



# Vertical Agreements

The regulation of distribution practices  
in 34 jurisdictions worldwide

# 2008

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# Latvia

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- 1 What are the legal sources that set out the antitrust law applicable to vertical restraints?

The legal sources that set out the antitrust law applicable to vertical restraints are:

- Competition Law (2001), available in Latvian at [www.kp.gov.lv/uploaded\\_files/L-jas\\_norm\\_akti/konkurences\\_likums.pdf](http://www.kp.gov.lv/uploaded_files/L-jas_norm_akti/konkurences_likums.pdf); in English at [www.kp.gov.lv/uploaded\\_files/ENG/competition\\_law.pdf](http://www.kp.gov.lv/uploaded_files/ENG/competition_law.pdf);
- Regulation of the Cabinet of Ministers No. 434 (2004) 'On Exemption of Vertical Agreements from the Prohibition Provided in Article 11, Paragraph 1 of the Competition Law'; available in Latvian at [www.kp.gov.lv/uploaded\\_files/L-jas\\_norm\\_akti/MK\\_not434.pdf](http://www.kp.gov.lv/uploaded_files/L-jas_norm_akti/MK_not434.pdf); in English at [www.kp.gov.lv/uploaded\\_files/ENG/E0807.pdf](http://www.kp.gov.lv/uploaded_files/ENG/E0807.pdf);
- Regulation of the Cabinet of Ministers No. 699 (2003) 'On the Procedure for Granting Permission of Vertical Agreements Provided in Article 11, Paragraph 1 of the Competition Law'; available in Latvian at [www.kp.gov.lv/uploaded\\_files/L-jas\\_norm\\_akti/MK\\_not699.pdf](http://www.kp.gov.lv/uploaded_files/L-jas_norm_akti/MK_not699.pdf); in English at [www.kp.gov.lv/uploaded\\_files/ENG/E0637.pdf](http://www.kp.gov.lv/uploaded_files/ENG/E0637.pdf); and
- Regulation of the Cabinet of Ministers No. 862 (2004) 'On the Procedure for Calculation of Fines for Violations Referred to in Article 11, Paragraph 1 and Article 13 of the Competition Law'; available in Latvian at [www.kp.gov.lv/uploaded\\_files/L-jas\\_norm\\_akti/MK\\_not862.pdf](http://www.kp.gov.lv/uploaded_files/L-jas_norm_akti/MK_not862.pdf); in English at [www.kp.gov.lv/uploaded\\_files/E1033%20-%20Cab.%20Reg.%20No.%20862%20-%20Calculation%20of%20Fines%20for%20the%20Violations%20-%20.pdf](http://www.kp.gov.lv/uploaded_files/E1033%20-%20Cab.%20Reg.%20No.%20862%20-%20Calculation%20of%20Fines%20for%20the%20Violations%20-%20.pdf).

- 2 List and describe the types of vertical restraints that are subject to antitrust law. Are those terms defined and how? Is the concept of vertical restraint itself defined in the antitrust law?

Article 11 of the Competition Law follows closely the wording of article 81 of the EC Treaty, declaring as prohibited agreements between undertakings that have as their object or effect prevention, restriction or distortion of effective competition. Article 11 of the Competition Law includes a non-exhaustive list of practices that are prohibited:

- any form of direct or indirect fixing of prices or tariffs or agreement on principles of their formation, as well as exchange of information relating to prices or sales terms;
- restriction or control of the volume of production or sales, markets, technical development or investment;
- allocation of markets by territory, customers, suppliers or other conditions;
- provisions that make the conclusion, amendment or termination of a transaction with a third party subject to acceptance of obligations that, according to commercial practice, are not relevant to the particular transaction;

- participation or non-participation in tenders or auctions or regarding provisions for participation (or non-participation), except for cases when competitors have publicly announced their joint tender and the purpose of such tender is not to hinder, restrict or distort competition;
- applying discriminating conditions in equivalent transactions with third parties, creating competitive disadvantage for such third parties; and
- action (or failure to act) as a result of which another market participant is forced to leave a relevant market or the entry of a potential market participant into the market is made more burdensome.

The term 'vertical agreement' is defined in Regulation of the Cabinet of Ministers No. 434 (2004) (the Block Exemption Regulation) as an agreement entered into between two or more market participants, each of which operates at a different level of the production or distribution chain, and relating to the conditions under which the parties may purchase, sell or resell certain goods or services.

The Block Exemption Regulation also contains the definitions of the most typical vertical restraints:

- exclusive distribution agreement – a vertical agreement in accordance with which the seller directly or indirectly undertakes to sell products covered by the agreement only to one buyer for the purposes of resale in a particular territory;
- exclusive sale (supply) agreement – a vertical agreement in accordance with which the seller directly or indirectly undertakes to sell products covered by the agreement only to one buyer for the purposes of production of other products;
- franchise agreement – a vertical agreement in accordance with which a franchisor transfers to the other party to the agreement, the franchisee, the right to use an aggregate of intellectual property rights (particularly firm name, trademark, shop sign, design, special professional information, know-how and patents) for use or distribution of products in exchange for direct or indirect financial consideration;
- non-compete obligation – a vertical agreement in accordance with which the buyer directly or indirectly undertakes not to manufacture, purchase or sell products that compete with the contract products, or directly or indirectly undertakes to purchase from a seller or from a market participant designated by the seller more than 80 per cent of the buyer's total purchases of the contract products or their substitutes on the relevant market in the preceding calendar year; and
- selective distribution agreement – a vertical agreement where the seller sells the goods, either directly or indirectly, only to distributors selected on the basis of specified criteria and where these distributors undertake not to sell contract products to unauthorised distributors.

- 3** Are there particular rules or laws applicable to the assessment of vertical restraints in specific sectors of industry? If so, please identify the sectors and the relevant sources.

There are no particular rules or laws applicable to the assessment of vertical restraints in specific sectors of industry.

- 4** Is the only objective pursued by the law on vertical restraints economic, or does it also seek to protect other interests?

According to article 2 of the Competition Law, the object of the law is to protect, maintain and develop free, fair and equal competition in the interests of the public in all economic sectors. Thus, the objective of the Competition Law is economic.

- 5** What entity or agency is responsible for enforcing prohibitions on anti-competitive vertical restraints? Do governments or ministers have a role?

The Latvian Competition Council is the authority responsible for enforcement of the competition rules in Latvia. The Competition Council consists of four members of the Council and a chairman of the Council, appointed for a five-year term by the Cabinet of Ministers upon recommendation of the minister of economics. The Competition Council acts under the supervision of the Ministry of Economics.

All decisions of the Competition Council, with the exception of decisions on initiation of the proceedings and extension of the time limits for taking decisions, may be appealed with the District Administrative Court.

- 6** What is the relevant test for determining whether a vertical restraint will be subject to antitrust law in your jurisdiction?

The Latvian Competition Law applies to the agreements or arrangements entered into by the Latvian market participants and decisions of the Competition Council are binding on the Latvian market participants.

According to article 1 of the Competition Law, the 'market participant' is defined as 'any person (including foreign persons) that carries out or intends to carry out economic activity in the territory of Latvia, or whose activity affects or is capable of affecting competition in the territory of Latvia'. Thus, the definition covers also potential market entries. According to the latest interpretation by the Competition Council, in order to evaluate whether an undertaking can be considered a potential entrant, the Competition Council will assess whether the assets at disposal of the undertaking would allow it without substantial additional investment to enter Latvian market within a short term and to sell goods or render services on the Latvian market. Thus, even agreements concluded outside Latvia by foreign parties may become subject to the Latvian Competition Law, if their object or effect is prevention, restriction or distortion of competition within the territory of Latvia.

- 7** To what extent does antitrust law apply to vertical restraints in agreements concluded by public or state-owned entities?

The Competition Law regulates competition that is present in a private sector and exists between market participants. The definition of a market participant provided in question 6 also covers public persons (state and municipal entities) where such public persons act as undertakings within the framework of private law. Where public persons act within the scope of their public functions, the Competition Law is not applicable.

- 8** Are there any general exceptions from antitrust law for certain types of vertical restraints? If so, please describe.

There are no express provisions under Latvian law following the approach of the Commission's De Minimis Notice exempting certain restrictive agreements by reason of their minor impact. However, the Block Exemption Regulation contains provision exempting from prohibition certain non-compete obligations (ie, with a term in excess of five years or imposing an obligation on the member of the selective distribution system not to sell competing goods), provided that the market share of the parties involved does not exceed 10 per cent. Nevertheless, in the evaluation of vertical agreements, the Competition Council most likely would follow the principles set out in the De Minimis Notice in determining whether any particular agreement has the effect of hindering, restricting or distorting competition.

- 9** When assessing vertical restraints under antitrust law (or when considering the application of exceptions from antitrust law) does the relevant agency take into account that some agreements may form part of a larger, interrelated, network of agreements or is each agreement assessed in isolation?

According to the Block Exemption Regulation, the Competition Council can prohibit vertical agreements otherwise exempted under the Block Exemption Regulation if the effect of a parallel network of similar vertical agreements entered into between competing suppliers or buyers) is prevention, restriction or distortion of competition in the relevant market, or if similar vertical agreements cover more than 50 per cent of the relevant market.

- 10** In what circumstances does antitrust law apply to agency agreements in which an undertaking agrees to perform certain services on a supplier's behalf in consideration of a commission payment?

As Latvian competition rules prohibiting restrictive agreements and practices follow article 81(1) of the EC Treaty closely and are interpreted in line with established EC practice, Latvian competition rules do not apply to 'genuine agency agreements' under which agents act as dependent traders. In all other cases, agency agreement may be caught by the provisions of the Competition Law.

- 11** Is antitrust law applied differently when the agreement containing the vertical restraint also contains provisions granting intellectual property rights (IPRs)?

Article 11 of the Competition Law also applies to agreements containing intellectual property rights to the extent they contain competition restrictions such as clauses entailing exclusivity, non-competition, tying or other prohibited restrictions. According to the Block Exemption Regulation, vertical agreements, which contain provisions relating to the assignment or use of intellectual property rights, may be exempt from the general prohibition of article 11 of the Competition Law, provided that those provisions do not constitute a primary object of such agreements and they are directly related to use or sale of the products.

- 12** In what circumstances does antitrust law apply to agreements between a parent and a related company?

Provisions of the Competition Law on vertical restraints are not applicable to intra-group agreements as companies of one group are not regarded as separate market participants. The Competi-

tion Law provides that if a market participant or several market participants jointly exercise decisive influence over one or several other market participants, all these market participants shall be regarded as one market participant.

**13** Can the legality under antitrust law of a given vertical restraint change over time?

Yes, the legality under antitrust law of a given vertical restraint may change over time. For example, if the market shares of the parties to the respective agreement change over the time the agreement may no longer qualify for exemption provided under the Block Exemption Regulation. Likewise, extension of the term of the agreement beyond its initial term or change in the group structure (sale of shareholding of a related party) may require re-evaluation of the particular provision.

**14** Briefly explain the analytical framework that applies when assessing vertical restraints under antitrust law.

As the provisions of the Competition Law on vertical restraints closely follow the provisions of article 81(1) of the EC Treaty, the analytical framework to be applied in assessment of vertical restraints under the Competition Law is in line with established EC practice.

In general analytical assessment of vertical restraint under article 11 of the Competition Law involves four steps (almost identical with the ones defined under the EC Guidelines on Vertical Restraints):

- define the relevant market and determine the market share of the supplier or buyer, depending on the type of the restraint;
- if the relevant market share does not exceed the 30 per cent threshold, the vertical agreement is covered by the Block Exemption Regulation, provided it does not contain any hard-core restrictions;
- if the relevant market share is above 30 per cent, it is necessary to assess whether the vertical agreement falls under article 11, paragraph 1 of the Competition Law;
- if the vertical agreement falls under article 11, paragraph 1 of the Competition Law, it can be exempt from prohibition if agreement complies with the requirements of article 11, paragraph 2 of the Competition Law:
  - the agreement contributes to improving production or distribution or to promoting technical or economic progress;
  - the agreement allows consumers fair share of benefit;
  - the agreement does not impose on the market participants concerned restraints which are not indispensable to the attainment of these benefits;
  - the agreement does not afford possibility of eliminating competition in respect of substantial part of the relevant market.

However, in contrast to the current EU regulation that has abolished the system of individual exemptions, exemption under article 11, paragraph 2 is available only subject to notification and permission to be granted by the Competition Council (see question 28). In line with article 4(a) of Regulation No. 2790/1999 on the application of article 81(3) of the EC Treaty to categories of vertical agreements and concerted practices (Regulation No. 2790/1999), the Block Exemption Regulation lists resale price maintenance, allocation of the territories or customers, restriction of cross-supplies between the members of selective distribution system, etc, as hard-core restrictions that would preclude avail-

ability of block exemption of vertical agreements (see questions 17 and 19 for more details).

**15** Is there a block exemption or safe harbour that provides certainty to companies as to the legality of vertical restraints in certain conditions? If so, please explain how this block exemption or safe harbour functions.

Largely in line with the provisions of Regulation No. 2790/1999, the Block Exemption Regulation lists certain types of vertical agreements that shall be exempted from the general prohibition, provided that all the conditions under the Block Exemption Regulation are satisfied. Generally speaking, vertical agreements will be exempted if the parties of the agreement comply with the market share thresholds (generally not more than 30 per cent of the relevant market) and provided that the agreement does not contain hard-core restrictions. Conditions that shall be met in order to benefit from the Block Exemption Regulation are discussed in more detail below when discussing particular types of vertical restraints.

**16** What are the consequences of an infringement of antitrust law for the validity, or enforceability by one of the parties, of a contract containing prohibited vertical restraints?

An agreement (or a part of it if it can be separated from the remaining part of the agreement) containing prohibited vertical restraints is considered null and void from the moment of its conclusion.

**17** How is the restricting of the buyer's ability to determine its resale price assessed under antitrust law?

Following established EC practice and according to the Block Exemption Regulation, setting of minimum resale price is considered to be a hard-core restriction not eligible for block exemption and unlikely to qualify for individual exemption. Recommended or maximum resale prices generally would not be subject to prohibition, however, their actual effect has to be evaluated in the cases where the market share threshold of supplier exceeds 30 per cent.

**18** Have there been any developments in your jurisdiction in light of the landmark 2007 judgment by the US Supreme Court in *Leegin Creative Leather Products Inc v PSKS Inc*? If not, is any response or development anticipated?

Currently there are no legislative or enforcement developments in the light of 2007 judgment by the US Supreme Court in *Leegin Creative Leather Products Inc v PSKS Inc* and no specific developments are anticipated.

**19** How is the restriction of the territory into which a buyer may resell contract products assessed under antitrust law? In what circumstances (if any) may a supplier require a buyer of its products not to resell the products in certain territories?

In general, vertical agreements restricting the territory into which, or the customers to whom the buyer may sell the contract products, are prohibited under article 11, paragraph 1 of the Competition Law. Such restraints are also regarded as hardcore restrictions, except if the agreement restricts:

- active sales into exclusive territories or to exclusive group of customers reserved to the supplier or allocated by the supplier to another buyer, where such a restriction does not limit

- sales by the customers of the buyer;
- sales to end-users by a buyer operating at the wholesale level of trade;
- sales to unauthorised distributors by the members of a selective distribution system; or
- the buyer's ability to sell goods, supplied for the purposes of production, to customers who would use them to produce the same type of goods as those produced by the supplier.

**20** Explain how restricting the customers to whom a buyer may resell contract products is assessed under antitrust law. In what circumstances (if any) may a supplier require a buyer of its products not to resell the products to certain customers?

See question 19.

**21** How is the restricting of the uses to which a buyer (or a subsequent buyer) puts the contract products assessed under antitrust law?

Restriction of uses to which the buyer puts the contract products is not expressly listed in the Competition Law as potentially anti-competitive. Also, the Competition Council to date has not dealt with cases involving this type of restriction. Nevertheless, if the object or effect of the restriction of uses to which the buyer puts the contract products would be hindrance, restriction or distortion of competition, it would be covered by the prohibition under article 11, paragraph 1 of the Competition Law.

**22** Briefly explain how agreements establishing 'selective' distribution systems are assessed under antitrust law.

The Block Exemption Regulation provides that the selective distribution agreements are normally exempted if the market share of the seller does not exceed 30 per cent in the relevant market. The said exemption, however, would not be available if the agreement imposes:

- restrictions of the sales to consumers by the member of selective distribution system operating at retail level of trade, except for restrictions prohibiting a member of the system to operate out of an unauthorised place of establishment; or
- the restrictions applicable to the cross-supplies between the members of the selective distribution system.

**23** How is the restriction of the buyer's ability to obtain the supplier's products from alternative sources assessed under antitrust law?

For a definition of non-compete obligation, see question 2. In general, non-compete obligation is exempted under the Block Exemption Regulation if the market share of the supplier does not exceed 30 per cent, and:

- duration of the non-compete obligation does not exceed five years, unless the buyer sells products in the real estate owned by the supplier or leased by the supplier from a third party not related to the buyer and the term of the non-compete obligation does not exceed the term during which the buyer is entitled to use the real estate;
- the non-compete obligation is not operating beyond the validity term of the contract, unless it is related to competing goods and continuation of commercial activities of the buyer in the premises in which it performed commercial activities during the validity term of the contract, is necessary for protection of know-how transferred by supplier to the buyer and

the term of non-compete obligation does not exceed a year following termination of the contract; and

- the non-compete obligation does not restrict a participant in the selective distribution network from selling goods competing with the supplier's goods.

The above restrictions do not apply if the market share of the parties to the contract does not exceed 10 per cent of the relevant market.

**24** Explain how restricting the buyer's ability to stock products competing with those supplied by the supplier under the agreement is assessed under antitrust law.

Please see question 23.

**25** How is the requiring of the buyer to purchase from the supplier a certain amount, or minimum percentage, of its requirements, of the contract products assessed under antitrust law?

Requirement to purchase more than 80 per cent of the buyer's total purchases of the contract products or their substitutes on the relevant market in the preceding calendar year qualifies as single branding (non-compete) agreement to be assessed in accordance with the methodology described in questions 14 and 23.

**26** Explain how restricting the supplier's ability to supply to other buyers, or sell directly to consumers, is assessed under antitrust law.

The Block Exemption Regulation exempts from the prohibition provided by the article 11, paragraph 1 exclusive supply agreements if the relevant market share of the buyer does not exceed 30 per cent in the relevant market, provided the agreement does not contain any hard-core restraints.

**27** To what extent are franchise agreements incorporating licences of intellectual property rights, relating to trademarks or signs and know-how for the use and distribution of products, assessed differently from 'simple' distribution agreements under antitrust law?

There are no specific rules regarding the framework of assessment of such restrictions. In general protection of the intellectual property rights and know-how are natural components of the franchise agreements. Therefore, certain limitations may be more easily justified. For example, extension of non-compete obligation beyond the term of the contract may be justified by necessity to protect know-how transferred by supplier to buyer.

**28** Explain how a supplier's warranting to the buyer that it will supply the contract products on the terms applied to the supplier's most favoured customer or warranting to the buyer that it will not supply the contract products on more favourable terms to other buyers is assessed under antitrust law.

The Block Exemption Regulation does not provide any specific guidance regarding assessment of this kind of arrangement. Therefore, the assessment should follow the pattern provided in question 14.

**29** Is there a formal procedure for notifying agreements containing vertical restraints to the agency? Is it necessary or advisable to notify it of any particular categories of agreement?

Article 11 of the Competition Law provides for a system of

individual exemptions. Provided that the notified agreement can be deemed to improve production or distribution of goods and to allow consumers a fair share of the resulting benefits, it can be exempted from the prohibition in article 11. The restrictions imposed must be indispensable to the attainment of the above objectives and should not result in the elimination of competition in any substantial part of the relevant market. Thus, in case of individual exemptions the Competition Council weighs up the pro- and anti-competitive aspects of the agreement.

The parties seeking exemption on the basis of efficiency defence are required to submit a notification to the Competition Council.

**30** If there is a formal notification procedure, how does it work? What type of ruling (if any) does the agency deliver at the end of the procedure? And how long does this take? Is a reasoned decision published at the end of the procedure?

The notification and clearance procedure is regulated by the Regulation of the Cabinet of Ministers No. 699 'On the Procedure for Granting Permission of Vertical Agreements Provided in the Article 11 Paragraph 1 of the Competition Law' as of 16 December 2003 (the Individual Exemption Regulation).

A party may submit a notification to the Competition Council prior to signing or effective date of the agreement. The notification must contain information and documents specified in annex no. 1 to the Individual Exemption Regulation. The Competition Council shall review the notification within the term of one month from the date of submission of full notification. If circumstances require an in-depth investigation, the Competition Council may prolong the term of the review up to four months from the date of submission of full notification.

The Competition Council shall adopt one of the following decisions: to permit the notified agreement, to permit the notified agreement subject to conditions or prohibit the agreement. The decision to permit the notified agreement or permit it subject to conditions is adopted for a definite period of time. The permission may be revoked if:

- factual or legal circumstances on which the decision was based have changed and the decision if left in force would negatively affect public interests;
- conditions imposed under the decision have not been satisfied; or
- a party to the agreement has intentionally failed to disclose information that is important for the Competition Council in order to take its decision.

**31** If there is no formal procedure for notification, is it possible to obtain guidance from the agency as to the antitrust assessment of a particular agreement in certain circumstances?

In general it is possible to obtain written and oral guidance from the Competition Council. In respect of written guidance, two different procedures may be followed. Any person may request the Competition Council either to provide non-binding guidance or binding guidance regarding the particular legal circumstances. In order to apply for a binding guidance the party would have to disclose its identity, provide a detailed description of the factual circumstances and refer to particular legal provisions interpretation of which an application to particular factual circumstances is sought.

**32** Is there a procedure whereby private parties can complain to the agency about alleged vertical restraints?

Private parties may file written complaints to the Competition Council regarding alleged breaches of the Competition Law. Upon receipt of the complaint the Competition Council shall, within 30 days, adopt a decision on whether to initiate an investigation or not. If the Competition Council initiates proceedings, it delivers its decision within six months. If, however, for objective reasons the decision cannot be delivered within this time, the Competition Council may extend this term up to one year from the date of initiation of the proceedings. If circumstances require an in-depth investigation, the Competition Council may prolong the investigation period up to two years from the date of the initiation of the proceedings.

**33** How frequently is antitrust law applied to vertical restraints by the agency?

On average, the Competition Council examines fewer than ten cases of vertical restraints per year. In 2007 the Competition Council dealt with two cases involving evaluation of vertical restraints and in neither of them found violation of the provisions of the Competition Law. In the first two months of 2008 two decisions have already been taken, both finding violation of the provisions of article 11, paragraph 1 of the Competition Law, specifically, resale price maintenance.

**34** May the agency impose penalties or must it petition the courts or another administrative or government agency? What sanctions and remedies can the agency or the courts impose when enforcing the prohibition of vertical restraints?

The Competition Council is entitled to impose fines for the violation of the Competition Law and impose legal obligations on the market participants. The decisions of the Competition Council imposing the fines, legal obligations or both may then be appealed with the Administrative Court.

The minimum fine for violation of the provisions of article 11, paragraph 1 of the Competition Law is 250 lats (about €355). The maximum penalty is not restricted to a specific amount, and may reach up to 5 per cent of the turnover of the market participant for the last financial year.

**35** What investigative powers does the agency have when enforcing the prohibition of vertical restraints?

The powers of the Competition Council in investigations are rather broad, and include the following:

- information requests – the Competition Council can request necessary information, including confidential information, from any natural or legal persons, state and municipal institutions, as well as to receive oral or written explanations from the relevant persons;
- inspection visits – the Competition Council may conduct inspection visits, including dawn raids (visits without advance notice), to the market participants. During the inspections, the officials of the Competition Council may request oral or written explanations, review any documents and receive these documents or copies thereof;
- seizure of relevant documents and property; and
- entrance into vehicles, private residences and other moveable or immovable property of the market participants and inspection of property and documents contained therein – the searches are conducted on the basis of the decision of

**Update and trends**

At the time of writing it is expected that extensive amendments to the Competition Law, which have been debated for the past two years, will be adopted shortly. The amendments are mainly related to the definition of dominant position, concept of significant influence and certain merger control issues. No substantial changes are expected with

regard to vertical restraints, except for amendments in respect of ability of the parties to rely on the efficiency defense. The amendments, if adopted, will allow the parties to perform self-evaluation of the agreements entered. At the same time, the possibility of applying for individual exemptions with the Competition Council will be preserved.

a court and in the presence of the police. If there is a suspicion that the relevant documents may be located in third parties' movable or immovable property, the Competition Council also has the right to inspect such property, subject to the court's decision.

The Competition Council may fine market participants for failure to comply with its requests for information, documents, explanations, and failure to grant access to premises and other property.

**36** What notable sanctions or remedies have been imposed? Can any trends be identified in this regard?

The number of investigations in vertical restraint cases up to the date is limited and relatively few of them have ended with finding of violation. In 2006, a fine of 11,709 lats (approximately €16,600) was imposed on one of the leading bakeries of Latvia for resale price maintenance. Two investigations closed in the first two months of 2008 also have resulted in penalties. A fine of 25,000 lats (approximately €35,500) was imposed on a printing house for setting minimum resale prices in the market of non-periodical literature and a fine of 64,000 lats (approximately €91,000) was imposed on a trader of alcoholic beverages for resale price maintenance.

**37** Can sanctions or remedies be imposed on companies having no branch or office in your jurisdiction?

Yes, because the Competition Law catches any agreements that have as their object or effect prevention, restriction or distortion of the competition in the territory of Latvia. However, the ability of the Competition Council to enforce sanctions or remedies imposed on foreign companies has not been tested in practice yet.

**38** To what extent is private enforcement possible? Can non-parties to agreements containing vertical restraints bring damages claims? Can the parties to agreements themselves bring damages claims? What remedies are available? How long should a company expect a private enforcement action to take? Can the successful party recover its legal costs?

The Competition Law expressly obliges a market participant that deliberately or negligently has violated the competition rules to compensate damages caused by such infringement. The award of compensation is within the jurisdiction of the courts of general jurisdiction. So far there have been no publicly available decisions on award for damages in civil claims for infringement of the competition rules.

The right to claim damages covers compensation for actual loss such as expenses, price differences, lost profits and other direct or indirect economic damage resulting from the prohibited restriction of competition. A claim for damages is subject to a general 10-year limitation period, which commences on the date on which the person became aware, or should have had become aware, of the damage. Punitive or exemplary damages are not available under Latvian law. Similarly, class action in its usual meaning is not possible in Latvia.

Due to a significant backlog of cases at the Latvian courts of general jurisdiction, one may expect that private enforcement action on average shall require two to three years.

**39** Is there any unique point relating to the assessment of vertical restraints in your jurisdiction that is not covered above?

No, the Competition Law on restrictive vertical agreements follows article 81(1) of the EC Treaty and EC practice.

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