



**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Cancels & replaces the same document of 10 October 2007

Working Party No. 3 on Co-operation and Enforcement

**POTENTIAL PRO-COMPETITIVE AND ANTICOMPETITIVE ASPECTS OF TRADE/BUSINESS
ASSOCIATIONS**

-- Poland --

16 October 2007

To be held on 16 October at the International Energy Agency (IEA), 9 rue de la Federation, PARIS 75015, starting at 10 am.

Please contact Mrs Wendy Houët if you have any questions regarding this document [phone number:+33 1 45 24 95 59; email address: wendy.houet@oecd.org].

JT03233627

1. The role of trade associations in legitimately petitioning the government: examples of lobbying activities and legislative activities by trade associations.

1. Trade unions can influence the legislative process in Poland mainly by:

- the lobbying activity,
- participation in social consultations.

2. Lobbying in Poland is governed by the act of 7 July 2005 on lobbying activities in the process of establishing law. It defines the principles of the openness of the lobbying activity in the process of establishing law, the principles of performing professional lobbying activities, the forms of the professional control of lobbying activities and the principles of maintaining a register of entities performing professional lobbying activities.

3. The act defines **the lobbying activity** as every activity performed with the use of legitimate methods aiming at exerting influence on the public authority bodies in the process of establishing law. However, **the professional lobbying activity** is a gainful activity performed for the benefit of third persons in order to consider the interests of those persons in the process of establishing law. It can be performed by an entrepreneur or a natural person who is not an entrepreneur (on the basis of a civil contract).

4. Each entity performing a professional lobbying activity is subject to an entry in the register maintained by a minister competent for administration matters. Without an entry in the register such activity may not be performed. Otherwise such entity is subject to a fine.

5. Information regarding the actions undertaken towards public authority bodies by entities performing the professional lobbying activity is published in the Public Information Bulletin, together with the result expected by those entities. Once a year managers of offices supporting the public authority bodies also provide information about the actions undertaken towards those bodies in the previous year by entities performing a professional lobbying activity.

6. The object of lobbying activities are first of all entities preparing legal acts and representatives of legislative bodies. Because a competition authority is responsible for preparing regulations of a rather horizontal character (regarding entrepreneurs in general and not individual industries), it is the subject of interest of persons dealing professionally with lobbying to a small degree. Therefore it is difficult to give an example of such activities.

7. The President of the Office of Competition and Consumer Protection is the central government administration body responsible for the competition and consumer protection matters and for this reason he takes part in the so called social consultations. The documents subject to such consultations are drafts of legal acts, policies, strategies and other directed documents adopted by the government. In case of each of those documents, if this is required for the protection of competition and consumers, the President of the OCCP may issue his critical comments or proposals of changes. Such interventions have been undertaken many times.

8. Bodies that prepare drafts subject to consultations, if this is justified, are also obliged to conduct social consultations. Social consultations, understood as any forms of enquiring about opinions of interested parties in the process of establishing law, are one of the tools that increase the effectiveness, clarity and engagement of interested parties in the process of creating, implementing and abiding by the

law regulations. They may be the source of information on possible effects of given regulations, as well as possibilities of making improvements in drafted regulations.

9. The aim is to conduct social consultations that are as wide as possible and performed at the earliest possible stage of legislative works, before preparing the draft of a prescriptive act. In practice most often this is taking place by publishing a document on the body's website and sending its copies to bodies representing the given type of entrepreneurial activity with a request for their opinion. In case of entrepreneurs these are trade associations, economic chambers or employer organizations, such as e.g. Business Centre Club.

10. It is also possible to indicate cases where trade associations, while lodging their reservations or comments to drafts of legal acts, also inform an competition authority about them with a request for support of their stand or drawing the attention to possible threats to competition or consumers.

2. Experiences with industry self-regulation, codes of conduct, standard setting and the promotion of industry-wide business practices.

11. Because in Poland the competition authority is responsible not only for the protection of competition, but also for the protection of consumers, the approach to codes of conduct and industry self-regulation differs, depending on the scope and subject matter of those regulations.

12. In the area of competition protection the President of the OCCP does not cooperate with entrepreneurs regarding their self-regulation. The competition authority has encountered requests directed by some trade associations to review codes of conduct, regulations concerning accepting new members and statutes implemented by them concerning their compliance with the antitrust act. However, these requests were dismissed, because the Polish law does not give the competition authority a possibility of issuing a binding interpretation or opinion.

13. Moreover, it should be mentioned that despite the fact that codes of conduct and self-regulations can have a positive effect on the standards of entrepreneurs' functioning in the market, very often they also hinder the development of competition.

14. In the past the President of the OCCP conducted antitrust proceedings and issued decisions prohibiting specific practices regarding self-regulation in some sectors of economy, in particular regarding liberal professions (professional services).

15. An excellent example is the decision (DDF-31/2002) issued on 20 May 2002 in a proceeding against the National Chamber of Notaries whose code of conduct listed "attracting clients with lower [than maximum] rates" as an instance of "glaringly unfair competition", subject to disciplinary sanctions. Compliance with the provisions was enforced by local associations, whose representatives inspected notarial offices around Poland, checking whether the rates offered do not amount to "unfair competition" as defined in the code of conduct. In effect it turned a system of maximum rates (set by the ministry of justice) into a system of prices fixed at the maximum level. Competition authority issued a decision declaring the contested provision to be a price fixing agreement. After conflicting court rulings, the provision was declared unfair and unlawful by the Supreme Court and removed by notaries from the code of conduct.

16. As far as the consumer protection is concerned, the approach to codes of conduct is a bit different. The President of the OCCP cooperates in this scope with entrepreneurs, giving opinions about drafts of codes of conduct sent to him. The suggestions given to entrepreneurs, however, are not binding and do not exclude a possibility of later intervention.

17. These differences in the approach result first of all from the fact that as far as the consumer protection is concerned, self-regulation is a more flexible and faster method than the provisions of law. Its function is particularly significant in case of new forms of communication, where a long-term legislative process is not able to meet the needs of ensuring the safety of legal transactions fast.

18. The actions in this area are also the contribution of the competition authority in promoting the Corporate Social Responsibility (CSR). The actions already undertaken by the Minister of Labour and Social Policy, the Minister of Economy, the Minister of Environment and the President of the OCCP in cooperation with the World Bank, non-governmental organizations and scientific institutions for the implementation of the CSR principles in Poland are aimed at developing the policy basis in this area, taking into account the Polish social and economic realities. An important element of this policy will be defining in the Polish realities the conditions of finding a company socially responsible. This can be proved, among others, by the level of effective use of energy sources, possessing and observing the code of conduct, programmes realized for the benefit of the local society, reliable information on labels, etc.

3. Examples of trade associations organising naked restrictions of competition and examples of trade associations facilitating collusion.

19. In the judicature of the President of the OCCP we can find examples of direct participation of trade associations in applying anti-competition practices, as well as examples of actions undertaken by those entities that facilitated actions forbidden by the act, or even made them possible.

20. While analysing the participation of trade associations in anti-competition practices from the perspective of the Polish judicature of the competition authority in the recent years, we can indicate the following three patterns:

1. practices being the initiative of an association, which played the role of an initiator and leader,
2. practices in which an association was only the executor of a strategy of associated entrepreneurs, and sometimes was established mainly for this reason,
3. practices which consisted in the participation of associations in broader agreements with other entrepreneurs and trade associations.

3.1 *Pattern 1*

21. We deal with this pattern very often in markets of services rendered by the so called liberal professions. It also can be found in markets, where there is a larger number of entities with a limited market power. In those markets it is very difficult for entrepreneurs to make effective arrangements as part of an independent initiative of one or a few of entrepreneurs. In a situation where we deal with associations with an established position, resulting very often from historical or legal conditions, they undertake actions leading to the restriction of competition.

22. In the recent years the President of the OCCP has intervened in the actions of professional self-governments, among others of architects, notaries, veterinarians and pharmacists. In case of some actions the competition authority has conducted a number of proceedings. This resulted from the fact that in Poland professional self-governments often act independently on the local level, therefore a number of proceedings were conducted at the same time regarding similar practices taking place in different parts of the country. Below examples of decisions regarding the mentioned markets have been described.

23. On 31 December 2004 the President of the OCCP issued a decision No. RKR – 47/2004 made after conducting an antitrust proceeding against the Małopolska Veterinary Chamber in Tarnów, which established minimum prices for veterinary services rendered in the territory of the Małopolskie voivodship. On 18 September 2002 this association passed a resolution in which it established the minimum prices for veterinarian services recommended to be used in their practice. During the proceeding it was found that this practice was no longer used. A fine was imposed on the Chamber.

24. Similar antitrust proceedings were conducted against: the Lubelska Veterinary Chamber in Lublin (decision No. RLU 10/04), the Świętokrzyska Veterinary Chamber in Kielce (decision No. RŁO 9/2004), the Śląska Veterinary Chamber in Katowice (decision No. RTK-67/2004), the Warsaw Veterinary Chamber in Warsaw (decision No. RWA-20/2005), the Lubuska Veterinary Chamber in Zielona Góra (decision No. RWR 52/2005), the Dolnośląska Veterinary Chamber in Wrocław (decision No. RWR 51/2005). In all those cases the activities of associations were found to be practices restricting competition and fines were imposed.

25. On 15 December 2005 the President issued a decision No. RPZ 36/2005 made after conducting an antitrust proceeding against the Wielkopolska District Pharmaceutical Chamber in Poznań, whose governing body - the Chamber's Council on 28 June 2005 passed a resolution „concerning unlawful advertisements of medical products”, obliging members of the Chamber performing the functions of managers of public pharmacies „(...) to observe the regulations concerning advertisements of medical products and avoid unlawful practices”, indicating in Article 1.b of the mentioned resolution that an unlawful practice is in particular: ”offering medical products and diagnostic preparations from the list of basic medicines and from the list of medicines for some chronic diseases for a flat rate price, for a price lower than the established flat rate price”, which is equal with indirect fixing of prices for those products. The result of the proceeding was finding the above resolution as an antitrust agreement and imposing a fine on the Wielkopolska District Pharmaceutical Chamber in Poznań.

26. On 18 September 2006 the President of the OCCP issued a decision No. DOK-106/06 made after conducting an antitrust proceeding against the Chamber of Architects in Warsaw, which directly established the conditions of selling the architectural designs of members of this Chamber in the national market of architectural services. The Chamber of Architects included in the Code of an Architect's Professional Conduct a clause prohibiting the member of this Chamber from taking part in tenders for the architectural designs in which the only criterion of the assessment of their offer is the price. The result of the conducted proceeding was the above mentioned decision of the President of the OCCP who decided that practice restricted competition and imposed a fine on the Chamber of Architects. The Chamber also crossed out the subject clause from the Code of an Architect's Professional Conduct.

3.2 *Pattern 2*

27. The practises of this kind are most often encountered in markets where there is a relatively small number of entrepreneurs that can have an effective influence on the relevant market. The associations functioning in this kind of market structures are dominated by their most significant members that control its actions and impose the direction of the conducted policy. In this situation even if the anticompetitive actions are officially supported by the association, its role is rather instrumental.

28. In his judicative practice, the President of the OCCP also encountered associations whose one of the main aims (and sometimes probably the only one) was conducting or coordinating the anti-competitive activity.

29. It was mentioned above that this kind of situation is characteristic for relevant markets, where there is a small number of significant players. However, this does not mean that we always deal with big

companies. Sometimes this type of pattern exists in the local market, restricted to a small area, and for that reason we deal there with small entities.

30. As an example here we can quote the decision No. RWA-8/2006 issued on 24 February 2006 after conducting an antitrust proceeding against the Association of Merchants „Gildia” in Warsaw, which concluded an illegal agreement restricting competition in the local market of organizing the trade and service activity covering the area of the Shopping Arcade at the Warszawa-Wileńska Shopping Centre and its direct surroundings, consisting in obliging the members of the Association to avoid conducting a competitive economic activity, by introducing a ban on selling goods or rendering services in the scope undertaken by any of the members of the Association at the Shopping Arcade in the above mentioned Shopping Centre. The „Gildia” Association made it impossible for its members to change the profile of the conducted economic activity. A resolution was adopted according to which members of the Association could change their activity only for one which is not conducted by any other member of the Association. In this way changing the profile of the conducted activity is possible only when the activity in this scope is not conducted by any of the members of the Association. This meant that in a situation when e.g. the activity conducted by the association member turned out to be nonprofitable, they could not change freely the profile of their activity. In the result of the conducted proceeding the Association finish the competition restricting practice.

3.3 Pattern 3

31. The third of the mentioned patterns of associations’ active participation in anti-competitive activities assumes cooperation of trade associations with other similar organizations or independent entrepreneurs. Here we can deal with specific market structures of technical character (e.g. associations of taxi cab drivers served by one taxi operator), which in normal conditions compete with each other. These agreements are concluded by trade associations, and not between entrepreneurs themselves on account of the number of associated entities, or like in the case of the mentioned taxi operators’ services, for technical reasons.

32. The President of the OCCP conducted numerous antitrust proceedings in the taxi services market against associations of taxi drivers in various towns and cities, among others in Szczecin, Zielona Góra, Łódź, Poznań, Katowice, Tarnów, Rzeszów and Bydgoszcz, concerning: fixing the prices for taxi rides or establishing the same discounts. The proceedings ended with finding the practices to be restricting the competition, as well as imposing fines.

33. A special case of this behaviour pattern of trade associations is concluding agreements between local trade associations in order to popularize particular anticompetitive solutions in the territory of the country and ensure their greater durability thanks to that. (Entrepreneurs in a given local market are then less threatened by the entry to the market of potentially more competitive entities acting in other parts of the country).

34. An example of this type of agreement concluded between trade associations is the case settled by the decision of 7 June 2006 No. RKT-31/2006 after conducting antitrust proceedings against:

- The Association of Tax Advisers in Katowice,
- The Śląskie Association of Tax Advisers in Jastrzębie-Zdrój,
- The Association of Tax and Accounting Advisers in Wrocław,
- The Wielkopolskie Association of Tax Advisers in Poznań,

- The Association-Club of Tax Advisers in Warsaw,
- The Zachodniopomorskie Association of Tax Advisers in Szczecin,
- The Association of Financial Experts and Tax Advisers in Warsaw.

35. Above mentioned associations were accused of concluding an agreement restricting the competition in the national market of tax advisory services consisting in a direct or indirect fixing of prices by publishing price lists for tax advisory services in the „Tax Advisers Forum” magazine. It was proved that in the meetings of the Consultative Council of the „Tax Advisers Forum”, whose members were representatives of the above mentioned associations, price lists used in tax advisers’ offices were discussed, so there was an exchange of information regarding the prices used by individual tax advisers. The effect of those meetings was establishing the suggested price lists of tax advisory services and publishing them twice in this magazine. This practices was found to be restrictive of competition and ceasing it was ordered. Fines were also imposed on individual associations.

36. The practice of the Polish competition authority shows that trade associations may play an important role in anti-competitive agreements, therefore in many proceedings conducted by the President of the OCCP regarding the agreements the trade associations’ role is also analysed. Often these organizations, despite the fact that they do not participate in a cartel, deal with its administration (they collect and process data) and provide logistic support – organize meetings, provide premises, etc.

37. Sometimes in this type of cases it is difficult to prove the participation of an association in an anti-competitive agreement along with its members, or even define its function explicitly. An example is the decision of 4 September 2007 No. RŁO 47/2007 made after conducting an antitrust proceeding against four passenger carriers in the route Pabianice – Łódź and Łódź – Pabianice, associated in the „Inter-Buss” Association. These entrepreneurs concluded an agreement restricting the competition in the local market of regular transport of passengers by bus on the route Łódź – Pabianice and Pabianice – Łódź, consisting in the direct fixing of prices of single adult tickets for the transport of passengers in the above mentioned route. As a result of the proceeding the President of the OCCP imposed fines on the above mentioned entrepreneurs.

38. In the case of the „Inter-Buss” Association no documents were found confirming direct participation of the Association. Moreover, it was found that the Association’s statute does not include statements which would impose on its members a duty to establish or coordinate the price policy.

39. The case-law of the President of the OCCP includes also cases in which the role of associations was well defined and documented, but on account of their administrative and technical character and lack of decisive powers they were not treated as a participant of an agreement, and consequently, they were not punished.

40. An example is the decision of 29 May 2002 No. RBG 11/2002 made after conducting an antitrust proceeding against the owners of driving schools in Bydgoszcz and the surrounding towns, who concluded an agreement regarding fixing of uniform prices of driving lessons. Most of those entrepreneurs belonged to the Regional Association of Driving School Owners in Bydgoszcz, on whose meetings the uniform prices for training were established and declarations of abiding by them were signed. This was proved by the Association’s documents. Both members of the Association, as well as owners of independent driving schools participated in the meetings. As a result of the proceeding fines were imposed on most participants of the unlawful agreement, however the Association was not punished.

4. Examples of members using trade association activities to cover unlawful collusion, without the knowledge of the trade association.

41. Using a trade association by its members for antitrust activities without their knowledge is rather difficult, in particular in organizations associating a small number of entities. In Poland a common practice is that the authorities of trade associations consist of people representing their individual members. In case when there is only a small number of companies in the market all of them are in some way represented in the association's authorities, so as to ensure their influence on its activity. In a situation where in a given industry there are many entrepreneurs in the market, the major entities or the representatives of individual groups with similar interests are represented in the authorities.

42. In larger associations a common practice is that an authority dealing with operational management in the association consists of professionals not connected directly with any of the associated entities – then they act as „the management board”, „the office”, etc. However, the association's control authorities (most often the supervisory board) consist of representatives of the members.

43. Therefore the situation described above creates conditions not very favourable for the members to use an association, without its knowledge, for activities infringing the competition law.

44. Such situation is most likely to occur in associations with a large number of members, and even then the association is used rather for auxiliary purposes, e.g. using official meetings for the exchange of confidential information or secret arrangements.

45. An example is the case of a yeast cartel, for which the President of the OCCP issued the decision on 14 March 2003 (No. DDF-13/03). The antitrust proceeding conducted by the President of the OCCP showed that six entrepreneurs infringed the antitrust act by concluding an agreement which resulted in restricting the competition in the market of baker's yeast by establishing directly the sale prices.

46. As part of the proceeding it was proved that all those entrepreneurs from 15 to 19 September 2001 increased the prices of their products, which was directly connected with the series of four meetings that they held in August and September 2001. One of the meetings mentioned in the decision took place during the meeting of the National Council of Yeast Industry associating the national yeast producers. The organization itself was never suspected of the participation in the cartel. Besides, it should be mentioned that the National Council of Yeast Industry, functioning since 1993, as an industry unit of a larger organization, the Scientific and Technical Association of Engineers and Technicians of the Food Industry, deals mainly with problems in the field of research and development.

47. Assuming that the yeast producers used the Council's meeting to exchange information essential to conclude the anticompetitive agreement, the organization itself probably did not participate in this practice.

5. Examples of pro-competitive vs. competition restrictive information exchanges among trade associations' members.

48. So far the President of the OCCP has not issued a decision finding that a practice consisting exclusively in the exchange of information between entrepreneurs via their association is an anti-competitive practice.

49. A detailed analysis of the data given by entrepreneurs to associations and their distribution among the members was an element of numerous explanatory proceedings and market research. The President of the OCCP analysed the detail of the data, their sensitivity to the competitive position of

entrepreneurs, as well as the level of aggregation and processing that characterizes the results of analyses published or distributed among the members of an association.

50. The patterns of information exchange in some analysed industries, e.g. in the musical recordings production and distribution market or in the banking services market raised doubts, however, so far none of them has become a basis to start antitrust proceedings. The most common reason of such approach was a small possible influence of information exchanges on the state of competition on account of the heterogeneity of the products and services offered in the market.

51. The pro-competitive effect of information exchanges among entrepreneurs very rarely is the subject of interest of the competition authority. This kind of conclusions can only be reached during research and analyses of markets. One of the examples of this type of activities is the exchange of information within the Polish Association of Public Opinion and Marketing Research Firms (OFBOR), which collects data in order to prepare an annual national ranking of research companies in individual categories. Publishing official rankings, in a situation of the existence of relatively fragmented market stimulates competition. It is also worth adding that OFBOR prepares standards binding for the industry and awards certificates of quality, however, in order to avoid, among others accusations regarding illegal exchange of information this research is commissioned to entities from outside the business.

6. Examples of trade association antitrust compliance procedures

52. The most evident influence on the functioning of associations probably had decisions issued by the President of the OCCP regarding practices in which trade associations participated. Those, to which the decisions were addressed, of course had to stop specific actions. Those decisions, however, had very often an influence on the behaviour of other similar entities – also forcing them to renounce a specific kind of behaviours, as well as preventing copying them. This had a special meaning in a situation of associations acting in the regional level.

53. We should also mention cases of adjusting their actions to the requirements of the antitrust law, which were revealed during the market research or other actions conducted in relation to a given entrepreneur. During the lime market research conducted at present the President of the Office received e.g. information about the mechanism of information exchange that was modified after the trade association received negative legal opinions. The interpretations of the antitrust act and judicature made by legal companies rendering services for the producers of lime indicated that the information exchange mechanism may infringe the competition act. The system was modified, among others the scope of information given was changed.

7. Membership rules and restrictions on access

54. In the case-law of the President of the OCCP there are no decisions regarding restrictions on access to trade associations. Besides, in most cases the membership in a trade organization, or lack of it, does not determine the competitiveness of entrepreneurs and their position in the market, it also does not influence the existence of barriers to entry.

55. The activities of a trade association may have influence on the market entry of new competitors in a situation when it has a legal possibility of controlling new market entries or has access to some important resource from the perspective of conducting a business activity.

56. In the former case one usually deal with organizations in which the membership is obligatory and which were given by the legislator an authority to establish and control requirements that must be met by a new entrepreneur before entering the market. Excellent examples of such situation are all kinds of professional corporations: barristers, legal advisers, notaries, pharmacists, architects, etc.

57. As it has been described above, the competition authority has intervened in the activity of those associations, however, the interventions did not regard the barriers to market entry. Such barriers most often result directly from legal regulations, therefore the President of the OCCP must limit his activity only to criticizing the existing solutions and supporting initiatives aiming at changing them. One of the signs of this was engaging the competition authority in reforming the access to legal professions that took place in Poland in 2005 (publishing of the report on competition in the legal services market, participation in the public debate, etc.)

58. The latter case describes enterprises that for historical reasons have or manage resources essential for effective competing in the market – this can be jointly developed know-how e.g. the certification system or access to information – jointly created database e.g. the register of bad debtors. In this kind of situations the discriminating access to an association can have a character of an anticompetitive practice. As it has been mentioned, despite the fact that the President of the OCCP analyses this type of behaviours, so far there has not been an antitrust intervention in such a case.

8. Sanctions that have been applied to trade associations

59. The act on the protection of competition and consumers of 16 February 2007 does not differentiate the amount or method of applying sanctions on the entrepreneurs and trade associations. They are treated equally.

60. According to the act the President of the Office of Competition and Consumer Protection can impose on a trade association a fine in the amount up to 10% of the turnover in the financial year preceding the year of imposing the fine, for practices that restrict competition. In a situation when an association did not have any turnover in the year preceding the imposing of the fine, then its amount can equal max. two hundred average monthly wages. It is also possible to impose an additional fine in the amount constituting the equivalent of up to 50,000,000 euro, if an association even unintentionally failed to provide information demanded by the President of the OCCP, provided false or misleading information, or it did not cooperate during the inspection conducted as part of the antitrust proceeding. The act also regulates a situation when the Office refrains from imposing a fine, if the association, which is a member of the unlawful agreement, meets all of the conditions mentioned below:

- is the first member of the agreement to:
 - provide information to the President of the OCCP about the existence of the unlawful agreement sufficient to initiate an antitrust proceeding, or
 - present to the President of the OCCP, at its own initiative, evidence enabling issuing a decision finding a given practice to restrict the competition;
- cooperates with the President of the OCCP during the proceeding in the full extent, providing immediately any evidence that they have, or that they may have, and providing immediately any information connected with the case, on their own initiative or at the request of the President of the OCCP;
- has stopped taking part in the agreement not later than on the day of informing the President of the OCCP about the existence of the agreement or presenting the evidence;
- was not the initiator of concluding the agreement and did not encourage other entrepreneurs or associations to participate in the agreement.

61. The President of the OCCP is obliged to lower the fine for a competition restrictive practice, if the association does not meet the above mentioned conditions, but at its own initiative presents to the President of the OCCP evidence that will contribute in a significant way to issuing a decision finding a practice to be unlawful and has stopped participating in an agreement not later than at the moment of presenting such evidence. In such situation the maximum fine that can be imposed equals 5% of the income received in the financial year preceding the year of imposing the fine. If a member of an unlawful agreement is the second to do that, then the President cannot impose a fine larger than 7% of the income received in the financial year preceding the year of imposing the fine. In case when subsequent members meet the above mentioned conditions, the highest fine that can be imposed equals 8% of the income received in the financial year preceding the year of imposing the fine.

62. If associations finding themselves in situations described in the paragraph above did not any turnover, then the amount of the fine is calculated as a multitude of the average wage - respectively: up to fifty average wages, up to seventy average wages and up to eighty average wages.

63. The fines imposed by the President of the OCCP can function as a preventive measure, a repressive measure or both. While imposing a fine this body must take into consideration whether imposing it is necessary or appropriate in given circumstances, and if yes, in what amount the fine will fulfil the assumed functions. While establishing the amount of the fine, the body should take into consideration in particular the time, degree and circumstances of infringing the provisions of the act on competition and consumer protection, as well as previous infringements of the provisions of this act.

64. Examples of fines imposed on entrepreneurs in cases described earlier:

- The Chamber of Architects, fine 215,000 PLN (approx. 53,750 euro), which constitutes approx. 40% of the value of the maximum fine;
- The National Chamber of Notaries, fine 36,000 PLN (approx. 9 000 euro), which constitutes approx. 8.6% of the maximum fine;
- The Wielkopolska District Pharmaceutical Chamber, fine 25,000 PLN (approx. 6,250 euro), which constitutes approx. 30% of the maximum fine;
- The Association of Tax Advisers in Katowice, the Śląskie Association of Tax Advisers, the Association of Tax and Accounting Advisers, the Wielkopolskie Association of Tax Advisers, the Association - Club of Tax Advisers, the Zachodniopomorskie Association of Tax Advisers, the Association of Financial Experts and Tax Advisers, fines up to 3,380 PLN (approx. 845 euro) – always 25% of the maximum fine;
- The Małopolska Veterinary Chamber, the Lubelska Veterinary Chamber, fine 6,236 PLN, the Świętokrzyska Veterinary Chamber, the Śląska Veterinary Chamber, the Warsaw Veterinary Chamber, the Lubuska Veterinary Chamber, the Dolnośląska Veterinary Chamber, fines from 2,500 PLN (approx. 625 euro) to 14,000 PLN (approx. 3,500 euro), which constituted from 15% to 33% of the maximum fine.