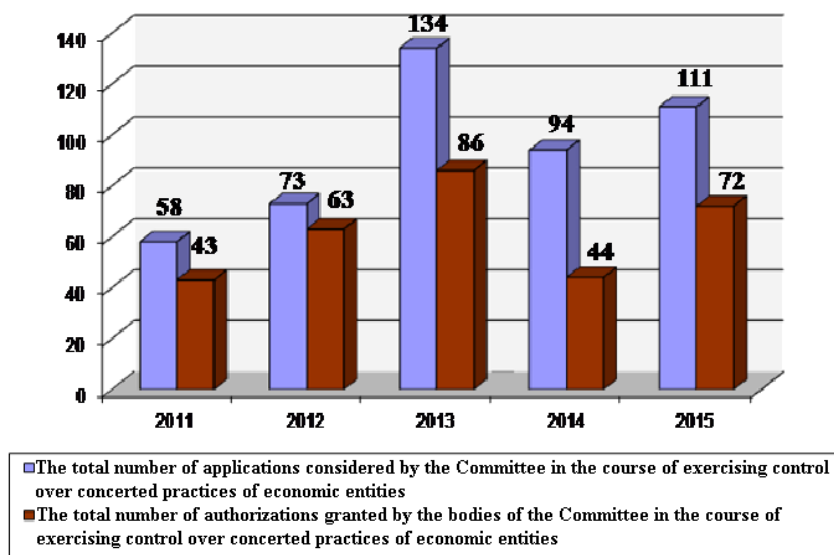
Figure 9. The Number of Applications for Authorizing the Concentration of Economic Entities Considered by the Committee in 2010 – 2014



75. In order to prevent the monopolization of product markets and/or eliminate negative impact of concentrations/concerted practices of economic entities on competition, in particular in the markets of chemical products used in the sphere of paper and paper board industry, brominated flame retardants, commodities for manufacture of tiles, major appliances, margarine etc., the resolution of the Committee to issue authorization for such concentrations/concerted practiced may be subject to meeting certain requirements and performing obligations to eliminate or mitigate negative impact produced by of concentration on competition.

76. 111 applications for authorizing concerted practices of economic entities were considered by the bodies of the Committee in 2015.

Figure 10. Dynamics of the Number of Applications Considered by the Bodies of the Committee in the Course of Exercising Control Over Concerted Actions of Economic Entities and Granted Authorizations for Performing Such Practices Proceeding from the Result of Consideration



77. The bodies of the Committee during 2015 have given **86** preliminary conclusions on concerted practices, concentrations. Obtaining preliminary conclusions on concerted practices, concentrations have given the possibility to economic entities to ascertain the need of application for authorizing, thereby achieving economies in time and money for them, to avoid committing violations of the legislation on protection of economic competition in the form of concentrations or concerted practices without permission to be given by the Committee if the necessity of getting that sort of permission is provided by laws. Moreover, issuance of authorizations prevents concentrations that might lead to restriction of competition in commodity markets.

2.2.2. Summary of significant cases

2.2.2.1 Case example #1

78. The Antimonopoly Committee of Ukraine considered the cases on merger involving companies «Kemira Oyj» (Helsinki, Finland) and «Akzo Nobel N.V.» (Amsterdam, Netherlands) in the markets of chemical products used in the cellulose pulp and paper industry.

79. Considering the significant share of merger participants in the markets of chemical products used in the cellulose pulp and paper industry [materials that ensure resistance to humidity; systems for retention and drainage systems (RDA); materials for gluing surfaces, fixative], the Committee had begun a complex deep investigation under the consideration of the merger case.

80. During the case consideration, it was found that:

- - Markets of chemical products used in the cellulose pulp and paper industry, are contiguous with the paper market, which currently creates demand for relevant chemical products. Consumers of chemical products used in the cellulose pulp and paper industry are producers and undertakings of various sorts of paper, including hygiene, packaging paper, paper for special purposes;

- - For the entry of new market participants there are no barriers, which allows new suppliers (manufacturers) to start the sale of chemical materials, used in paper-pulp industry, in Ukraine;
- - Competitors can quite easily replace the sale of merger participants in Ukraine, for example, in the case of fixatives (shares of competitors in the relevant market in 2014 increased twice, while merger participants had them decreased);
- - In addition, the feature of markets chemical products used in the cellulose pulp and paper industry is unstable demand in Ukraine and low supply, which makes them very volatile; in connection with this, notified concentration does not lead to monopolization or significant restriction of competition in the market involved.

81. However, considering the significant share of merger participants in the markets of chemical products used in the cellulose pulp and paper industry, according to the results of the case consideration the decision was made to permit the concentration and impose obligations.

2.2.2.2 Case example #2

82. The Antimonopoly Committee of Ukraine considers cases of concentration in a form of indirect acquisition by «Albemarle Corporation» (Concrete Rouge city, the USA) of:

- - shares of private limited liability company which will be set up under the legislation of Netherlands (hereinafter - the Company, a joint venture);
- - shares in production, located in Neot Hovav, Israel (hereafter - Israeli plant) that ensures achievement of 50 percent of the votes in the supreme governing body of the plant.

83. Considering the significant share of merger participants in the market of brominated flame retardants, the Committee began a complex deep investigation in frames of the consideration of the merger case.

84. During the case consideration it was established that the notified concentration does not lead to monopolization or significant restriction of competition in the market involved.

85. However, taking into account the significant share of merger participants in the market of brominated flame retardants, according to the results of the case consideration the decision was made to permit concentration and impose obligations concerning the activities of the merger participants in the market of brominated flame retardants and hexabromocyclododecane that are interchangeable with FR63.

3. The Role of Competition Authorities in the Formulation and Implementation of Other Policies

3.1 Competition advocacy

86. In 2015 the main priorities of the Committee's activity on the development of fair competition were:

- interacting with bodies of state power, bodies of local self-government on facilitation of fair competition;

- issuing recommendations to restrict monopolism, promote competition and prevent violations of the legislation on protection of economic competition;
- raising public awareness about the importance of competition policy to the economy and the Committee’s role in the protection of economic competition;

87. The Committee has processed 1 356 legal acts, other decisions and draft decisions of public authorities. The Committee refused to provide concurrence with regard to 79 documents out of the total number mentioned and provided proposes and comments on bringing them into conformity with laws on protection of economic competition with regard to 234 acts.

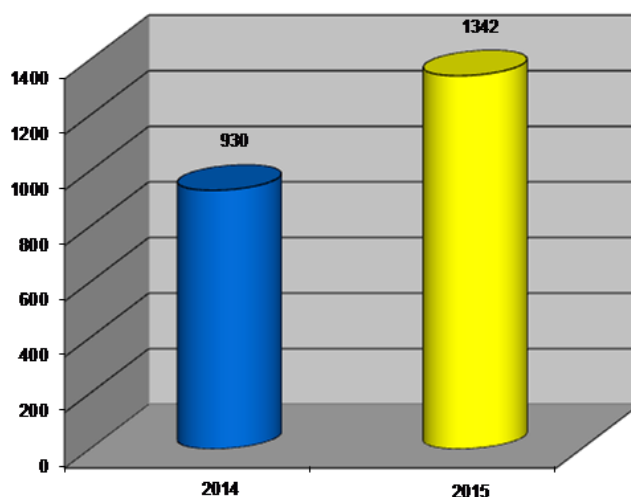
88. In 2015 the bodies of the Committee provided 1 300 recommendations to bodies of state power, bodies of local self-government, bodies of administrative and economic government and control on taking measures aimed at limitation of monopolism, development of competition and prevention of violations of the legislation on protection of economic competition. Several recommendations aimed at the development of competition were issued with regard to markets of medical services, tobacco products, and maintenance services of houses, buildings and adjacent territories.

89. In order to ensure transparency, the Committee has initiated the procedure for publishing its decisions on: applications and cases on concerted practices, concentrations; on violations of the legislation on protection of economic competition; cases on unfair competition.

3.2 *Activity of the Committee as an appellate body in the sphere of public procurements*

90. In 2015 the Committee submitted **1 342** complaints that is 44.3 percent more than in 2014 (**930** complaints). The total amount of all fees for complaints filed in 2015 was credited to the State Budget of Ukraine and constituted **UAH 7 665.1 thousand** that is 71.3 percent more than in 2014 (UAH 4 473.36 thousand).

Figure 11. The number of complaints about violations of the law/laws on public procurement submitted by the appellate body in 2014-2015



91. Standing administrative board of the Committee responsible for considering of complaints about violations of the law on public procurement (hereinafter – the Board) was established pursuant to the Law of Ukraine “On Public Procurement” for the purpose of an impartial and effective protection of the rights

and lawful interests of the persons participating in public procurement procedures. It shall be composed of three State Commissioners of the Committee.

92. The total number of the Board meetings held in 2015 increased in comparison with 2014 from **308** to **326**. In the accounting year the Board adopted on its meetings **2 388** decisions that is 42.8 percent more than in 2014 (**1 672** decisions). Namely **1 092** decisions were adopted on the acceptance of the complaint for consideration (in 2014 – 766 such decisions) including **511** – on the suspension of the procurement procedures (in 2014 – 408 such decisions), **337** – on the refusal to settle the complaint (in 2014 – 241 such decisions), **494** – on the settlement of the complaint (in 2014 – 380 such decisions) including **143** – on the cancellation of the procurement procedures (in 2014 – 137 such decisions).

Figure 12. The number of decisions adopted by the Board in 2014-2015

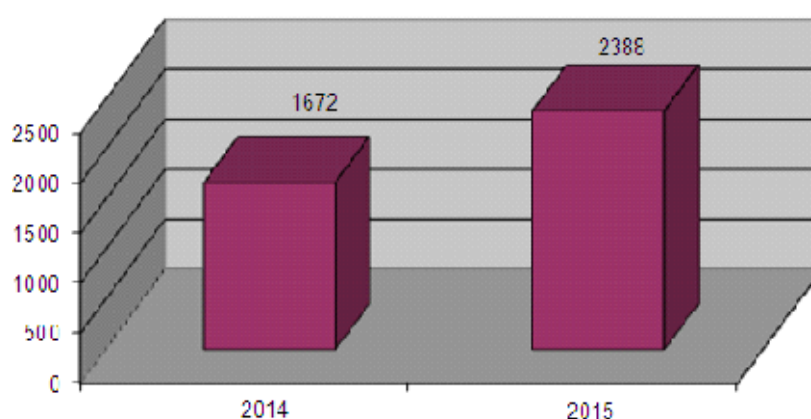
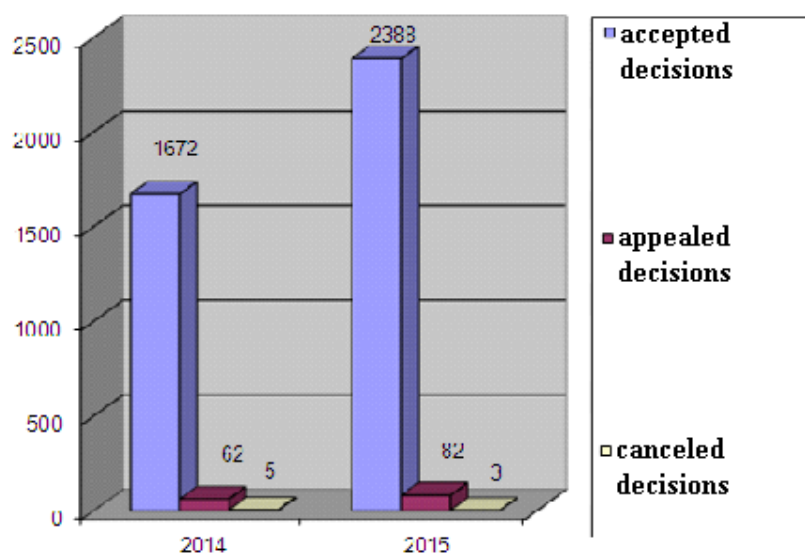


Figure 13. The number of accepted, appealed and cancelled decisions of the Board in 2014-2015



3.3 *International activity*

93. International activity of the Committee in 2015 was aimed at the extension and deepening of cooperation of Ukraine with competition authorities of other countries and international organizations in the sphere of protection of economic competition. Representatives of the Committee have participated in

the work of the Organization of Economic Cooperation and Development's (OECD) and UN Conference on Trade and Development's (UNCTAD) working bodies on competition.

94. Moreover, the Committee continued its work with the International Competition Network (ICN) in 2015. The participation of the Committee in the activities of the OECD, UNCTAD and ICN has contributed to further extension of Ukraine's international cooperation with other countries, international organizations in the sphere of protection of economic competition. Significant attention of the Committee was addressed to the application at the national level of foreign competition authorities' experience in the sphere of the development and the protection of economic competition, exchange of practical and theoretical experience.

95. The realization of two technical assistance projects was continued in the Committee in 2015, namely "Harmonization of Public Procurement system in Ukraine with EU standards" and technical assistance project (in the framework of TAIEX instrument) of the EU Support Group for Ukraine. Under these programs the Committee has obtained support for the improvement of competition legislation, recommendations on bringing competition legislation into conformity with EU competition rules, assistance in drafting public procurement legislation and carrying out measures on capacity building and staff training. In order to ensure capacity building of competition authority, improvement of competition legislation and enforcement practices the Committee has taken measures on the engagement of international technical assistance during 2015.

4. Resources

4.1 *Financial resources*

96. The amount of budgetary allocations for execution of the Committee's powers in 2015 constituted UAH 62 636 400 or USD 2 867 350 (official average exchange rate of National Bank of Ukraine in 2015 constituted UAH 21.8447 per one US dollar) or USD 3 972 000 (the exchange rate as of the date of the budget law approval which is December, 2014) or EUR 2 585 215 (official average exchange rate of National Bank of Ukraine in 2015 constituted UAH 24.2287 per one Euro)

97. In 2015 the employee turnover in central administration of the Committee constituted 25 percent, in regional offices of the Committee – 17 percent, on the average – 19 percent.

4.2 *Human resources*

98. As of December 31, 2015 the number of employees of the Committee's central administration constituted 207 persons. 206 out of them possessed a university degree (namely 66 persons (32 percent) – possessed degree in economics, 73 persons (36 percent) – possessed degree in law, 10 persons – possessed a scientific degree). The number of employees of the Committee's regional offices constituted 429 persons. 424 out of them possessed a university degree (namely 253 persons (60 percent) – possessed a degree in economics, 116 persons (27 percent) – possessed a degree in law, 7 persons – possessed a scientific degree).

Figure 14. The number of Employees of the Committee's Central Administration Possessing University Education in terms of Degrees as of December 31, 2015

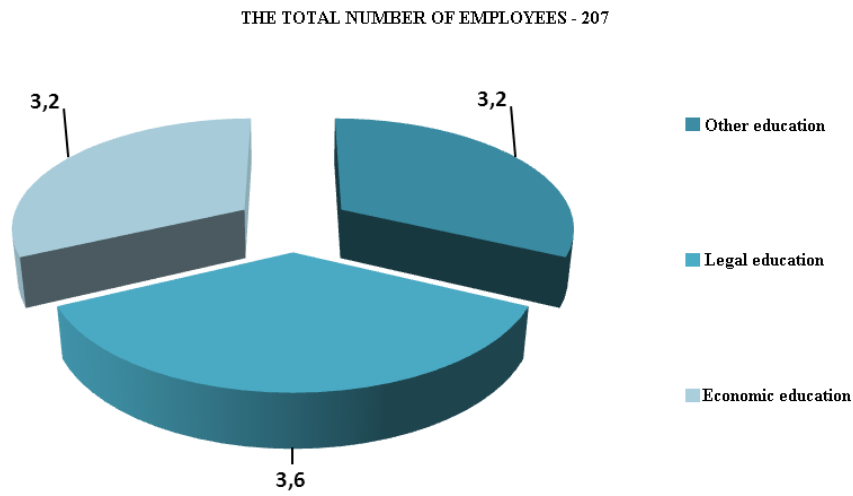


Figure 15. The number of the Employees of the Committee's Regional Offices Possessing University Education in Terms of Degrees as of December 31, 2015

