

**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE**

Cancels & replaces the same document of 9 May 2019

Annual Report on Competition Policy Developments in Ukraine

-- 2018 --

This report is submitted by Ukraine to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 5-7 June 2019.

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Note by Turkey

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Ukraine

Executive summary

In 2018 we continued our work on building up a new, modern, professional and transparent Antimonopoly Committee of Ukraine (hereinafter referred to as the AMCU, the Committee).

1. The economic impact of the AMCU's activities in 2018 is estimated as UAH 4 billion (over USD 144,27 million), which is almost 1.6 times more than in 2017. This indicator evaluates its effect on public welfare through renewal of competition conditions or prevention of anticompetitive effects.

2. In 2018, the AMCU both independently and in cooperation with law enforcement authorities ceased 263 anticompetitive concerted actions-type violations. Most notably, they include cases: anticompetitive actions at liquefied hydrocarbon gas market (over UAH 41 million/USD 1,485,000 of aggregate fines imposed); anticompetitive actions at the pharmaceuticals market (a UAH 18 million/USD 652,000 fine).

3. In 2018, 216 violations involving abuse of dominance and 454 violations of anticompetitive actions of the public authorities were ceased.

4. A number of significant unfair competition cases were investigated. In particular relating to cases of using economic entities' information with restricted access without permission (a fine of UAH 360,000/USD 12,000 imposed). Another notable unfair competition case example is imitation of foreign liquors by a domestic company, which was fined for over UAH 3,3 million (over USD 119,000).

5. In the area of merger control, the number of applications received by the AMCU decreased to 532 in 2018 compared to 666 in 2017.

6. Public Procurements: continued increase in the number of complaints (by over 35% compared to 2017) generalization of the AMCU complaints practice.

7. Since 02.08.2017 (the date of entry into full force of the Law of Ukraine «On State Aid to Economic Entities») the AMCU exercises powers conferred upon it by the national legislation in a field of state aid monitoring and control, in particular by taking decisions on admissibility or non-admissibility of state aid for competition; on the termination and refund of illegally received state aid..

8. The AMCU has been actively involved in legislative work, important legislative initiatives aimed at strengthening the Committees' mandate (in particular, according to the OECD Peer Review recommendations), and at ensuring fairness and predictability of the AMCU interactions with business. The AMCU has also worked on secondary legislation.

9. The 2018 AMCU activities in brief:

- UAH 192 million (over USD 6.91 million) of budget financing;
- UAH 277 million (over USD 9.99 million) of fines imposed;
- UAH 182.8 million (over USD 6.59 million) of fines paid;
- UAH 4 billion (over USD 144 million) of economic impact;

- 1,344 competition infringements ceased;
- 7,786 public procurement complaints filed for total amount of UAH 143.5 billion (over USD 5.15 billion);
- 916 state aid notifications filed;
- 1,547 draft regulations reviewed.

1. Amendments to competition legislation and policy, proposed or adopted

10. In 2018, the AMCU continued working on improvement of the legislative framework for the state protection of economic competition in Ukraine, in particular, in view of Ukraine's obligations under the EU-Ukraine Association Agreement.

11. Amendments to the competition laws developed in 2018:

- Amendments to the Law of Ukraine "On State Aid to Economic Entities", to the Customs Code, Tax Code and other Ukrainian laws in order to bring them in conformity with EU *acquis* on state aid;
- Amendments to the Law of Ukraine "On Protection of Economic Competition" in order to increase an efficiency of the AMCU decisions implementation.

12. Amendments of competition legislation to be introduced:

- Draft Law No. 6723 (14.07.2017): improvement of the AMCU's overall efficiency (implementation of the 2016 OECD Peer Review recommendations) –passed the 1st hearing in the Parliament, being prepared for the 2nd hearing:
 - *De minimis* rule: an AMCU right to refuse initiation and close of the initiated cases which have minor impact on competition;
 - Reviewing the fine collection mechanism: cancellation of 1.5% daily penalty (as it being excessive); a 50% discount for timely voluntary payment;
 - Direct enforcement of AMCU decisions imposing fines (directly enforceable if no annulment claim was brought, or if such a claim was dismissed);
- Draft Law No. 6746 (17.07.2017): improvement of procedural fairness (passed by the Parliament on 07.02.2019 but was vetoed by the President and returned to the Parliament for improvement):
 - Introduction of time limits for the AMCU's investigations in competition-related cases;
 - Improvement of respondents' procedural rights;
 - Improvement of the leniency procedure;
 - Introduction of a settlement procedure.

13. Secondary legislation introduced:

- Methodical recommendations on the application of the concept of control (approved by the Committee's decision dated 01.11.2018), aimed at unifying approaches to the use of the concept of control in AMCU assessment of various types of mergers and other transactions;

- Guidelines ('recommendatory explanations') on evaluation of non-horizontal mergers, with the purpose of ensuring uniform application of competition laws in cases on granting merger clearance to non-horizontal (vertical and conglomerate) mergers of undertakings;
 - Typical requirements for concerted actions in technology transfers (based on EU *acquis*), a document setting forth requirements for concerted actions related to transfer of technology to be exempt from the obligation to seek AMCU approval (clearance) (block exemptions) – passed in 2018, entered into force in January 2019;
 - Amendments to the Typical requirements for vertical concerted actions of economic entities in relation to the supply and use of goods;
 - In 2018, the AMCU completed a comprehensive review of the 2007-2017 cassation courts jurisprudence on application of competition laws, with a focus on key practical issues of interpretation and application arising in competition law cases considered by the courts.
 - In 2018, the AMCU created and published the Concept of state policy of development and protection of economic competition in Ukraine, which defines key principles for the formation and implementation of a unified and coherent state policy in a field of development and protection of economic competition and restriction of monopolism in Ukraine. The Concept identifies current competition issues and ways to address them for sustainable economic growth and social welfare, delineates strategic directions for development and protection of economic competition at all state levels, establishment of policy principles.
14. Secondary legislation drafted:
- Instruction on the procedure for providing access to public information possessed by the AMCU;
 - Guidelines on assessment of mergers in form of establishment of joint ventures;
 - The procedure for submission and processing of notifications on new state aid and amendments to the terms of the current state aid.
15. The AMCU's approval of regulatory acts in 2018:
- 1,547 draft regulations were reviewed;
 - 363 draft regulations were not approved due to their anticompetitive effects;
 - 143 draft regulations were approved with reservations and recommendations (among which 69 drafts were brought in conformity with the AMCU's recommendations).

2. Enforcement of competition law and policy

2.1. Actions against anticompetitive practices, including anticompetitive concerted actions, abuse of dominance and unfair competition

16. In 2018, the AMCU considered 4,028 applications and appeals relating to violations of the legislation on protection of economic competition.

17. Due to the AMCU's engagement, 1,344 competition violations were ceased, including:

- 216 (16%) abuse of dominance-type violations;
- 263 (20%) anticompetitive concerted practices of economic entities;
- 454 (34%) anticompetitive actions of public authorities (state and municipal authorities, bodies of administrative and economic management and control);
- 168 (12%) unfair competition-related violations;
- 206 (15%) violations related to submission of information upon AMCU request;
- 25 (2%) mergers without permission
- 12 (1%) other violations (non-fulfillment of decisions, creation of obstacles etc.).

18. 52% of violations were ceased by the AMCU's decisions; 48% - by providing the AMCU's recommendations.

Table 1. Structure of ceased violations in 2018 by sector and type, %

Market	Anticompetitive actions of public authorities	Anticompetitive concerted actions of economic entities	Abuse of dominance	Unfair competition	Total
Agro-industrial complex	8,6 %	21,6 %	2,8 %	43,4 %	28,1 %
Construction and construction materials	1,8 %	26,2 %	0,5 %	0,6 %	5,5 %
Communications and telecommunications	0,4 %	0,4 %	0,5 %	1,8 %	2,0 %
Healthcare, pharmaceuticals and medical products	0,2 %	2,3 %	7,9 %	5,3 %	7,5 %
Industrial sphere	0,2 %	5,7 %	0,9 %	3,0 %	2,7 %
Services of land management and leasing, real estate services	15,6 %	0,4 %	3,2 %	0,0 %	2,2 %
Funeral services	1,6 %	0,0 %	1,4 %	3,0 %	1,5 %
Transportation	3,1 %	8,4 %	5,5 %	3,0 %	5,3 %
Finance and insurance	0,2%	0,8 %	0,9 %	0,6 %	2,3 %
Fuel and energy complex, housing and utilities	37,9 %	7,2 %	72,2 %	2,4 %	16,8 %
Other markets	30,4 %	27,0 %	4,2 %	36,9 %	26,1 %
Total	100,0 %	100,0 %	100,0 %	100,0 %	100,0 %

19. The AMCU maintains a tendency to prioritize the quality and significance of cases over their number, as well as to strengthen the evidence base before making a decision that will have a positive effect in a medium term.

20. In 2018 structure of fines was improved, since in a reporting year 75% of the total amount of fines and penalties was paid by five economic entities, while in 2017, 88% of the total amount of fines and penalties was paid by one business entity.

Figure 1. Fines Imposed by the AMCU in 2017-2018, UAH million

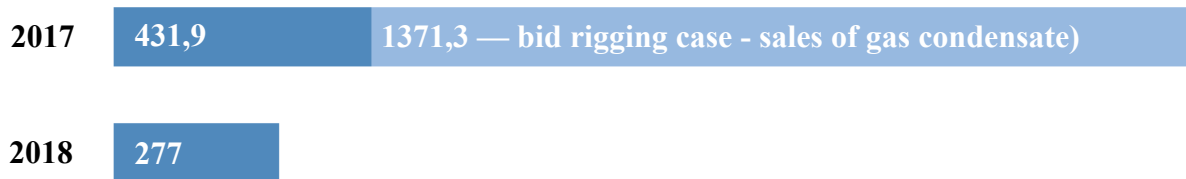
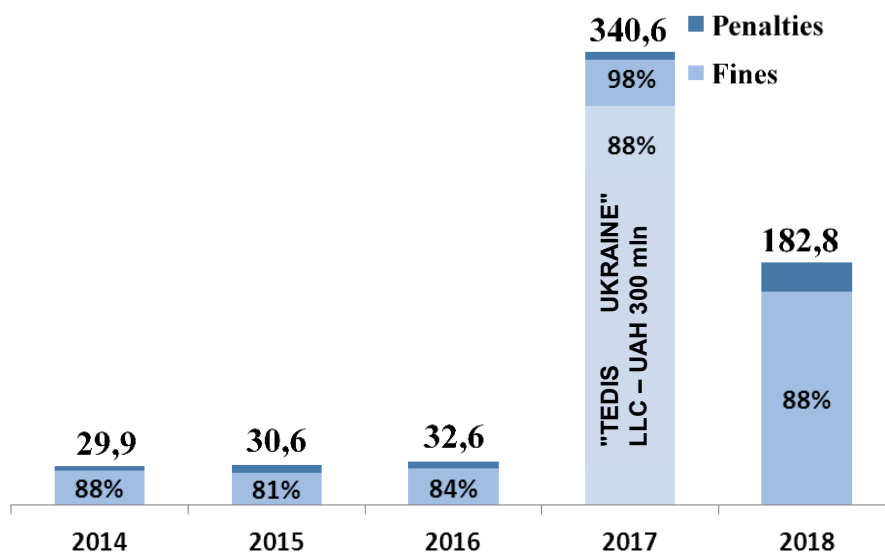
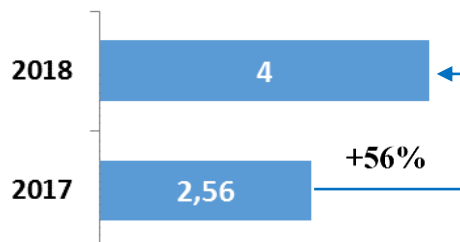


Figure 2. Fines and penalties paid in 2014-2018 UAH million



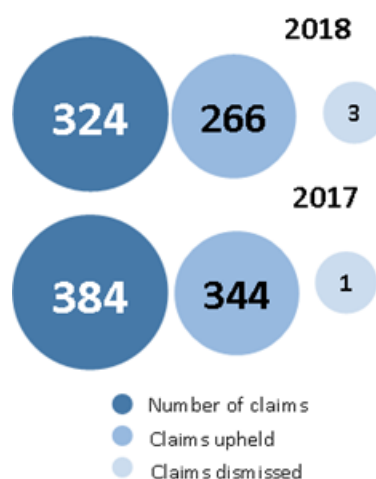
21. Amount of the economic impact in 2018 is estimated as UAH 4,0 billion (over USD 144,27 million), which is almost 1.6 times more than in 2017 (2,56 billion UAH/over USD 92,33 million), as a result of the AMCU's measures aimed at terminating competition-related violations.

Figure 3. Economic Impact in 2017-2018, UAH billion



22. In 2018, the AMCU initiated 324 court cases to enforce payment of fines imposed for competition-related infringements. In 266 cases, courts upheld the AMCU's claims; only in 3 cases the AMCU's claims were dismissed.

Figure 4. Court claims by the AMCU in 2017-2018



23. In 2018, 182 AMCU's decisions in competition violation cases were challenged in courts. 14 decisions were annulled in whole or in part.

2.1.1. Anticompetitive actions of public authorities

24. In 2018 most of ceased violations (454) were anticompetitive actions of public authorities, thereof:

Table 2. Ceased violations in 2018

205	90	48	46	65
Actions or inactions consisting in inducement or creation of conditions for violations of legislation on protection of economic competition (Article 17 of the Law of Ukraine "On Protection of Economic Competition")	Direct or indirect forcing of economic entities to prioritize conclusion of contracts (paragraph 3, Part 2, Article 15 of the Law of Ukraine "On Protection of Economic Competition")	Prohibition of the sale of certain goods from one region of the country in another region or granting of a permit for the sale of goods from one region in another region to a certain extent or under certain conditions; (paragraph 6, part 2, Article 15 of the Law of Ukraine "On Protection of Economic Competition")	Providing advantages to particular economic entities (paragraph 7, Part 2, Article 15 of the Law of Ukraine "On Protection of Economic Competition")	Other violations

2.1.1.1 Case example #1

25. Decision of the AMCU dated November 8th 2018 No. 615-P.

- It is established that refusal of the Public Service of Geology and Subsoil of Ukraine to clarify the Procedure for granting special permits for subsoil usage through the implementation of Article 21 of the Subsoil Code of Ukraine, which results in delays in the issuance of special permits for usage of subsoil, is a violation envisaged by part 1 of Article 15 of the Law of Ukraine «On Protection economic

competition» in a form of anticompetitive actions of the public authority, which may lead to prevention, elimination, restriction or distortion of competition.

- Public Service of Geology and Subsoil of Ukraine is obliged to cease the violation.

2.1.1.2 Case example #2

26. Recommendations to local government of the Kharkiv region

- During the market research in the field of household waste disposal, the AMCU regional office established that local government did not conduct tenders for the provision of waste disposal services in respective areas of a inhabited locality. Within the Kharkiv region, household waste disposal services are provided by about 73 economic entities. So, the market for household waste disposal services is potentially competitive.
- Non-conducting tenders for the provision of household waste disposal services by local government is contrary to requirements of the current legislation and may restrict rights of certain persons who had (have) an intention to take part in such tenders in order to compete for a right to carry out the respective economic activity in the market of household waste disposal services provision.
- Consequently, inactivity of local government which lies in non-conducting tender for household waste disposal services is the anticompetitive action of the local government, which may lead to prevention of competition in the market of household waste disposal services.
- Recommendations are being implemented.

2.1.2. Anticompetitive concerted practices

27. In 2017 the AMCU ceased 263 above-mentioned violations, thereof:

Table 3. Ceased violations in 2017

250	5	8
Distortion of results of bids, auctions, tenders (Clause 4, Part 2, Article 6 of the Law of Ukraine "On Protection of Economic Competition")	Establishing prices or other conditions for the purchase or the sale of goods (Clause 1, Part 2, Article 6 of the Law of Ukraine "On Protection of Economic Competition")	Other violations

2.1.2.1 Case example #1

28. Decision of the AMCU dated June 21st 2018 No. 315-P.

- The AMCU recognized actions of the group of companies, which consisted in a similar increase in prices for liquefied hydrocarbon gas retail sales in August 2017, while analysis of market situation at the time denies the existence of objective reasons for committing such acts of defendants, which led to restriction of competition (violation of the p. 1, Art. 50 and p. 3, Art. 6 of the Law of Ukraine «On Protection of Economic Competition»).
- Total fine imposed – UAH 41 million (over USD 1,47 million).

2.1.2.2 Case example #2

29. Decision of the AMCU dated August 2nd 2018 No. 377-P.
- Actions of «Roche Ukraine» LLC, «BadM» LLC, «Biznes Centr Pharmacia» LLC and PJSC «Alba Ukraine» regarding the conclusion of sales contracts, conditions of which led to unreasonable raise of prices for medical products' realized through public procurement procedures in 2012-2016, were recognized as violations of clause 1, Part 2, Art. 6 and clause 1, Art. 50 of the Law of Ukraine «On Protection of Economic Competition»(anticompetitive concerted actions) concerning the establishment of prices for medical products produced by the company «F. Hoffman-La Roche Ltd», which are being sold through public procurement procedures.
 - «Roche Ukraine» LLC, «BadM» LLC, «Biznes Centr Pharmacia» LLC and PJSC «Alba Ukraine» were obligated to cease the violation.
 - Total fine imposed – UAH 18.1 million (over USD 652,000).

2.1.3. Abuse of dominance

30. In 2018 AMCU ceased 216 above-mentioned violations, thereof:

Table 4. Ceased violations in 2018

157	40	13	
Actions or inactions of market participants having a dominant position in the market that led or may lead to prevention, elimination or restriction of competition or impairment of interests of other entities or consumers (paragraph 1, Article 13 of the Law of Ukraine «On Protection of Economic Competition»)	Setting conditions for the purchase or the sale, which could not be established under conditions of significant competition in the market (clause 1, Part 2, Article 13 of the Law of Ukraine «On Protection of Economic Competition»)	Application of different conditions to equivalent transactions without objectively justified reasons (clause 2, Part 2, Article 13 of the Law of Ukraine «On Protection of Economic Competition»)	Other violations

2.1.3.1 Case example #1.

31. Decision of the AMCU dated December 20, 2018 № 748-P.
- Actions of the State Enterprise of Alcohol Industry «Ukrspirt», which consist in the unsystematic establishment of discriminatory prices during 2017 - first half of 2018 for buyers of ethyl alcohol rectified «Lux» regardless of the volume of alcohol purchase or any other objective criteria, was recognized as a violation of clause 2, Article 50 and part 1, Article 13 of the Law of Ukraine «On Protection of Economic Competition» (committing actions that may lead to a restriction of competition and harm interests of other economic entities).
 - «Ukrspirt» was obligated within two months from a date of receipt of the decision to eliminate causes of the occurrence and to cease violation of legislation on protection of economic competition (including development and application of a transparent and well-justified pricing mechanism during wholesale sales of ethyl rectified alcohol).
 - Total fine imposed – UAH 33 million (over USD 1,19 million).

2.1.3.2 Case example #2

32. Decision of the AMCU dated November 13 2018 № 621-P.

33. Actions of the State Enterprise «Artyomsil» during period of 2015-2016 which consisted in the application of unequal conditions to the similar deals were recognized as a violation of the legislation on protection of economic competition (clause 2, Article 50 and clause 2, part 2, Article 13 of the Law of Ukraine «On Protection of Economic Competition») in a form of abuse of dominance in markets of initial sale of salt for industrial processing and kitchen salt by application of different prices for equivalent transactions with economic entities without objectively justified reasons.

34. Actions of the State Enterprise «Artyomsil», which consisted in unjustified non-fulfillment of salt sales contracts with potential customers in terms of absence of any objective criteria for such non-fulfillment, and dealerships with potential dealers (refuse to supply) were recognized as a violation of legislation on protection of economic competition (clause 2, Article 50 and clause 7, part 2, Article 13 of the Law of Ukraine «On Protection of Economic Competition») in a form of abuse of dominance in markets of initial sale of salt for industrial processing and kitchen salt by creating barriers for buyers' entry into market.

35. Total fine imposed – UAH 13,4 million (over USD 482,000).

2.1.4. Unfair competition

36. In 2017 the AMCU ceased 168 abovementioned violations, thereof:

Table 5. Ceased violations in 2017

132	25	5	6
Dissemination of misleading information (Article 151)	Unauthorized use of others' trademarks, promotional materials, packaging design (Article 4)	Discreditation of an economic entity (Article 8)	Other violations

2.1.4.1 Case example #1

37. Decision of the AMCU dated December 13th 2018 № 30-P/TK.

- «Ergon-Elektrik» LLC in its economic activity used information that constitutes a commercial secret of its competitor – «TVK Vector-VS» LLC without its permission, namely: a complete list of suppliers and customers (buyers) (with their representatives' contact details) and contracts concluded with them; volume of purchases and sales of electrical products (distribution, control and measuring equipment, busbars etc.), purchasing and selling prices for such products (including information on the amount of trade margins and discounts on product purchases), which is a violation of Art. 19 of the Law of Ukraine «On Protection Against Unfair Competition».
- The information that constitutes a commercial secret of «TVK Vector-VS» LLC was obtained by «Ergon-Elektrik» LLC through its founders, who had previously been in labor relations with «TVK Vector-VS» LLC, had access to information constituting commercial secrets, and signed an obligation to maintain commercial secrecy (they undertook to maintain commercial secrecy within 3 years after their resignation and not to use such information for the purpose of any activity that could harm the «TVK Vector-VS» LLC). Nevertheless, the abovementioned

persons before their resignation illegally copied the information constituting a commercial secret of «TVK Vector-VS» LLC, which was then used to plan and carry out «Ergon-Electrik» LLC economic activities as a competitor of the Applicant.

- Fine imposed – UAH 0.36 million (over USD 12,000).

2.1.4.2 Case example #2

38. Decision of the AMCU dated December 13th 2018 no. 720-P.

- «Kotnar-M» LLC has committed a violation of Art. 4 of the Law of Ukraine «On Protection against Unfair Competition» in a form of illegal use in its economic activity without a permission of the international company «R&A BAILEY & CO» (Republic of Ireland) names and design of the packaging (label and bottle) of liquors «O'DAILYS», which are similar to name and design of the packaging (label and bottle) of «BAILEYS» liquors, which international company «R&A BAILEY & CO» used in its economic activity before «Kotnar-M» LLC, which could lead to confusion with activities of the international «R&A BAILEY & CO».
- Fine imposed – UAH 3.3 million (over USD 119,000).

2.2. Mergers and acquisitions

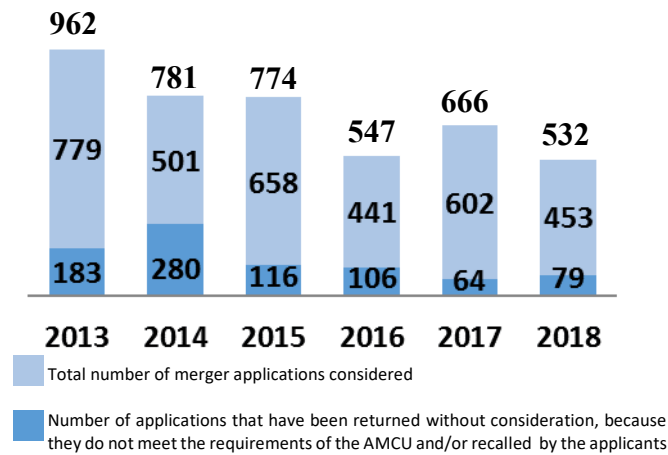
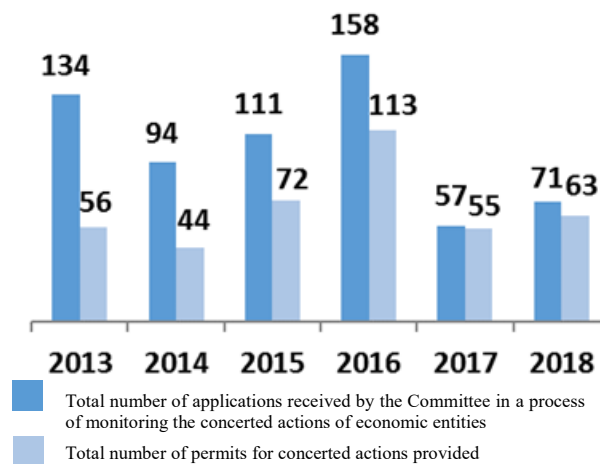
39. Among mergers authorized by the AMCU, share of permits on the agricultural market is the biggest (about 23.8% of total amount of permits granted) as well as industrial markets share (about 21.9%) and the market of finance and insurance (about 7.7%).

40. Types of economic entities' mergers authorized by the AMCU in 2018 are:

- 72.7% acquisition of stocks and shares;
- 28.3% acquisition of control in other forms;
- 3.3% joint establishment of an economic entity.

41. In 2018:

- 71 applications for granting permission for concerted actions were considered (24,5% more than in 2017);
- 63 permits for concerted actions were granted (14,5% more than in 2017);
- 532 applications on mergers of economic entities were considered (20% less than in 2017);
- 314 (over 59%) applications were submitted by foreign investors or enterprises with the participation of foreign investors;
- more than 3% decrease of applications for domestic companies mergers took place in comparison with 2017;
- 447 permits for mergers were granted (25% less than in 2017).

Figure 5. The Number of Merger Applications Considered by the Committee in 2013 – 2018**Figure 6. The Number of Applications and Permits for Concerted Actions in 2013 – 2018**

2.2.1 Case example #1

42. Merger Participants:

1. «TEMANIA ENTERPRISES LTD» Company (Cyprus)
 2. «UAPROM» LLC (Ukraine)
 3. «AUKRO UKRAINE» LLC (Ukraine)
 4. «TIU.RU» LLC (Russia)
 5. «PROJECT DILBAY» Company (Belarus)
 6. «RA SATU.KZ» LLC (Kazakhstan)
- National Market: provision of promotion services in the Internet by using online platforms (Internet platforms).

- Conclusion: A permit was issued for acquisition by «TEMANIA ENTERPRISES LTD» (Limassol, Cyprus) of shares in the authorized capital of «UAPROM» LLC, «AUKRO UKRAINE» LLC, «TIU.RU» LLC, «PROJECT DILBAY» Company, «RA SATU.KZ» LLC, which provides exceeding 50% of votes in the highest organ of companies' management.

2.2.1. Case example #2

43. Merger Participants:

1. «Higan» LLC (Kyiv)
2. «Alkonost» LLC (Kyiv)
3. «Amadina» LLC (Kyiv)
4. «Aminami» LLC (Kyiv)
5. «Ankona-Torg» LLC (Kyiv)
6. «Muayne» LLC (Kyiv)
7. «Ultrastarinvest» LLC (Crimea)
8. «Eastern European Fuel and Energy Company» LLC (Kyiv)
9. «Aynam» LLC (Kyiv)
10. Individual – Citizen of Ukraine Kurchenko S. V.
11. «Brokbiznesbank» PJSC (Kyiv)

- Markets: bank services
- Conclusion: Citizen of Ukraine Kurchenko S. V., «Higan» LLC, «Alkonost» LLC, «Amadina» LLC, «Aminami» LLC, «Ankona-torg» LLC, «Muayne» LLC, «Ultrastarinvest» LLC, «Eastern European Fuel and Energy Company» LLC, «Aynam» LLC committed a violation (clause 12, Article 50 of the Law of Ukraine «On Protection of Economic Competition») in a form of gaining control over a «Brokbiznesbank» PJSC without prior obtaining a corresponding permission of the AMCU, the presence of which was necessary.
- Total fine imposed – UAH 15 million (over USD 541,000).

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policy

3.1. Competition advocacy

44. The AMCU's competition advocacy methods:

- providing recommendations and proposals to regulators and public authorities;
- promoting initiatives before the President and the Government of Ukraine on the necessity of amending the current regulatory framework;
- introducing proposals to the Ukrainian Parliament relating to competition policy formation in various spheres of the national economy;

- approval of drafts of normative legal acts and decisions of public authorities and local government that may affect competition;
- providing recommendations to market participants, conducting communication campaigns.

45. The AMCU has paid special attention to the analysis of the competition impact of sectoral regulation in such markets:

3.1.1. Financial services and administrative markets

46. In 2018, the AMCU processed 43 draft regulatory acts concerning financial services markets, of which 42 were approved (2 were approved after in-depth study of the relevant data), namely:

- «On Approval of Regulations on Mandatory Criteria and Norms of Capital Adequacy and Solvency, Liquidity, Profitability, Asset Quality, and Risk of Insurer Operations»;
- «On Approval of the Regulation on Mandatory Financial Standards and Requirements that are restricting Risks of Transactions with Financial Assets of Credit Unions, and the Recognition Decree of the Financial Services Commission dated January 16, 2004 No. 7 as Terminated».

47. The draft decision of the National Securities and Stock Market Commission «On Approval of the Regulation about Register of Appraisers who can conduct an independent assessment in cases stipulated by the legislation on securities and joint stock companies» was not approved by the AMCU.

48. Provisions of the draft decision contained additional requirements to valuation entities that may conduct an independent assessment in cases stipulated by legislation on securities and joint stock companies that are not in accordance with provisions of the Law of Ukraine «On valuation of property, property rights and professional appraisal activity in Ukraine» and may lead to restriction of competition.

49. Report on results of lotteries market study was approved at the Committee's session on February 22nd 2018.

3.1.2. Electricity, fuel and utilities markets

50. The main focus of the AMCU in the electricity market relates to its functioning in the future, namely the development of qualitative secondary legislation and its compliance with the rules of the European Union's Third Energy Package. On April 13th 2017 **the Law of Ukraine «On the Electricity Market»** was adopted, launching transformation of the domestic electricity market. The Law shall ensure competition in the electricity markets and in adjacent markets, as well as increase attractiveness of this sphere for investors.

51. In 2018 the AMCU continued to take part in electricity market reforming process. The AMCU processed 65 draft regulatory acts concerning the electricity market, of which 41 were approved with remarks, namely:

- National Energy and Utilities Regulatory Commission of Ukraine (NEURC) draft resolution «On Approval of Market Rules»;
- NEURC draft resolution «On Approval of Rules for a «day in advance» Market and the Internal Market»;

- NEURC draft resolution «On Approval of Rules of the Retail Electricity Market»;
- NEURC draft resolution «On Approval of the Transmission System Code»;
- NEURC draft resolution « On Approval of the Distribution Systems Code»;
- NEURC draft resolution «On Approval of the Electric Energy Commercial Accounting Code».

52. According to results of the comprehensive study, the AMCU issued recommendations dated August 2nd 2018 № 6-PK and recommendations dated August 23th 2018 № 7-PK addressed to the NEURC.

53. Report on results of the domestic waste management services markets study was approved at the Committee's session on January 11th 2018.

54. Report on the comprehensive aviation fuel and refueling services at Ukrainian airports market study was approved at the Committee's session on December 13th 2018.

3.1.3. Pharmaceutical markets

55. Report on results of the local government actions' impact (regarding communal property rent) on competition at **regional markets of medicines retail sales market study**. Approved at the Committee's session on December 20th 2018

3.1.4. Transportation markets

56. Report on results of the **railway freight transportation market study** for the period of 2017-2018 was approved at the Committee's session on January 17th 2019

3.2. The AMCU's activities as a Public Procurements Appeal Body

57. 7786 public procurement appeals were received during the year 2018.

58. Total financial amount of public procurement appeals considered is UAH 143.5 billion (over USD 5.15 billion).

59. Obligations to eliminate the violations during public procurement procedures were imposed in the total financial amount of UAH 54.77 billion (over USD 1.97 billion).

60. 13 342 decisions taken.

Figure 7. Received appeals, 2014-2018

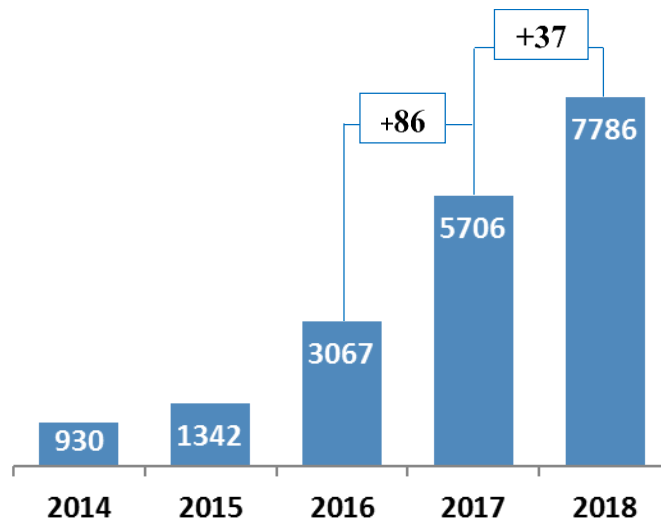
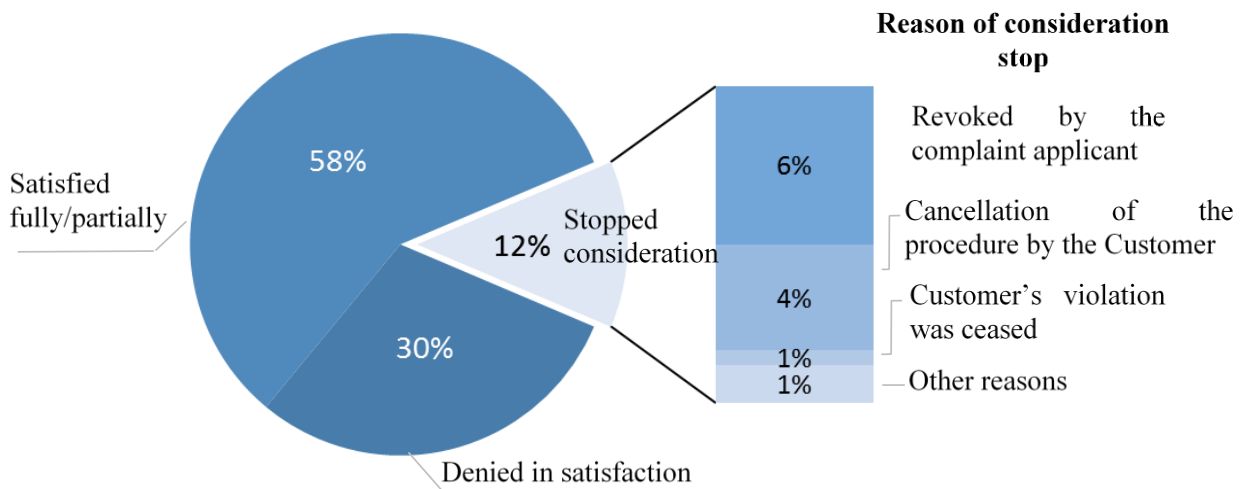


Figure 8. The structure of complaints considered, 2018



3.3. The AMCU's activities as an Authorized Body on State Aid Monitoring and Control

61. According to Ukrainian legislation, the Antimonopoly Committee of Ukraine is also the Authorized Body on State Aid Monitoring and Control.

62. The AMCU prepared a number of draft laws and secondary legislation aimed to resolve the state aid issues in Ukraine in accordance with requirements of the Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part. the current regulatory

framework in this area is still being improved, where the AMCU plays a leading role in initiating development and adoption of the corresponding regulatory acts.

63. Legislative processes in the field of state aid:

- drafted 4 bills for the coordination of legislative acts with the Law of Ukraine «On State Aid to Economic Entities»;
- 2 draft resolutions of the Cabinet of Ministers of Ukraine were developed, which approve the criteria for assessing the admissibility of certain categories of state aid;
- in 2018, the Cabinet of Ministers of Ukraine adopted 5 resolutions, which were developed by the Antimonopoly Committee and which approve the criteria for assessing the admissibility of certain categories of state aid;

64. Since 02.08.2017 (the date of entry into full force of the Law of Ukraine «On State Aid to Economic Entities») the AMCU exercises powers conferred upon it by the national legislation in a field of state aid monitoring and control, in particular by taking decisions on admissibility or non-admissibility of state aid for competition; on the termination and refund of illegally received state aid.

65. During 2018, the AMCU adopted 264 decisions, namely:

- 175 - on recognizing support as not being state aid;
- 78 - on beginning of state aid case consideration;
- 9 - recognizing admissibility of state aid for competition;
- 2 - on recognition of new state aid as incompatible with competition.

66. Transparency of the AMCU activities in this area is ensured by open and accessible State Aid Portal, which is situated at the official website of the AMCU and contains information about state aid register, as well as state aid decisions and cases of the Committee.

67. As an authorized body in charge of state aid to economic entities monitoring and control, the AMCU exercises its powers granted by the Law of Ukraine “On State Aid to Economic Entities”. During 2018 the AMCU:

- received 916 state aid notifications;
- reviewed 276 draft legal acts for their consideration on compliance with the state aid legislation;
- provided over 6,650 consultations to state aid providers;
- provided over 379 written clarifications on application of state aid legislation.

4. Resources of the competition authority

68. In 2018 the amount of budget allocations to the AMCU for exercising its powers in accordance with the Law of Ukraine «On the State Budget of Ukraine for 2019» dated November 23th 2018 No. 2629-VIII (as amended) constituted UAH 192 million (USD 6.91 million on the date of budget approval).

69. As of December 31, 2018: the actual number of employees in the AMCU bodies was 662, thereof:

- In regional offices – 377;
- In the central office – 285.

5. References to new reports and studies on competition policy

70. In 2018, the AMCU studied functioning of markets with competition issues, which resulted in publishing of the corresponding reports (available only in Ukrainian):

1. Report on results of the domestic waste management services markets study. Approved at the Committee's session on January 11th 2018
<http://www.amc.gov.ua/amku/doccatalog/document;jsessionid=556AB2573212EDCD8DAB2B87EE08337E.app2?id=139186&schema=main>
2. Report on the comprehensive aviation fuel and refueling services at Ukrainian airports market study. Approved at the Committee's session on December 13th 2018
3. Report on results of the local government actions' impact (regarding communal property rent) on competition at regional markets of medicines retail sales market study. Approved at the Committee's session on December 20th 2018
<http://www.amc.gov.ua/amku/control/main/uk/publish/article/147138;jsessionid=6AAF90AF2835D23EECC5C2018E1653BB.app1>
4. Report on results of the railway freight transportation market study for the period of 2017-2018. Approved at the Committee's session on January 17th 2019
<http://www.amc.gov.ua/amku/doccatalog/document?id=147166&schema=main>
5. Report on results of lotteries market study. Approved at the Committee's session on February 22nd 2018
<http://www.amc.gov.ua/amku/doccatalog/document?id=140290&schema=main>
6. Annual report on granting of state aid to economic entities in Ukraine for 2017. Approved at the Committee's session on August 31st 2018
<http://www.amc.gov.ua/amku/doccatalog/document;jsessionid=B9D04E00FB89C33BE95F90EB8FCF353D.app1?id=143931&schema=main>