

**STATE COMMISSION FOR PROTECTION OF ECONOMIC
COMPETITION OF
THE REPUBLIC OF ARMENIA**

2003 ANNUAL ACTIVITY

P R O G R A M

Yerevan
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INTRODUCTION

Objective of the present Action Plan (hereinafter Action Plan is to promote protection of economic competition, setting up and development of competition environment in the planning year.

In this regard, Action Plan is the organic continuation of “2002 Annual Action Plan of the State Commission for Protection of Economic Competition of the Republic of Armenia”. Action Plan incorporates the objectives set forth and solved in the action plan of the previous year, the current key issues, and regards legislative, methodological, informational, staff related and financial issues.

Official data served as a basis for the analysis which was conducted according to the data of the previous year. Analyses of some product market are based on the data of the past two years.

Action Plan analyzes the competitive environment on numerous product markets, the detected key issues as well as presents the measures for protection of economic competition and their implementation schedule. Action Plan also describes other directions of the Commission activity, related with ensuring of publicity, collaboration with the state and local government bodies, NGO-s and international organizations.

1. ANALYSIS OF ECONOMIC COMPETITION ENVIRONMENT AND DETECTION OF CURRENT KEY ISSUES

Studies and analyses of the competitive environment on numerous product markets of the Republic showed the general trends of the competition development on the product markets.

Table 1 presents the features of the competitive environment of the studied product markets, such as concentration levels, import penetration volumes, number of economic entities on them and shares of dominants. Concentration levels are detailed in Appendix.

“Table and Technical Salt”, “Cement” and “Plaster” product markets have extremely high level of concentration; only two economic entities operate on each. The import penetration level¹, which is approximately 15% of the generalized index of the Republic, is negligible on these markets (the demand for these product types is mainly set up on account of local production).

One of the two economic entities operating on “Table and Technical Salt” product market undoubtedly has a dominant position (the share is more than 99,9%). All the four economic entities operating on “Plaster” product market have dominant positions, their market shares being almost equal. Actions of none of these entities, under the equal conditions, provide opportunity to impact the other and/or restrict the competition in practice. That is to say, each of them, in separate, has little chance to abuse its dominance. Abuse of dominance by the mentioned economic entities is possible only through conducting agreed actions.

Table 1
**Concentration and Import Penetration Levels on Product Markets, Number of
Economic Entities and Shares of Certain Groups in Sales Volumes**

#	Product markets	N of E/E on market		Share of top 3 E/E in the total sales* volume, %		Share of dominant E/E**, %		Import penetration level, %	
		2000	2001	2000	2001	2000	2001	2000	2001
	2	3	4	5	6	7	8	9	10
1	Table & technical salt	2	2	100,00	100,00	99,99	99,97	0,01	0,03
2	Beer	5	6	99,59	99,70	74,62	71,97	0,58	0,55
3	Bottled mineral water	20	48	68,80	66,63	37,1	33,47	0,50	0,13
4	Coffee	20	21	71,76	57,30	34,86	-	100,00	100,00
5	Soft drinks	54	-	88,15	-	66,41	-	1,21	0,47
6	Filtered cigarette	-	12	-	81,66	-	44,03	-	82,38
7	Unfiltered cigarette	-	6	-	97,43	-	91,62	0	5,33
8	Cognac	17	13	95,10	85,8	83,6	66,6	0,71	-
9	Champagne & sparkling wines	6	18	95,30	89,42	84,7	81,22	6,27	4,79
10	Ice-cream	8	10	86,3	85,16	38,6(35,1)	35,08(34,07)	0	0
11	Plaster	2	2	100	100	55,7(44,3)	52,9(47,1)	0	0
12	Medications	77	72	28,83	30,07	-	-	100,46	87,16
13	Sugar	-	9	-	98	-	79,8	100	100
14	Petrol	-	14	-	58,1	-	-	100	100
15	Ethyl spirit	-	20	-	95,15	-	79,83	0	0
16	Vodka	-	47	-	80,41	46,47	-	0,50	3,23
17	Wine	-	43	-	64,58	-	-	2,08	1,19
18	Cash grain	-	18	-	59,71	-	41,67	-	88,87
19	Feed grain	-	8	-	94,36	-	38,16(35,87)	-	94,51
20	Animal oil	-	24	-	61,73	-	-	100,29	99,67
21	Vegetable oil	-	85	-	55,87	-	-	100	99,16
22	Cement	-	2	-	100	-	51,62(48,38)	0,44	0,3

* - the line shows that no study was carried out on the product market during that period.

¹ Market import penetration level was computed according $I/(P+I-E)$ equation, where I is the import volume, P is the production volume and E- export volume.

**.- the share of the dominant economic entity is specified in brackets. The lines show that the product market has no dominant entity.

The concentration level is also high on “Ice-cream” product market, although it decreased by 1,14 % as compared with the previous year. Two new players joint the market during this period; however, the market still remains oligopolistic. The shares of the two dominant economic entities operating on this market were decreased in the total sales volume by 3,52% and 1,03% respectively. The market is fully saturated with the local production.

The concentration level and shares of the dominant economic entities on “Champagne and Sparkling Wines” and “Cognac” product markets were decreased in the total sales volumes, however, they still remain rather high and these entities have market power. A significant growth in the number of economic entities on “Champagne and Sparkling Wines” product market is observed, on account of the local producers, the import penetration level is rather low from the generalized index of the Republic. The number of economic entities on “Cognac” product market was decreased, and the import penetration level of the market traditionally remains low.

The dominant economic entity of “Beer” product market retained its position, although, as compared with the previous year, its share was decreased in the total sales volume of the product market.

High concentration level is retained also on “Sugar” (98,0%), “Unfiltered Cigarette” (97,4%), and “Ethyl Spirit” (95,2%) product markets, their dominant economic entities have absolute market power with 79,8%, 91,62% and 79,83% shares, respectively.

Import penetration level on “Sugar” and “Cash Grain” product markets is very high compared to the generalized index of the Republic (100,0% and 88,9%, respectively), and it is zero on “Ethyl Spirit”.

Local production volumes of spirit were gradually increasing in the past three years, and now has fully replaced the import.

Both production and export volumes of beer and wine were increased. This is mainly conditioned with the high competitiveness of the domestic products on internal market (quality and affordable price).

Data of Table 2 illustrate the competitive environment on product markets.

Table 2

Shares of Economic Entities with the Largest Sales Volumes on Numerous Product Markets and Absolute Market Power Indices

##	Product markets	Share of E/E with the largest sales volume in the total sales volume		E/E/Absolute market power indices*	
		2000	2001	2000	2001
1	2	3	4	5	6
1	Bottled mineral water	37,10	33,47	0,98	1,01
2	Coffee	34,86	25,93	0,94	0,83
3	Filtered cigarette	-	44,03	-	1,17
4	Medications	12,67	13,49	0,78	0,81
5	Petrol	-	22,50	-	0,63
6	Vodka	-	46,47	-	1,37
7	Wine	-	30,87	-	0,92
8	Cash grain	-	41,64	-	2,3
9	Feed grain	-	38,16	-	0,68
10	Animal oil	-	26,73	-	0,76
11	Vegetable oil	-	31,12	-	1,26

* The absolute market power of economic entity is defined by

$$\begin{cases} V_1 + V_2 + V_3 > 0,7 \\ V_1 / (V_2 + V_3) > 1 \end{cases}$$

Inequality system, where $V_1 + V_2 + V_3$ are the shares of top three economic entities with the largest sales volumes.

Shares of the top three economic entities with the largest sales volumes on “Filtered Cigarette”, “Vodka” and “Cash Grain” product markets exceeds 80% of the total sales volume of the market.

Share of the top three economic entities with the largest sales volume on “Bottled Mineral Waters” product market is approximately 70%, and the absolute market power index of the market dominant economic entities is approximately 1.

Parallel to the previous Table, analysis of the data presented in Table 2 also prove the competitive environment on a number of product markets of the Republic.

A number of product markets of the Republic (9 types of services in telecommunication and 7 types of mineral waters extraction) have only one market participant operating on the exclusive right (license) granted by the state.

“Coffee”, “Medications”, “Wine”, “Animal Oil” and “Vegetable Oil” product markets have no economic entities with dominant position or market power.

Although “Petrol” product market also has no dominant economic entity, still there are grounds to assume that certain vertical and horizontal agreements may exist in this field. Studies in the direction are in the process.

Studies showed that the same company is dominant on “Sugar”, “Vodka”, “Grain” and “Ethyl Spirit” product markets, the share of which is significant also on “Coffee” and “Animal Oil” product markets. On “Grain”, “Grain Flour”, “Vodka”, and “Ethyl Spirit” product markets the entry of new economic entities has become significantly difficult since economic entities operating on the listed markets have already established links with each other as a result of the technological interconnection of these markets. Commission studied these issues taking into account both technological and interconnection factors of economic entities.

Commission revealed abuse of dominance as well as many unfair competition practices on certain product market studied. Commission detected no anticompetitive agreements and prohibited concentrations on the studied product markets so far.

In particular, abuse of dominance was detected in the sphere of telecommunication delivery services.

The detected unfair competition cases caused confusion or bring to mislead in regard to competitive economic entity or its activity on product markets (appearance, color, quality, its production process, expiry date of product) through the use of registered or non registered product and service trademarks.

Unfair competition cases are mainly found on food product markets, in particular, alcohol drinks, mineral waters, soft drinks, tea, confectionaries, vegetable and animal oil.

Market studies displayed the existence of both economic and administrative impediments which make the market entry difficult for economic entities and create discriminatory conditions.

Depending on the differences of the spheres, different economic markets have different economic impediments. In a number of markets, the entry impediments are conditioned with the effect of scale economy. Already existing vertical links (producer-supplier-consumer), which may have anticompetitive nature, also have significant impact on certain markets.

Sometimes the product market competitive environment suffers from the negative impact of unclear and incomplete legislation, which enables the employees of the state administration and other bodies to practice subjective approach in the decision making process. One of such examples is the current system of defining the customs clearance for imported products.

Undoubtedly, tenders will have a positive impact on the development of competition on product markets, however, the frequently received appeals on the procedures and mechanisms of their performance makes necessary to study the entry impediments of these markets.

Therefore, it is necessary to carry out consistent activities to eliminate and exclude future application of such provisions in the laws and by-laws regulating the activities of the appropriate bodies.

Market studies show that the number of economic entities operating on them remains almost the same. The main reason is that the market entry impediments impact mainly on

activities of small and medium businesses. The existence of such impediments does not allow small and medium businesses to deploy fully on product markets.

2. ECONOMIC COMPETITION PROTECTION MEASURES, THEIR IMPLEMENTATION SCHEDULE AND REGULATORY MECHANISMS

A number of measures directed at the regulation of competition protection will be conducted during the planning year, including:

- Elimination of structural, institutional, administrative and bureaucratic nature obstacles impeding economic entities market entry;
- Detection of unfair competition cases and operative implementation of steps aimed at the their elimination;
- Advocacy of economic competition legislation for the society and businesses, organization of activities and training courses targeted at the formation of competitive thinking;
- Implementation of activities directed at the regulation of competition protection issues together with the state and local government bodies and officials;
- Ensuring transparency of the commission activities, and publicity of findings of the studies conducted;
- Operative respond to the applications submitted, calls received and publications in mass media means;
- Update and expansion of the database.

Implementation of the listed measures will be targeted to:

- Strengthening of supervision over the compliance with the economic competition protection legislation as well as increase effectiveness in responding to the facts of infringements;
- Prevention, restriction and prohibition of anticompetitive actions and behavior, including:
 - Elimination of abuses of dominance and unfair competition cases;
 - Prevention of actions of the state bodies and local government which may lead to creation of the market entry impediments;
 - Improvement of the competition legislative field, including
 - Preparation of modifications and supplements in the competition legislation based on the comprehensive principle;
 - Expansion of methodological and normative base ensuring the Law enforcement.

Table 3 illustrates the schedule of implementing measures directed at the economic competition protection.

Table 3.

Schedule of Implementation of Economic Competition Protection Measures in 2003

Measure	Timing
1. Market study:	
a) Industrial produce product markets	During the year
b) Agricultural markets	II Quarter
c) Energy carriers product markets	I Quarter
d) Services product markets	II Quarter
2. Drafting of legal acts	
a) Order of “Defining of Criteria for Exposition to Significant Competition by Economic Entities”	I Quarter
b) Order of “Declaration of Concentrations and Permissions”	

3. Study & detection of non-equal competition conditions and market entry impediments in: a) conducting tenders; b) issuing licenses, certificates and other permissions; c) granting privileges, state assistance; d) applying some provisions of tax and customs legislation.	During the year
4. Detection of abuse of dominance and implementation of measures for their elimination	During the year
5. Measures directed at unfair competition prevention a) Studies of general nature cases and setting up regulated approaches towards them; b) Detection and regulation of unfair competition in commercials.	During the year
6. Update & expansion of database	During the year
7. Study and operative response to appeal-applications and mass media publications	During the year
8. Monitoring of competitive environment of the markets studied during the previous years	During the year
9. Implementation of measures to improve the staff qualification	During the year
10. Implementation of joint activities with the CIS and other foreign states related with issues of product markets of the Republic, other international activities	During the year

3. OTHER ISSUES SUBJECT TO REGULATION BY COMMISSION FOR THE IMPLEMENTATION OF OBJECTIVES AND FUNCTIONS DEFINED BY THE LAW

In addition to the functions prescribed by the Law and aforementioned measures, Commission shall implement the following activities:

3.1 Ensuring Publicity of Commission Activity

To ensure publicity of its activity, Commission will continue to publish the bulletin containing the adopted decisions and methodological instructions applied by Commission as well as other competition related materials. Elucidation of the policy implemented in the sphere of competition protection will be continued in mass media means as well.

3.2 Collaboration with State and Local Government Bodies and NGO-s

To carry out its functions, Commission will continue to expand and intensify practical contacts established already. It will cover receipt and exchange of necessary information as well as drafting and implementation of joint programs on competition protection at different levels.

Commission will continue its collaboration with executive authorities directed at ensuring practical procedures obliging the state and local government bodies to regard the possible impact on competition in adopting their decisions.

Commission envisages to implement joint activities with NGO-s, including associations of manufacturers and consumers as well as associations protecting their rights. It will be in the form of discussing and responding to applications submitted by consumers, improvement of consumer rights protection legislation, ensuring their participation in conferences, workshops and other events devoted to these issues.

3.3 International Collaboration

Commission will continue to collaborate with international organizations and competition protection bodies of the CIS member countries and other foreign states in the planning year.

Collaboration with international organizations will be expanded; in particular direct collaboration will be launched to participate in measures organized within the frames of the Black Sea Economic Collaboration.

Within the frames of the collaboration of the independent states, Commission envisages to participate in the activities and regular sessions of Antitrust Policy Council of the CIS member countries, the key goal of which is to draft and implement agreed policy between the CIS member countries.

It is anticipated to take active participation in sessions of ICN work groups and its annual meeting within the frames of collaboration with International Competition Network. This will immensely promote creation of direct contacts of Commission with competition bodies of the developed countries and gaining valuable experience as well as improvement of the staff qualification.

Commission will also continue to collaborate with other international organizations dealing with economic competition protection issues, like Organization of Economic Collaboration Development (OECD), the World Bank (WB), and World Trade Organization (WTO).

Commission anticipates to focus on the reinforcement of the practical contacts and direct studies of current experience related with the competition protection within the frames of the collaboration with the competition bodies of the CIS and other foreign states.

Commission will strengthen its practical contacts with Russia, Ukraine and Georgia based on the collaboration contracts signed with the competition protection bodies of these countries in 2002.

Commission regards the on-going collaboration with the Yerevan Office of the US Agency for International Development (USAID) and Armenian-European Policy Legal Advisory Centre AEPLAC/TACIS as one of its priorities which will promote the organized implementation of the Commission activities as well as improvement of the Commission staff professional qualification.

Appendix Concentration Level on Different Product Markets¹

#	Product market	2000			2001		
		CR-1	CR-2	CR-3	CR-1	CR-2	CR-3
1	2	3	4	5	6	7	8
1	Table & technical salt	99.99	100.00	X	99.97	100.00	X
2	Beer	74.62	99.53	99.56	71.97	99.02	99.70
3	Bottled mineral waters	37.10	57.40	74.80	33.47	52.37	66.63
4	Coffee	34.86	55.50	72.00	25.93	44.81	57.30
5	Soft drinks	66.41	87.01	88.15	-	-	-
6	Cigarette ²	39.74	75.22	84.17	91.62	95.95	97.43
					44.03	66.59	81.66
7	Cognac	83.60	91.10	95.10	66.60	79.00	85.80
8	Sparkling wine & champagne	84.70	91.10	95.30	81.22	85.93	89.42
9	Ice cream	38.60	73.70	86.30	35.08	69.15	85.16
10	Plaster	55.70	100.00	-	52.90	100.00	X
11	Medications	12.67	22.95	28.83	13.49	23.06	30.06
12	Sugar	-	-	-	79.80	95.00	98.00
13	Petrol	-	-	-	22.50	42.30	58.10
14	Ethyl spirit	-	-	-	79.83	90.05	95.15
15	Vodka	-	-	-	46.47	68.93	80.41
16	Wine	-	-	-	30.87	47.73	64.58
17	Grain ³	-	-	-	41.64	53.08	59.71
					38.16	74.03	94.36
18	Animal oil	-	-	-	26.73	48.34	61.73
19	Vegetable oil	-	-	-	31.12	45.63	55.97
20	Cement	-	-	-	51.44	99.60	100.00
21	Telecommunication	100.00	X	X	100.00	X	X

22	“Bjni” mineral waters extraction	100.00	X	X	100.00	X	X
23	“Ararat” mineral waters extraction	100.00	X	X	100.00	X	X
24	“Dilijan” mineral waters extraction	100.00	X	X	100.00	X	X
25	“Hankavan“ mineral waters extraction	100.00	X	X	100.00	X	X
26	“Jermuk”, “Lori”, “Arzni” mineral waters extraction	100.00	X	X	100.00	X	X

¹ Expressed by internationally applied “Concentration coefficient” (CR) which is the sum of the shares of top one (Column 3 &6), top two (Column 4 & 7) and top three (Column 5 & 8) economic entities in the total sales volume of the certain market. The growth of the coefficient shows the increase of concentration and vice versa.

² Cigarette product market, studied in 2001, is divided into unfiltered cigarette (first line) and filtered cigarette (second line) markets.

³ Grain product market, studied in 2001, is divided into cash grain (first line) and feed grain markets (second line).