100 DAYS OF THE ACT ON THE UNFAIR USE OF CONTRACTUAL ADVANTAGE

* **Increase in butter prices, apple buying, milk deliveries.**
* **These are some of the twelve cases related to contractual advantage which are currently being dealt with by UOKiK.**
* **The new regulations have been in effect for three months now.**

**[Warsaw, October 12, 2017]** The aim of the Act on counteracting the unfair use of contractual advantage is to eliminate unfair trading practices in the course of transactions between undertakings operating in the agricultural and food industry. The regulations came into effect on 12 July. UOKiK is currently dealing with **twelve cases related to the new Act.**

- *We are observing a significant interest of entrepreneurs in the new law. The number of cases being reported to us right after the Act came into force and the signals coming from the media and the market show that these regulations were needed. Weaker participants in the food supply chain need protection –* says UOKiK president, Marek Niechciał.

**Expensive butter**

One of the cases concerns a significant increase in the price of butter. In October, UOKiK, at its own initiative, launched five investigation procedures. It is checking the operations of store chains such as: Lidl Polska, Jeronimo Martins, Tesco Polska, Auchan Polska, Carrefour Polska. The investigation procedures are being conducted in a case and not against any entrepreneur. The Competition Authority asked the store owners to send in correspondence with butter suppliers. We are currently waiting for answers.

- *After analysing the materials sent in, we will be able to identify the mechanisms determining the prices of butter and check whether the store chains are not using a strong negotiating position to influence the prices –* says president Marek Niechciał.

**29 August, Black Tuesday - sudden drop in apple purchase prices**

UOKiK received a report on the situation on the industrial apple purchase market around Sandomierz. At the end of August, the purchase price for the applies dropped by PLN 0.20 per kilo within only several hours. A similar, untypical situation could also have happed anywhere else in Poland. The case is the more so important that the Sandomierz district, which is the second largest apple-growing region in Poland, was affected by frostbites this year. Sale of industrial apples at quite low prices might lead to greater losses of the growers.

*As part of the investigation procedure, we performed an audit at four enterprises involved in buying and processing of fruits. We are currently analysing the clarifications, documents and other information which we received* – says Piotr Adamczewski, director of the UOKiK Branch Office in Bydgoszcz.

**Milk supplies**

Another investigation procedure concerns trade relations of 15 major milk processing enterprises with milk suppliers. UOKiK asked the creameries, among other things, for specimens of milk sale, supply or contracting agreements. We are currently analysing those data, in particular, **we are checking how the prices are being determined and which parameters are being taken into account – among other things, how hygiene and veterinary requirements are being fulfilled.**

**Sugar production – supplies of sugar beets**

Reports were received not only from enterprise groups or trade associations. The Competition Authority commenced an investigation procedure after receiving a signal from an individual farmer. UOKiK is checking **whether sugar producers are not using practices involving the unfair use of contractual advantage against suppliers of sugar beets**. In the course of the procedure, Südzucker Polska was asked to indicate suppliers, principles of selecting trading partners and to present the applicable industry agreements. In particular, the subject matter of interest are the methods of determining the prices and payment dates. The enterprise is the largest sugar producer in southern Poland, the beets are purchased practically only by it. That is why it may have a particularly strong negotiating position. We are currently analysing the documents that we received.

**The described measures being undertaken by the Competition Authority are currently in the stage of investigation procedures, which means that they are being conducted in the case and not against any entrepreneur.**

All cases involving contractual advantage are being examined by the UOKiK Branch Office in Bydgoszcz. The maximum financial penalty for the abuse of contractual advantage which may be imposed amounts to **3% of the turnover** of the given entrepreneur achieved in the preceding year. The procedures may also be completed without any financial penalty being imposed. The Competition Authority may refrain from imposing a fine if the entrepreneur voluntarily undertakes to refrain from the use of unlawful practices or to remedy the consequences thereof.

What is important, cases pertaining to the obligation to conclude a written contract for the purchase of agricultural produce from farmers fall within the scope of competence of the National Centre for Agricultural Support.

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