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Competition policy's role in network industries: Regulation and deregulation in Estonia

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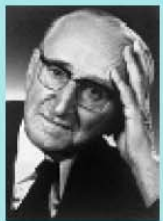
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Discourses in Social Market Economy



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**Competition Policy's Role in
Network Industries - Regula-
tion and Deregulation in Es-
tonia**

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Eerma, Diana; Sepp, Jüri

Competition Policy's Role in Network Industries - Regulation and Deregulation in Estonia

Abstract

The article analyzes the competition policy's role in network industries (energy, telecommunication and railway sector) from points of view regulation and deregulation and institutional aspects of the competition policy in Estonia taking into account the particular developments in some transition countries and practices, which seem to be relevant for further regulating developments in Estonia.

The main objective of the article is to find out, what type of institutional arrangement is suitable for regulating network industries in Estonia. Under the observation are institutional and organizational aspects of competition in abovementioned sectors. The article has two parts: First part focuses on particular law, which regulates network industries in Estonia; the second part analyzes institutional and organizational aspects of regulation and competition policy.

Considering possibilities for regulation in network industries there are analyzed three different models: single sector-specific regulators and competition board; integrated multi-sector regulatory institution and separate competition board; and unitary competition supervisory and regulatory institution.

Keywords:

Estonia, competition policy network industries

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Competition Policy's Role in Network Industries - Regulation and Deregulation in Estonia

Introduction

Current article analyzes the competition policy's role in network industries (energy, telecommunication and railway sector) from points of view regulation and deregulation and institutional aspects of the competition policy in Estonia taking into account the particular developments in some transition countries and practices, which seem to be relevant for further regulating developments in Estonia.

The main objective of this article is to find out, what type of institutional arrangement is suitable for regulating network industries in Estonia. Under the observation are institutional and organizational aspects of competition in abovementioned sectors. The article has two parts: First part focuses on particular law, which regulates network industries in Estonia; Second part analyzes institutional and organizational aspects of regulation and competition policy.

The connection between competition policy and regulation is not always clear enough and is complex problem. Some kind of rivalry between those two shows up in certain phases during the deregulation of an industry or the transformation of former state monopolies into competitive markets. As it has been pointed out, in practice, the conflict between competition policy and regulation often arises as one between competition authorities and sector-specific regulators (Kirchner, 2004).

From institutional economics approach competition policy is seen as application and enforcement of competition law by competition authorities and courts. Regulation in this context is as sector-specific regulation enforced by regulatory authorities and law courts. Competition policy is public policy instrument to prevent constraints on competition. The goal of competition policy is to keep markets free from restrictive prac-

tices in order to safeguard freedom of choice against business practices which have negative welfare effects.

Competition policy itself cannot create competition. It can only prevent or limit the effects of certain activities restricting freedom of competition. Of course there are limits to the effectiveness of competition policy, and there are markets in which competition policy will lead to satisfactory results and other markets which need regulation in order to attain the efficiency goal.

Competition authorities and sector regulators have different core competencies. These core competencies influence the types of tasks best accomplished by each. Sectoral regulation is frequently overseen by sector regulators. Sector regulators typically have extensive, ongoing knowledge of the technical aspects of the products and services that are regulated. Sector regulators are more likely better suited to technical regulation than competition authorities (The relationship between ... 2005).

1. Developments in Law: Regulation and Deregulation in Network Industries in Estonia

In general competition policy and regulation may be competing institutional devices in situations in which regulation is being cut back or abolished (deregulation) or in which former state monopolies will be transformed into competitive markets (transformation). Deregulation in this context can be viewed as a shift of regime, from regulation to competition policy. Transformation of state monopolies is a dynamic process and it is an essential part of economic policy in the European Union and its member countries.

The competition replacement with public regulation is economically reasonable only in exceptional areas and even here, only in essence of natural monopolies, for example, different supplying and distributional networks. Still, there is need to point out, that it concerns only managing the essence of monopoly – the networks, but it does not apply to their operating. Also the technological progress is capable to undermine the essence of natural monopolies as the mobile communication progress shows.

However regulation can reproduce competition policy as pointed out about competition policy's role in regulatory reform process by some authors (Wise 1998). Rules and regulators may have tried to prevent co-ordination or abuse in an industry and then it is just as competition policy does. For example, different regulators may apply different standards and changes in regulatory institutions may reveal that seemingly duplicate policies may have led to different practical outcomes.

In Estonia the corresponding law is in developing phase. The general framework here is designed by Competition Act Chapter IV. The §14 and 15 from the Chapter IV define the owner's essential facility accordingly the exclusive and sole rights, including the owner of the natural monopoly. There are also adopted several exclusive rights as following: Energy Act regulating the fuel and energy sector (1997, reformed as Electricity Market Act in 2003), Railway Act (1999, renewed version from 2003 is in force from 31.03.2004), Cable Communication (1999) and also the general Telecommunication Act (2000) and recently Electronic Communication Act (2004, 2007).

In the Competition Act the natural monopoly is observed as the base for dominant position. The natural monopoly is connected with property rights concerning the particular network or infrastructure, which is impossible or unreasonable to duplicate, but without the access to it there is no opportunity to operate in particular market. In such situation government and local governments have right to price control, it is "because the consumers of particular companies product or sellers to those companies cannot fall into essentially worse situation compare to the situation, when the free competition is in place in the particular sector" (§ 17). In theory the described approach is known 'just-as-conception'. Therefore the invisible hand of market is replaced by visible hand of state. The Act formulates also the main obligations of the monopolists (§ 18):

- Guaranteeing the access to the networks and infrastructure in reasonable and non-discriminative conditions in order to supply or sell the products;
- Guaranteeing the transparency in accounting.

Already the first Estonian Energy Act (RT I 1998, 71, 1201) met the principles of the European Union Internal Electricity Market first Directive (currently is in force the

second Directive 2003/54/EU) and envisaged the obligations for network enterprises in terms of technical opportunities:

- Enable the direct connections between the producers and consumers;
- Offer the distribution services;
- Allow the accession with network.

Furthermore, the network enterprises we treated as been in dominant position in terms of the Competition Act, and there was envisaged the opportunity for price control and for that the necessary transparency in accounting. Practically the same principles are stated also by the new Electricity Market Act (RT I 2003, 25,153), but it is done by the regulation which is essentially detailed. Therefore, the Act is less transparent and carries more the sign of lobby work done by Estonian electricity monopoly - '*Eesti Energia*'.

For Estonia has given the exception in opening up the electricity market in the EU accession treaty until year 2012, because of the protection oil-shale energy interests. Nevertheless, the technical preparedness for the opening up the electricity market is lacking in the previous EU member states as well. At the same time, it will be clear, does it serve the electricity import or export interests, because the adjustment of oil-shale energy prices concerning the strict EU environmental rules is still in process. The current act in force gives the right to choose the electricity deliverer in so-called free consumers (consumption overcomes 40 GWh per year) until year 2009. From 2009, the free-consumer rights for major consumers will be guaranteed in a way, that their total consumption will make up at least 35% of the total amount of the market. Taking account the EU efforts for the opening up the electricity market in general, we may anticipate the pressure to Estonia for the acceleration of its electricity market opening process. The similar parallel has been shown through the hints to possible fines in case of delaying with regulation concerning the Estonian gas market.

In implementing the network charges Estonia follows the requirements of corresponding EU Directive (concerning the reconciliation and disclosure of prices *ex ante*). At the same time, the price regulation in general is stricter. New Estonian Energy Act (§ 75) requires besides the network charges to reconcile also the prices of electricity and its raw material and oil-shale prices with the Energy Market Inspection. It is

probably inevitable until the real opening of the electricity market. In special literature, there has been opined, that state *ex ante* regulation of electricity prices will turn inessential even in case of small-scale consumers. This change assumes also progress in measurement technology in addition to opening the markets. Then analogically to telecommunication market, there is not any more in the first place the task of regulating the electricity prices by state, so far as the task of regulating charges of deliverer change.

The main problem still stays in network charges regulation or supervision in the future as well. Currently the EU Energy Act § 70 envisage not only three types of charges (accession charges, charges of using the network connection and charges of forwarding), but also the opportunities for their differentiation (essentially price discrimination). Taking into account information asymmetry in favor of network enterprise, it stands as an extremely difficult task for Energy Market Inspection.

Herewith the preconditions for privatization of fuel- and energy sector are created – there is regulation mechanism replacing the competition. Unfortunately, the privatization process failed at the beginning of year 2000, because of poor (non-competitive) management of the process and political opposition. Those, who were against the privatization process, ignore opinions of political economy (especially capture theory). According to the theory, the state agencies, which control monopolies tend to represent more the interests of enterprises compare to consumers interests. This hazard is particularly major concerning in state monopolies by nowadays' concept. It is because here the enterprise leaders have more connections with politicians than in case of private enterprises.

Of course, the additional saving motives and advantages for effective action from that are used better in private enterprises. Differently from Energy Act, tries the Competition Act to stress another neutralizing mechanism of natural monopolies: replace the 'competition in market' with the 'competition for market'. For that purpose the monopoly has to give in open offering according to the public procurement law (RT I 1995, 54, 883; 1996, 49, 953). In principle the idea is correct, but can not be the remedy in overall. The investments may give the advantage to those participants, who already

are in the market longer time and who do not have to worry about cost-effectiveness of their investments and also get the better price offers in general.

When in energy sector the regulation has been functioning relatively steady (discontent is connected with the privatization), then much more criticized sector is telecommunication. The first object of criticism has been the cable communication law (RT I 1999, 25, 364). Here the local governments were allowed to divide their territories as the market shares for which the Communication Agency gave one or several permissions of cable TV. The one permission was issued in case, if the applicant engaged to offer the telephony service as well. Such opportunity for local monopoly provoked arguments against. There was the situation, where competition in one particular market (cable TV) was contributed because of another competition in telephony service market (even more important market).

The followed Telecommunication Act (RT I 2000, 18, 116) points out rather the supervision over the enterprises which have essential market power in telecommunication market. The attribute of the essential market power is 25% of market share. If the market share is more than 40%, then the corresponding articles of the Competition Act are applied. It is not obvious, why mobile communication market needs such special regulation, especially taking into account the highly concurrent oligopolistic market structure. In authors' opinion, there is enough implementing the regulation of enterprise in dominant position.

Also in the railway sector, the deregulation has been bringing up conflicts between the market participants. Especially concerned is the former monopoly '*Eesti Raudtee*' who is the owner of the infrastructure, because it lost the control over the railway transport service market. The new Railway Act is more radical compare to the first one, which required that '*Eesti Raudtee*' has to give to other enterprises 25% of infrastructure capacity. Because of the vertical integration of '*Eesti Raudtee*' the transport service market is managed by Railway Inspection at current time, whereby the total amount of transportation is given to the open competition. There the '*Eesti Raudtee*' has to compete with others in the equal conditions.

General conclusion is that corresponding law has made significant developments in terms of observed network industries in Estonia recently, but the organizational structure of regulators is still in developing phase. In order to find suitable solutions for small transition country we focus on practical developments and benchmarks concerning the sector regulators and also competition authority.

2. Institutional Aspects of Regulation and Competition Policy

2.1 Developments in Regulation Practices in Sector-Specific Spheres

Historically, regulators have often been closely related to ministries that manage or managed incumbent firms. Perhaps as result, regulatory agencies are sometimes perceived as taking actions that appear to serve the interests of the firms being regulated. Greater independence both from political power and the regulated sector are crucial for avoiding these perceptions. In many countries, for example OECD countries, regulatory institutions have increased their levels of independence (The relationship between ..., 2005).

As the transition countries began restructuring and privatizing their infrastructure in 1990s, they looked to the countries that first had taken this approach, like Canada, United Kingdom, United States and Australia. But these countries have long traditions in regulating the infrastructure, dealing with monopolies and they also have long traditions of market capitalism supported by strong legal institutions. Complicated matters were caused also because state enterprises in transition economies were often organized to achieve political objectives, not to solve market failures (Guasch *et al* 1999).

It was clear that the transition countries are not able to achieve credible, stable and effective regulation of infrastructure overnight.

The main problems in transition economies concerning the shortcomings of institutional prerequisites for effective regulation were pointed out by World Bank Policy Research Report (Kessides 2004) and included following aspects:

- Separation of powers, especially between the executive and the judiciary.
- Well-functioning, credible political and economic institutions – and an independent judiciary.
- A legal system that safeguards private property from state or regulatory seizure without fair compensation and relies on judicial review to protect against regulatory abuse of basic principles of fairness.
- Norms and laws – supported by institutions – that delegate authority to bureaucracy and enable it to act relatively independently.
- Strong contract laws and mechanisms for resolving contract disputes.
- Sound administrative procedures that provide broad access to the regulatory process and make it transparent.
- Sufficient professional staff trained in relevant economic, accounting, and legal principles.

From best practices of developed countries there is well-known that the structure and process of infrastructure regulation determine how effectively it supports reforms and promotes efficiency and social objectives. For effective regulation of privatized utilities have crucial impact and importance those institutional requirements as coherence, independence, accountability, transparency, predictability and capacity.

By now the process in transition countries has been developed in quite different ways. Let's have a look to the process of regulation in sector-specific spheres in some transition countries in 1990s to 2000.

In Hungary the energy regulator's independence was ranked as limited by a lack of autonomous revenue, fixed-term appointments for the board of directors, and well-defined criteria for appointing and dismissing directors. Also civil service salary caps made difficult to attract qualified staff. In telecommunications the head of the sector's regulatory authority reported to the minister of transport and communications (Kessides 2004).

The Czech Republic was also found to lack independent regulators for energy and telecommunications – the situation occurred according the government's ambivalence toward specialized regulatory agencies in the early years of transition. As a

result the Ministry of Finance had the final decision in regulating gas and electricity prices, while the energy regulator was part of the Ministry of Industry and Trade. Similarly, the primary regulator for telecommunications was part of the Ministry of Transport and Communications (*Ibid*).

In Poland energy regulator meets most of the formal requirements for independence. In Romania telecommunications regulation was found to lack any semblance of independence. The minister of industry and trade appoints the chair, vice chair, and three of the gas regulator's board of directors, ensuring ministerial control over the agency. Concerning the electricity sector it is pointed out that Romania and Bulgaria have taken bold steps to create independent regulators. Romania's National Electricity and Heat Regulatory Authority is a United Kingdom style independent entity, while Bulgaria's State Commission for Energy Regulation incorporates elements of United States style independent commissions (*Ibid*).

About Latvia the World Bank Policy Research Report indicates that multi-sector regulator has financial independence from state budget and has shown strong commitment to transparency and accountability. But its independence is compromised by the close affiliation between its board members and the political parties that nominate them.

As seen from some practices of transition countries the processes of regulating the network industries still have to improve. In order to have more clear understanding about regulatory system practices let's focus on some country's cases more detail before analyzing the developments in Estonia.

2.2 Regulatory Institutions – Relevant Experience from Latvia, Germany and Netherlands

In Latvia the regulation of public utilities was performed by several institutions until October 2001. Energy Regulation Council (ERC) – an institution under supervision of the Ministry of Economy was responsible for regulation of energy sector. Ministry of Transport and its supervised Telecommunication Tariffs Council (TTC) carried out regulation in telecommunications sector. The main tasks of postal sector regulation

were performed by the Communication Department of the Ministry of Transport (MoT). Railway Administration (RA) supervised by the Ministry of Transport regulated the railway sector.

Practical experience showed that the regulation was rather inefficient due to fragmented institutions and limited resources available. Moreover such regulation system did not ensure an independent decision making process. The European Union reports on Latvia regularly emphasized the need to strengthen the regulatory process. Then, to change the situation and improve the regulatory system an institutional reform was implemented.

Already in January 1997 the Latvian government made the decision to set up a unified regulating institution in energy, telecommunications, post and railway sectors. After a four year period for legislation development a new public utilities regulation institution – Public Utilities Regulation Commission started its operation in October 2001 taking over the responsibilities of ERC, TTC, RA and MoT. The Regulator operates in compliance with the law On Regulators of Public Utilities, Regulator's statutes, sectoral and other normative acts. The Regulator is an institution supervised by the Ministry of Economy which is independent for performing the tasks set in legislation and the Council of the Regulator is appointed by the Seima.

A multi-sector regulatory model selected in Latvia is not typical for European countries. In Europe only some countries have multi-sector regulators, for example Luxembourg and Germany. However, the approach is widely used in the United States and Latin America. For example, multi-industry regulators have been successful in Costa Rica, Jamaica, and Panama and in the states of Brazil (Kessides 2004).

Multi-sector regulation model has several advantages in comparison with a single model, as it is possible to:

- Implement a unified approach in all the regulated sectors, for example, to apply a unified tariff calculation method in energy, telecommunications, post and railway sectors, have a unified procedure for issuing licenses, etc.;
- Take into account the convergence of technologies and services in the regulated sectors. In the world the traditional borders between the different sectors are nowadays disappearing fast. More active co-operation is observed between enterprises

working in different sectors, for instance, between railway and telecommunications. Due to technological development, telecommunications take over a considerable part of functions earlier performed by postal offices. Energy utilities, in turn, are providing telecommunication services. Convergence of sectors creates the necessity to develop a unified system of regulation for all the sectors and to apply equal regulation principles;

- Harmonize expected tariff changes in separate sectors thus preventing simultaneous price increase for public utilities and reduction of the economy's competitiveness;
- Attract and effectively utilize the intellectual potential;
- Make rational use of financial resources.

In Germany the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway is a separate higher federal authority within the scope of business of the Federal Ministry of Economics and Labor, and has its headquarters in Bonn. In July 2005 the Regulatory Authority for Telecommunications and Post which superseded the Federal Ministry of Post and Telecommunications (BMPT) and the Federal Office for Post and Telecommunications (BAPT), was renamed Federal Network Agency. It acts as the root certification authority as provided for by the Electronic Signatures Act.

The Federal Network Agency's task is to provide, by liberalization and deregulation, for the further development of the electricity, gas, telecommunications and postal markets and, as from January 2006, also of the railway infrastructure market. For the purpose of implementing the aims of regulation, the Agency has effective procedures and instruments at its disposal including also rights of information and investigation as well as the right to impose graded sanctions.

The Federal Network Agency's decisions in the fields of electricity, gas, telecommunications and post are made by its Ruling Chambers. The undertakings directly concerned may participate in the Ruling Chamber proceedings. The business circles affected by the proceedings may be summoned.

The Federal Network Agency's decisions are based on the Telecommunication Act, the Postal Act and the Energy Act and can be challenged before court. In case of

legal dispute neither the Regulatory Authority nor the Federal Ministry of Economics and Labor (BMWA) can quash the decision made by the Ruling Chambers. In contrast to the provisions of the Act Against Restraints of Competition (GWB) a so-called ministerial decision is not foreseen.

The rulings by the Ruling Chambers on telecommunications and postal matters may be challenged directly before the Administrative Courts, and before the Civil Courts if energy matters are concerned. A procedure is not foreseen. Proceedings on the main issue do not have a staying effect.

Conclusion here in general is quite complicated to draw from the experiences of competition creation in sector-specific spheres, because as it has been recognized from the analysis, the competition creation has been developing in different ways. Besides the discussion about regulatory institution type in network industries there has been under observation the relationship between competition authorities and sectoral regulators (Global Forum on Competition). This particular discussion has been started lately (in July, 2007) in Estonia as well. Still one is clear, that sector-specific regulators and national competition authority have to cooperate in regulation-for-competition. How to ensure that this cooperation is successful and efficient?

One way to ensure consistency with respect to competition decisions is to unify regulator and competition authority. In this approach towards competition law enforcement of a sector regulator and a competition authority have to merge the regulator with the competition authority. One example of merging a regulator with a competition authority occurs in the Netherlands, where the government has created chambers within competition authority (NMa) for sector regulation. The energy regulator in the Netherlands, the Office of Energy Regulation (DTe) is placed under the oversight of the competition authority, the NMa. DTe is responsible for the implementation and supervision of the Electricity Act of 1998 and the Gas Act of 2000. In 2004, the Office of Transport Regulation was set up as another chamber in the NMa. The chamber model allows highly specialized knowledge related to sectors exist within the structure of a competition authority focused on broad issues of improving competition. (The relationship between ..., 2005). This structure helps in ensuring the consistency in application of competition law. If competition authorities are responsible for compe-

tition law application in some areas and sector regulators are responsible in other then ensuring such consistency can be complicated task.

If there has been decided in favor of independent regulatory agency then still the question stays – what is the best solution for regulatory agency. Should the government create industry-specific regulators or a single agency with a broader mandate.

For further suggestions we analyze the present institutional position of the Estonian Competition Board and its activities.

2.3 Competition Authority in Estonia

There is a large variety in terms of competition policy organization in the international practice. At the same time, in theory has been stressed the partial similarity to monetary policy institution — necessity to protect the long-term economic interests from the daily political problems. Therefore has been often recommended that competition policy body should be relatively independent from executive power.

Looking at the experience of small countries we see the endeavor to separate the investigation of competition law violations from corresponding decision making. At that the decision making body (Competition Council in Finland and Denmark, Cartel Court in Austria) is staffed by participation of parliament, king or president of the country. In Switzerland the social cartel commission formed by parliament has important role. The competition policy bodies have an important role also in some transition countries. In Hungary the President of Competition Board, who is appointed by the President of country for six years, is participating in sessions of parliament and government. In Latvia by the law from 1997, the Competition Council from legal person is the supervisory body. The members of the Council are appointed by government for five years, but one government cannot recall the council member appointed by itself. This should help consolidate the independence of decision council. The status of council member is not connected with the parliament membership. Therefore the different methods are used in order to achieve one goal – to protect the independence of competition policy from government daily policy.

In Estonia the Competition Board (Figure 1) has unusually weak position in the state structure. It is as usual state board subordinated to the Ministry of Economic Affairs and Communications.¹

Probably is that fact reflecting most clearly the understanding that competition policy has secondary role in small open economy. In authors' opinion the stressing of foreign economic policy cannot lead to underestimation of processes in internal market.

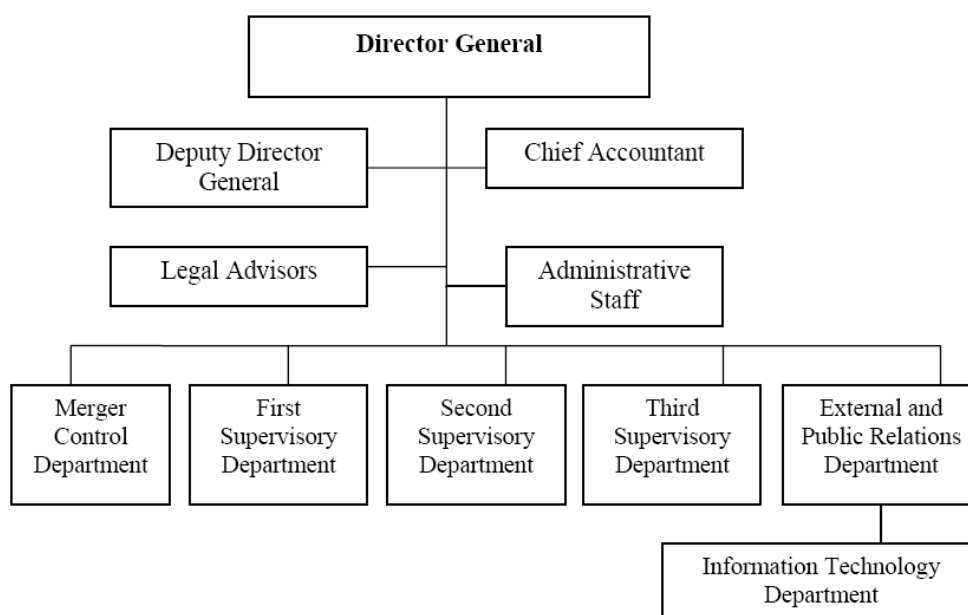


Figure 1. *The Organizational Structure of Estonian Competition Board.*

(Source: Estonian Competition Board).

The effectiveness of competition policy also depends on cooperation of executive body and court power. The new Estonian Competition Act foresees new solutions in work allocation between competition board and courts. The Competition Board is responsible for discovery the violation of law.² In case of impediment the proceeding the Competition Board may make precepts to natural or legal persons. In the failure to comply with a precept the Competition Board may impose a penalty payment (§ 62).³ The violations of law in contents are looked by last changed law firstly as mis-

¹ The last change in the Act enacts also the cooperation with European Commission according to the Act of EU Council 1/2003.

² In 2003 the Competition Board had enforcement activities concerning enterprises in total number of decisions 71. From which 21 cases were in abuse of dominant position/monopolistic power in the market, 2 cases of cartel agreements, 9 cases on other prohibited (horizontal and vertical) agreements, 39 cases of control of mergers, concentrations and acquisitions.

³ For natural person up to 50 000 and for legal person 100 000 EEK.

demeanor for which shall be sanctions: for physical person fine or arrest; for legal person fine up to 500 000 EEK. This last one is essentially modest compare to relatively usual rate, which was also in the former versions of Estonian law – up to 10% from previous year turnover. At the same time, there is complemented also criminal procedure, which gives first time the possibility to take criminal liability natural person, who are in fault in impairing the competition if there has been applied the punishment for the same misdemeanor before. The sanctions are in form of the fines or up to 3 years imprisonment. Though it is Estonian peculiarity at the first place and there is no hurry to cancel it as the competition board pursues, because the discussion continues at European level.

In Table 1 there are given activities of the Estonian Competition Board. This indicates the range of activities done by competition authority.

Table 1. Activities by the Competition Board in 2005

<i>Cases</i>	<i>Initiated proceedings</i>	<i>Decisions made</i>
Prohibited agreements and concerted practices	7	8
Abuse of dominant position	22	20
Merger control	37	40
Total cases	66	68

Source: Estonian Competition Board

In the context of competition authority position in the state structure in Estonia, there is need to point out the issue concerning the relationship of the Estonian Competition Board with state regulators of independent branches of economy. As seen from international practices there is discussion about the expediency to combine them. Here we can find the arguments from both sides as in favor and as against. Nevertheless, in small country (especially in transition period) the combining should strengthen the general status of competition policy and administrative capacity. Because all the regulators have at least one common task – control over the dominant enterprise, no matter *ex ante* or *ex post*. The Supervisory Inspection at Bank of Estonia (*Eesti Pank*) could be set an example.

In terms of developments concerning the institutional structure for competition policy implementation is also useful to consider experience and practices from countries which have had success in particular spheres.

From former experience of other countries is known that establishing separate agencies for regulating gives possibilities to recognize the unique economic and technological characteristics of each infrastructure industry and enables regulators to develop more detailed industry-specific expertise. It also reduces the risk of institutional failure and encourages innovative responses to regulatory challenges.

Implementing the model of one regulator for several industries makes possible to share fixed costs, scarce human and other resources. Also consolidation builds expertise in cross-cutting regulatory issues: administering tariff adjustment rules, introducing competition in monopolistic industries, and managing relationships with stakeholders (Kessides 2004). In addition, the broader responsibilities of a multi-industry agency reduce its dependence on any one industry and so help protect against capture and may be better able to resist political interference because its broader constituency gives to it greater independence from sector ministries.

Authors recommend for Estonia primarily the regulatory institution model implemented in Latvia, where different sector regulators are aggregated into one institution – the Public Utilities Regulation Commission. This example of combined regulatory institution allows to ensure regulatory consistency, technological convergence and also make better use of human and financial resources. Because small economies have limited human and financial resources the particular model of regulatory institution gives an opportunity for merging regulatory responsibilities. Under the consideration should be the model of regulator and competition authority unified institution, which has been implemented in Netherlands, as next step in developments of regulating network industries. This solution of unified institution will ensure internal consistency with respect to competition decisions and increase the authority of competition policy.

In addition, there are some other arguments for one regulatory institution as market substitution aspect between the output of regulated industries – especially between

electricity and gas, and also between modes of transportation and telecommunications. One has also take into consideration reasons arising from scarcity of expertise and vulnerability to political and industry capture in small transition economies.

Conclusion

There are markets in which competition policy will lead to satisfactory results and other markets which need regulation in order to attain the efficient goal. Competition authorities and sector regulations have different core competencies. In the process of applying competition laws in regulated sectors, competition authorities can benefit from the technical expertise of sector regulators and should seek to co-operate with sector regulators to benefit from this expertise.

Nevertheless the competition replacement with public regulation is economically reasonable only in essence of natural monopolies, for example different supplying and distributional networks. There it concerns only managing the essence of monopoly – the networks.

In Estonia the corresponding laws which regulate network industries have been developed significantly in recent years, but the institutional structure is still in developing phase. For finding the suitable solution of regulating arrangement in network industries the experience of regulatory institutions in Latvia, Germany and Netherlands has been under the observation by authors. One possibly suitable model of regulatory institution for Estonia seems to be a multi-sector institution where different sector regulators are aggregated. This type of combined regulatory institution reduces its dependency on any one industry, protects against capture, ensures the regulatory consistency and also makes better use of human and financial resources, which are limited especially in small economies. The next step further from the multi-sector regulatory institution is merging sector regulators with a competition authority.

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