



Office of Competition and Consumer Protection

REPORT ON ACTIVITIES 2013

Warsaw 2014



General information

The President of the Office of Competition and Consumer Protection (UOKiK) is a central body of government administration. The powers of the President of the UOKiK are defined in the Act of 16 February 2007 on competition and consumer protection (Journal of Laws of 2007 No.50, item 331 as amended). The activity of the Office is financed from the state budget.

In 2013, the priorities and activities of the UOKiK were laid out mainly in two government documents: *Competition Policy for 2011-2013* and *Consumer Policy for 2010-2013*.

The Scope of the UOKiK's activities include:

- preventing and eliminating disturbances in the operation and development of competition;
- overseeing antitrust mergers and acquisitions;
- protecting collective consumer interests;
- carrying out market surveillance and overseeing general product safety;
- monitoring public aid;
- participating in the legislative process with a view to creating a legal environment which promotes the development of competition and ensures the effective protection of consumer interests.

Selected key data on the UOKiK for the year 2013:

- budget - **PLN 55 million**;
- number of employees - **472**, including 163 lawyers and 72 economists;
- number of legal acts the Office commented on - **2 700**;
- number of applications for public information (BIP) filed with the Office - **530**;
- number of decisions the Office issued - **1188¹**, including 98 decisions on competition-restricting practices and 326 decisions on practices violating collective consumer interests;
- number of decisions and judgments made available in UOKiK's decision base, which the Office maintains on its website (www.uokik.gov.pl) - now nearly 12 000 (since 2000)

The data contained in this report were current as of 30 June 2014.

¹ Total number of decisions, including, in addition, concentration control, market surveillance, product safety and appeals against WIH's decisions.

Contents

General information	2
Foreword	4
1. Legislative work	5
2. The protection of competition	10
2.1. Competition-restricting agreements	12
2.2. The leniency programme	13
2.3. The abuse of a dominant position	14
2.4. Monitoring concentrations	15
2.5. Court judgments on antitrust cases	18
2.6. Enforcement of EU competition law by the President of the UOKiK	20
3. Sector inquiries	21
4. Public aid	22
5. The protection of collective consumer interests	23
5.1. Practices violating collective consumer interests	23
5.2. Court rulings in cases concerning the violation of collective consumer interests	26
5.3. Prohibited contract terms	28
5.4. Cooperation with consumer organisations	30
6. Market surveillance and product safety	31
6.1. General product safety	31
6.2. The conformity assessment system	32
6.3. Surveillance of Trade Inspection	33
6.4. Liquid fuel quality scrutiny system	33
7. International cooperation and contacts with EU institutions	34
7.1. Multilateral cooperation	34
7.2. Bilateral cooperation	35
8. Information and educational activities	37
8.1. Social campaigns and conferences	37
8.2. Internet projects	38
8.3. Other projects	38
8.4. Publishing activities	39
Post scriptum	40

Foreword

This year, 25 years have passed since the beginning of the transformation of the Polish economy within a democratic system. The Office of Competition and Consumer Protection has played an important role in this process. Our mission has been and continues to be to protect the competitive market and well-being of consumers by quickly and efficiently counteracting pathology.

In 2013, the President of the Office managed 1 343 explanatory proceedings and 664 antitrust proceedings both to protect competition and consumers. Over 200 cases concerned mergers and acquisitions. Many negative practices regarding consumer issues were eliminated by enterprises already in the initial stage of a UOKiK intervention, i.e. during explanatory proceedings.

All agreements between consumers and enterprises should be reliable and legal. Unfortunately, the reality is different, which is why we are vigilant in checking contract forms for prohibited regulations. To that end, in 2013 we took a fine-tooth comb to life annuity contracts in return for real property, fees charged by credit companies not subject to state supervision, and gas supplier draft contracts. We did this because the application of unclear and prohibited regulations violates consumers' basic rights, i.e. the right to information, which enables consumers to make conscious decisions on a given offer.

Complaints received by the Office show that online shopping is fraught with problems not only for consumers, but also enterprises. Consumers mistakenly forego pursuing their claims, while enterprises do not respect their rights. This compelled us last year to conduct an Internet information campaign entitled *I click prudently, I buy consciously*. In cooperation with 27 companies with online operations, we launched the web site www.ezakupy.uokik.gov.pl. The site has already been visited 100 000 times.

The most important legal act the Office worked on in 2013 was its amendment of the Act on competition and consumer protection, which is meant to improve the protection of the market and all market participants. The Office also contributed to the preparation of regulations on the Act on consumer rights, which implements an EU directive unifying consumer rights in all member states.

In 2013 we had the opportunity to exchange experience with authorities from numerous countries and to cooperate with them in the process of developing most effective market protection methods, among a host of other areas.

We also hosted the 12th Annual Conference of the International Competition Network and organised the meeting of the European Task Force on Concentration.

The UOKiK's work was seen in a positive light abroad, as evidenced by the high marks it received in the prestigious survey of world competition protection authorities, conducted by the leading competition and antitrust law magazine "Global Competition Review".

1. Legislative work

The involvement of the UOKiK in legislative work is crucial to the creation of a legal environment that stimulates the development of competition and ensures the effective protection of consumer interests. The Office helps the government to draft legislation and takes part in inter-departmental consultations. In 2013, the UOKiK analysed more than 2 700 drafts and opinions on acts drafted by the Lower House of the Polish Parliament (Sejm) to evaluate their possible impact on competition and consumers.

In 2013, the Office initiated work on the following drafts:

- the act on amendments to the Act on competition and consumer protection and amendments to the Civil Procedure Code²;
- the act on amendments to the Act on restructuring certain public and legal charges from enterprises and the social security system Act³;
- the regulation of the Government amending the regulation on excluding certain types of vertical agreements from a ban on competition-restricting agreements⁴.

In addition, in 2013, the Office was also involved in work on the following drafts:

- the Consumer Rights Act;
- the Act on life annuities in return for the transfer of ownership rights to a real property;
- the Act on reversed mortgage loans;
- the Act on renewable energy sources;
- the Act on amendments to the act on the automation of operation of entities fulfilling public duties and some other acts⁵;
- the Act on providing information on the prices of goods and services;
- the Act on amendments to the Act on healthcare services financed from public funds and amendments to the Act on business activity freedom⁶;
- the Act on amendments to the law on public procurement⁷;
- assumptions to the draft act on amendments to the Act on refunding medicines, special purpose foods and medical products and some other acts⁸;
- the government's opinion on the MP's draft act on amendments to the public procurement law⁹.

The amendment to the Act on competition and consumer protection (also referred to as the Polish Competition Act, or PCA)

As a result of its evaluation and review of changes in the economy and the existing operation of antitrust regulations, in 2012 the UOKiK initiated the modification of antitrust regulations. As a consequence of intensive work on the amendment to the PCA in 2012 and 2013, the Government passed a draft amendment on 23 July 2013¹⁰.

² This draft provided for wide amendment of the antitrust law.

³ This draft provided for the simplification of public aid procedures.

⁴ This draft applied to agreements in the motor vehicle sector.

⁵ This draft applied to the provision of electronic services.

⁶ This draft related to the execution of healthcare service agreements.

⁷ This draft provided for higher triviality limits.

⁸ This draft provided for the improvement of the availability of medicines to patients.

⁹ This draft was designed to simplify public procurement procedures.

¹⁰ On 30 June 2014, the President of the Republic of Poland signed the amended Competition and Consumer Protection Act.

PURPOSES OF THE AMENDMENT:

- to develop antitrust law that is more effective and enterprise-friendly by implementing tools to:
 - discover and eliminate competition-restricting practices more efficiently,
 - simplify merger control procedures;
- improve consumer protection, for example by enabling the President of the UOKiK to issue public warnings on practices violating collective consumer interests (through its “list of public warnings”).

One way the first goal of the amendment will be achieved is by improving the Office’s leniency programme, which enables parties to a prohibited agreement to avoid or reduce financial sanctions by cooperating with the Office and providing information about collusion. At present, only the entity that is the first to inform the UOKiK about prohibited practices may expect to be fully excused from paying a fine, while the others may only have their sanctions reduced. The Office’s proposal gives any undertaking that files a leniency request as the second or subsequent entity a chance to further reduce its fine provided that it informs the Office of other instances of collusion it has been involved in besides the one under investigation.

Another new development is that undertakings will be able to voluntarily submit to a fine in antitrust cases (*settlements*). The undertaking will have the chance to accept the Office’s proposal in return for a 10% reduction of the original fine levied against it. Remedies will be another solution. In its final decision, the President of the UOKiK can specify what the undertaking must do to avoid the consequences of its violation or stop the prohibited practices it is engaged in.

Other important amendment is designed to improve and shorten concentration control proceedings, a modification carried out to respond to undertakings’ demands. It will translate into decisions being made faster: instead of the two-month period applicable at present to all transactions, a two-step procedure will be brought into force. Under the procedure, simple cases will be reviewed within a month, while more complicated ones within an additional four months. The Office will inform undertakings of its doubts concerning the potential negative impact of a transaction on competition during the proceedings (this is called a *competition concern*). This will enable the parties to anticipate the probable outcome of the final settlement and to comment on the Office’s position before a decision is made.

In addition, at the undertaking’s request, the UOKiK will treat as classified a part of a conditional decision including information about a period within which the undertaking will be able to, for example, divest problematic assets. This was done to relieve the undertaking of having to act under time pressure during its negotiations with business partners.

The draft Act also provides for an important change in consumer protection. The President of the UOKiK will be able to issue a public warning of practices violating collective consumer rights which may expose consumers to serious financial losses.

The amended Competition and Consumer Protection Act was signed by the President of the Republic of Poland on 30 June 2014. The new law will come into force six months after its announcement in the Journal of Laws of the Republic of Poland.



The new Consumer Rights Act¹¹

PURPOSE: systematise and integrate regulations on the liability for the quality of a thing sold, including, in particular, regulations transposing the consumer sales directive implemented in the Polish legal system through the act on special consumer sales terms and conditions.

The Act enables consumers to obtain more detailed information from undertakings (including information about the costs connected with the signing of contracts), withdraw from any contract signed outside the undertaking or on a remote basis within 14 days, and choose a right to be exercised (out of four possible solutions) if a product that has been purchased is defective. In addition, the regulations of the Civil Code on consumer guarantees will be restored, meaning that if an undertaking does not define the guarantee, a consumer will be able to exercise the rights set out in the Civil Code.

The Act imposes on companies selling their wares and services online a number of obligations pertaining to the provision of information and provides for regulations that may contribute to the reduction of their operating expenses (for example, it defines more precise principles for consumers using a thing within a period when they are permitted to withdraw from a contract). In addition, the new regulations will unify rules applicable to liability for the quality of goods subject to consumer and professional trading, and will also make making regressive claims easier in connection with defects in products sold by chain stores.

The modernisation of state aid law

PURPOSE: comprehensive reform of the EU system of state aid permissible rules, which will be applied within the EU financial perspective for the years 2014-2020¹².

The reform started by the European Commission in 2012 was carried on in 2013. As an authority competent to represent the interests of Poland in terms of state aid, the President of the UOKiK was required to participate in the development of new and amended EU regulations. Those activities mainly consisted in preparing opinions on draft assumptions or draft EU acts connected with state aid. They concerned, among other things:

- draft guidelines on regional aid in 2014-2020;
- assumptions of the reform of regulations on state aid for environmental and power purposes;
- two draft regulations of the Commission (EU) on the application of Art. 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid;
- two drafts of the Commission (EU) regulation recognising certain types of aid as consistent with the internal market under Art. 107 and 108 of the Treaty on the Functioning of the European Union (general regulation on block exclusions);
- draft guidelines on state aid to support venture capital investments in small and medium-sized enterprises;
- draft guidelines on state aid for airports and air companies;
- draft guidelines on state aid for rescuing and restructuring non-financial companies in a difficult financial situation.

Implementation of the directive of the European Parliament and the Council of the European Union on alternative dispute resolution for consumer disputes in the Polish legislature

At the end of 2013, in connection with the adoption of the directive of the European Parliament and the Council of the European Union on alternative dispute resolution for consumer disputes, the implementation of the directive in the Polish legislature was commenced.

The purpose of the alternative dispute resolution is to create and ensure access to the consistent single system of alternative dispute resolution, which will cover all disputes between consumers and undertakings in the market,

¹¹ On 17 June 2014, the President of the Republic of Poland signed the Act and on 24 June 2014 it was published in the Official Journal of the Republic of Poland. The new law will come into force within 6 months of its publication, i.e. on 25 December 2014.

¹² Commission Communication to the European Parliament, the European Economic and Social Committee and the Committee of the Regions: *EU State Aid Modernisation Policy* of 8 May 2012, COM(2012) 209 final.

including disputes resulting from agreements executed online. The ADR will also form the basis for designing the ODR (online dispute resolution) platform, which is stipulated in the Regulation of the European Parliament and the Council (EU) on the online dispute solution for consumer disputes (Regulation on ODR for consumer disputes)¹³. This instrument is to apply to the resolution of disputes between consumers and undertakings from EU member states engaged in online shopping and selling. If a relevant act is developed and passed, a unified non-court dispute resolution system will be created and contribute to the improvement of consumers' sense of security and the development of trade.



Draft acts the UOKiK was involved in preparing:

The Act on reverse mortgage loans¹⁴

The Reversed Mortgage Loan Act addresses issues concerning the transfer of ownership to real properties owned by elderly persons in return for a loan.

During his work on the Act, the President of the Office pointed out that it was necessary to incorporate precise information about the costs to be incurred by consumers seeking to take a reverse mortgage loan (e.g. a fee for property appraisal or insurance). In addition, the Office recommended that, before a contract is signed, information should be presented in a form in which a bank would specify, among other things, how the amount of the loan is determined and the relationship between the amount of the loan and the value of the real property. The President said that it was necessary to adopt a standard form that would enable consumers to compare offers in a simple way.

In addition, during the work, comments made by the President of the Office on the possibility of the borrower opting out of the mortgage loan were taken into account. Borrowers obtained the right to withdraw from such agreements without penalty for up to 30 days after signing an agreement.

¹³ The Directive is to be transposed in the EU states at the latest by 9 July 2015. The Regulation will come into force as of 9 January 2016.

¹⁴ Assumptions to the Act were developed by the Ministry of Finance. The Act was passed on 29 April 2014.

Draft Act on amendments to the Act on the automation of operation of entities fulfilling public duties and some other acts¹⁵

The draft regulations are designed to simplify the process of contacting public administration and administration courts by citizens, undertakings and foreigners and increase the number and quality of electronically provided services.

During the work on the draft Act, the President of the UOKiK commented on:

- **procedures for giving and withdrawing consent to entities specified in the draft Act (e.g. a domestic bank or a post office operator) to act as an ePUAP profile confirmation point and the scope of related powers of the Minister of Administration and Digitisation¹⁶;**
- **defining more precise rules, methods and time limits of/for executing agreements between the Minister of Administration and Digitisation and entities fulfilling public duties¹⁷, which may provide ePUAP services thereunder;**

The Office had reservations concerning, in particular, cases where the Minister of Administration and Digitisation may refuse to execute the agreement.

The comments of the President of the UOKiK related to the above were taken into account.

Draft Act on amendments to the Act on healthcare services financed from public funds and amendments to the Act on business activity freedom¹⁸

The draft provided for procedures for executing health care service agreements. The President of the UOKiK commented on topics including:

- **defining the “continuity” and “comprehensiveness” of healthcare services, as suggested by the Minister of Health¹⁹;**
- **proposals of separate proceedings and executing agreements on specialised healthcare at outpatient clinics with healthcare entities offering comprehensive healthcare integrated with hospital treatment.**

The President of the UOKiK questioned the Minister of Health’s proposal on the extension of agreements with healthcare entities²⁰ to provide healthcare services for two years. In the opinion of the Office, this could, among other things, present a material market entrance barrier for new entities.

The Office’s comments to this extent were not taken into account.

¹⁵ Assumptions to the draft Act were prepared by the Ministry of Administration and Digitisation.

¹⁶ The original regulation enabled the Minister of Administration and Digitisation to refuse to give consent without statutorily defined reason. The UOKiK suggested that the wording of Art. 20c. 4 of the Act should read as follows: “The minister in charge of digitisation gives the consent referred to in Section 3 at a request provided that conditions set out in regulations issued under Art. 20a.3.2 are met”.

¹⁷ Art. 2.3 of the Act on the automation of activity of entities fulfilling public duties provides for: state-owned enterprises, commercial companies, special services within the meaning of Art. 11 of the Act on Internal Security Agency and the Foreign Intelligence Agency of 24 May 2002 (Journal of Laws No. 2010.29.154, as amended1)), the Office of the Sejm, the Office of the Senate, the Office of the President of the Republic of Poland, and the National Bank of Poland.

¹⁸ Draft assumptions to the Act were prepared by the Ministry of Health.

¹⁹ The principle of “continuity” was to mean that the NFZ would award bonuses to offers submitted by service providers that already had contracts with the NFZ. In the opinion of the UOKiK, the definition of service “comprehensiveness”, as suggested by the Ministry of Health, could promote large entities and make access to the market more difficult for smaller service providers.

²⁰ This applied to the expiry, as of the end of 2013, of 42 percent of agreements executed by the NFZ with healthcare entities.

2. The protection of competition



As stated in Competition Policy for 2011-2013, the core objective of the activities of the President of the UOKiK is to detect and eliminate competition-restricting practices both throughout Poland on a national level and on local markets. Its priorities also include: enhancing the functioning of the concentration control system, developing methods of obtaining evidence in antitrust proceedings and increasing the functionality and transparency of procedures in proceedings conducted by the President of the UOKiK.

Antitrust proceedings against competition-restricting practices are the basic instrument used by the Office to counteract practices threatening fair competition between undertakings. The UOKiK's branch offices play an important role in detecting violations. In 2013, they conducted 119 proceedings²¹. Although such cases do not necessarily reverberate throughout the entire economy, they may have an adverse impact on the market in a given region.

The President of the UOKiK also monitors and intervenes in concentrations among undertakings to prevent the creation of an entity with a market power that threatens or could eliminate competition.

Competition-restricting practices

Anti-competitive agreements and the abuse of a dominant position constitute competition-restricting policies that lead to distortions of free market mechanisms. The restriction of competition keeps undertakings from creating innovative technological products and causes them to forego replacing production methods with more efficient ones. This results in higher prices, deteriorating quality of goods, and difficulties entering the market and distributing goods and services. Dominant market players that abuse their position and eliminate other players from the market, e.g. by charging excessively low or high prices, also have a negative effect.

Upon detecting an anti-competitive practice, the President of the UOKiK may impose on the undertaking a maximum fine of 10% of its revenue. A "commitment decision" may also be made. The initiative is left to the undertaking, which is required to propose and implement solutions that put an end to prohibited acts or remove their negative effects. If the undertaking's infringement has been rendered plausible and the President of the UOKiK recognises the content of commitment as relevant to obtaining the above objectives, he may accept the proposed solutions and overturn his infringement decision and opt not to impose a fine. Moreover, in the case of competition-restricting agreements, the offending undertaking may apply for immunity from a fine or a reduced financial sanction under the leniency programme.



²¹ This applies only to antitrust proceedings without explanatory proceedings and proceedings involving penalties imposed on undertakings.

Antitrust proceedings concerning competition-restricting practices are initiated *ex officio*. However, allegations of wrongdoing may also be submitted to the President of the UOKiK in writing. Last year, the Office received **469** notifications and, as a result, initiated **177** explanatory proceedings and **35** antitrust proceedings.

Table 1. Number of proceedings against competition-restricting practices in 2013 versus 2012

	2012			2013		
	Instituted	Pending in 2012, but instituted in previous years	Completed	Instituted	Pending in 2013, but instituted in previous years	Completed
Antitrust proceedings (total)	112	35	93	87	54	92
Antitrust proceedings concerning horizontal agreements ²² , including:	13	5	9	20	8	15
conducted pursuant to Article 101 of the TFEU ²³	1	0	0	1	1	0
Antitrust proceedings concerning vertical agreements ²⁴ , including:	18	5	11	19	13	13
conducted pursuant to Article 101 of the TFEU	0	0	0	0	0	0
Antitrust proceedings concerning the abuse of a dominant position , including:	81	25	73	48	33	64
conducted pursuant to Article 102 of TFEU	0	1	1	2	0	1
Proceedings on the imposition of a fine on the undertaking ²⁵	6	1	4	8	3	6
Explanatory proceedings	290	179	303	354	153	267

²² The parties to horizontal agreements are competing undertakings, i.e. undertakings operating at the same level of trade. They are executed mainly to restrict mutual competition, e.g. by price fixing.

²³ Whenever the practice concerned may affect the trade between EU Member States, antitrust proceedings fall within the scope of EU competition rules (Articles 101 and 102 of the TFEU).

²⁴ Vertical agreements are executed between non-competing undertakings operating at a different level of trade. The parties may be, for example, a producer and a distributor or a wholesaler and a retailer.

²⁵ The statistics include: proceedings on the imposition of a fine for failure to execute or improper execution of the decision of the President of the UOKiK (also controlled by the President of UOKiK), failure to provide information or the provision of false/misleading information or the lack of cooperation during an inspection/search.

Table 2. Decisions issued in 2013 in comparison to 2012

Type of agreement	2012			2013		
	Horizontal	Vertical	The abuse of a dominant position	Horizontal	Vertical	The abuse of a dominant position
Decisions regarding a practice as competition-restricting and ordering its discontinuation	3	4	19	2	4	24
Decisions regarding a practice as competition-restricting and stating that it has been discontinued	5	6	11	13	9	17
Commitment decisions	0	1	37	0	0	23
Total	8	11	67	15	13	64
Decisions imposing a fine ²⁶	0	3	1	0	0	6
Decisions on discontinuing proceedings, including:	1	0	6	0	0	3
finding no competition-restricting practice	1	0	3	0	0	2
other reasons	0	0	3	0	0	1
Proceedings discontinued by means of ruling	0	0	0	0	0	0

2.1. Competition-restricting agreements

The antitrust law prohibits agreements whose object or effect is to eliminate, restrict or otherwise impede market competition, especially through price fixing, bid rigging and agreements aimed at dividing the markets of sale or purchase²⁷. However, the law provides for limited exceptions to the general ban, in the form of agreements of minor importance and block exemptions²⁸.

Selected decisions issued by the President of the UOKiK in 2013:

■ Competition-restricting practices in the mining industry: price fixing²⁹

Minova Ekochem, A. Weber and Schaum-Chemie Mikołów are three companies that produce specialised products used in the coal mining industry. They also established a cartel that fixed prices and divided the market. The prohibited agreement related to bids organised up until 2010 by coal mines and coal companies for the delivery of specialised glues and foams. Entities participating in the bid rigging were usually the only bidders, which meant that Kompania Węglowa, Jastrzębska Spółka Węglowa, Lubelski Węgiel Bogdanka and Katowicki Holding Węglowy had to pay double prices for glues and foams for many years. This influenced the companies' operating expenses, and also indirectly affected the price of the coal they sold. The total fine imposed on the three cartel participants was PLN 18 million. The decision is not final and the companies have appealed in court.

■ Consortium - school equipment - bid rigging³⁰

From the point of view of undertakings, the purpose of public bids is to provide service providers with access to public funds with competitive and transparent conditions. The law provides for several undertakings to cooperate as a consortium if they are not able to perform a contract on their own. However, if the actual goal of the undertakings is to eliminate or restrict market competition, antitrust regulations apply.

²⁶ The statistics include: proceedings on the imposition of a fine for failure to execute or improper execution of the decision of the President of the UOKiK (also controlled by the President of the UOKiK), failure to provide information or the provision of false/misleading information or the lack of cooperation during an inspection/search.

²⁷ An example of the catalogue of competition-restricting practices can be found in Article 6 (1) of the Act on competition and consumer protection.

²⁸ See: Art. 7 and 8 of the Act on competition and consumer protection. The UOKiK's website provides access to regulations of the Council of Ministers concerning the exemption of certain agreements from the prohibition on competition-restricting agreements.

²⁹ Decision RKT-46/2013.

³⁰ Decision RWR-31/2013.

A bid for the delivery of computers for schools and libraries taking part in the *Dolnośląska e-szkola* project violated antitrust law. **Six undertakings - the members of three consortiums** - sought to influence the outcome of public procurement procedure by fixing the terms and conditions of their offers (with regard to prices and principles of proceeding under the bid). The undertakings attempting the bid rigging failed to actually do so as the contract was awarded to their competitor, who appealed to the National Chamber of Appeals, which heard its accusations. The President of the UOKiK subsequently imposed a fine of nearly PLN 2 million on those companies it accused of bid rigging. The decision is not final and the undertakings have filed an appeal in court.



■ Proceedings against a public notary for restricting competition

The Office instituted proceedings against the Warsaw Chamber of Civil Law Notaries on the basis of information gathered during a control and search at the Chamber's offices. The preliminary analysis showed that the Chamber may have been restricting competition between public notaries. The Office obtained evidence such as emails sent by representatives of the Chamber in which they forbade associated public notaries to take part in bids³¹. The Chamber had also informed them that any violation of the ban might be subject to disciplinary liability. It was ruled that such a ban could have restricted competition between public notaries whose clients ordering their services were not able to choose the best offer.

2.2. The leniency programme

The leniency programme is addressed to participants of anticompetitive agreements who voluntarily decide to discontinue unlawful practices and cooperate with the UOKiK by presenting facts and evidence of collusion. Evidence obtained in such a way provides the UOKiK with a reliable source of information about illegal competition-restricting agreements³².

Table 3. Number of applications filed with the UOKiK under the leniency programme

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Number of applications	0	2	3	6	3	6	8	2	16	5

Selected decisions issued by the President of the UOKiK in 2013 under the leniency programme:

■ Price fixing in the transmission of football matches market on pay-per-view³³

Proceedings conducted by the UOKiK showed that **Sportfive**, a company with the rights to TV broadcasts of two 2014 Football World Cup elimination matches, executed an agreement with 11 broadcasters based on which the price of watching the transmission of a single match was not less than PLN 20 for all operators. The agreement was initiated by Cyfrowy Polsat. The Office imposed a fine of over PLN 3.6 million on parties to the agreement. **Since Sportfive decided to file a leniency request, the President did not impose any sanction on that company.** The fine for Multimedia was reduced 30 percent as the company was the second to submit a leniency request. The undertakings on which the fine was imposed appealed the decision (with the exception of Multimedia).

■ Collusion in the ski market³⁴

A representative of Fischer in Poland fixed retail prices of Fischer ski equipment in Poland for nearly 7 years. Sport & Freizeit obliged distributors to sell its products at defined prices and influenced after-season sales dates. Information about the prohibited agreement came from, among other sources, a control and search at the offices of the company and the company's biggest business partner, Intersport Polska, which filed a leniency request during the proceedings. The Office imposed a fine exceeding PLN 122 000 on Sport & Freizeit, which initiated the agreement. Thanks to the leniency programme, Intersport Polska was exempted from paying a fine.

³¹ In 2004, the Supreme Court decided that a public notary has the right to take part in public bids. The Court repealed the resolution of the National Notarial Council, which had forbidden public notaries to apply for public contracts.

³² For details see: http://uokik.gov.pl/leniency_programme.php

³³ Decision DOK-2/2013.

³⁴ Decision DOK-7/2013.

2.3. The abuse of a dominant position

Essentially, the abuse of a dominant position consists in unlawful actions taken by one undertaking or a group of undertakings that restrict the independence of trading partners and competitors and impose less favourable terms in dealings with them than would be the case were conditions of effective competition to prevail³⁵. According to the Act on competition and consumer protection, an undertaking has a dominant position when its market share exceeds 40%. However, the President of the UOKiK examines every case on an individual basis and the final criterion for regarding a given undertaking as a monopolist is its actual market power, not only its market share.

Selected decisions issued in 2013 by the President of the UOKiK:

The abuse of a dominant position by a gas company³⁶

In April 2013, the UOKiK instituted antitrust proceedings against Polskie Górnictwo Naftowe i Gazownictwo (an energy company) and questioned clauses used by the company in its agreements with recipients. The clauses concerned, among other issues, the restriction of a recipient's right to resell gas bought and the right to reduce quantities of gas ordered for the following contractual year. During the proceedings, PGNiG undertook to remove the questioned clauses from its agreements. The President of the UOKiK then decided for the first time to employ a **market test**, i.e. to consult the solution proposed by the company with other stakeholders. 14 entities, including the President of the Energy Regulatory Office, business partners of PGNiG and associations of such undertakings, presented their opinions. After analysing the test results, the Office issued a commitment decision ordering the company to change its draft agreements and appeal to those undertakings it had entered into them with to amend their existing contracts. After the commitment was fulfilled, a PGNiG recipient could reduce the gas it ordered from PGNiG and the size of the contractual power for a given gas year at its own discretion. PGNiG also modified or deleted clauses that restricted the further trading of gas it had sold or provided for the maximum quantity of fuel to be resold.

Apart from amendments to its agreements, the company was obliged to present to the Office reports on the progress of the implementation of its commitments, including the presentation of new draft agreements, the number of recipients to whom contract amendments were proposed, draft amendments, and information on the number of recipients that accepted contract amendments or not.

Such a resolution is beneficial for both the market and the undertaking—it enables competition-restricting practices to be eliminated quickly and efficiently while exempting the undertaking from paying a fine. The decision is final.

Abuses in the healthcare market³⁷

In 2013, the Office issued two decisions concerning practices used by the National Health Fund (NFZ). Both applied to irregularities in competitions organised by the NFZ. The first concerned preferential treatment afforded the largest providers of magnetic resonance and computer tomography services. The other decision was in response to financial resources being divided on the basis of unclear scoring criteria which favoured existing NFZ partners.

The purpose of both practices was to restrict access to competitions organised by the NFZ to entities that had not had such contracts in the past.

The total fine imposed on the NFZ exceeded PLN 361 000. Decisions are not final and the NFZ has appealed.



³⁵ A sample list of practices constituting the abuse of a dominant position can be found in Article 9 (2) of the Act on competition and consumer protection.

³⁶ Decision DOK-8/2013.

³⁷ Decision RŁO-57/2013 and decision RWR-42/2013.

Abuses in the market of municipal services

Municipalities providing public utility services, e.g. waste disposal or water and sewage system services, are classified as undertakings that come under antitrust regulations. Because they have a dominant position in their local markets, the UOKiK watches their activities on an ongoing basis. Local governments had to implement changes in their waste management systems³⁸ until 1 July 2013. The UOKiK is monitoring the consequences of the new regulations in order to gauge their impact on competition

The abuse of a position by the owner of a waste processing system³⁹

Chemeko-System, headquartered in Wrocław, and the owner of the only municipal wastes processing system in the region, abused its monopolistic position by increasing prices for the collection, processing and storage of mixed municipal waste by almost 115 percent. After the analysis of prices of 15 other regional service providers operating in similar conditions, it was determined that Chemeko-System was requesting the highest rates. The company was fined nearly PLN 400 000. The decision was subject to **immediate enforcement**, though the company appealed the decision.

The violation of competition in a professional group of urban planners⁴⁰

The Office had doubts concerning certain regulations of the code of ethics of the Polish Chamber of Urban Planners (KIU), particularly those concerning KIU's rights to define principles of pricing work carried out by KIU members. If a price lower than that defined in KIU's resolutions was offered, the professional code of ethics was considered violated, disciplinary proceedings were instituted and KIU members were reprimanded. The procedure had begun in 2004. The President of the UOKiK decided that by imposing the minimum service prices, KIU materially restricted competition. Clients of urban planners felt the consequences of the prohibited acts since they did not have access to offers cheaper than those defined by the Chamber. The Office imposed a fine of over PLN 17 000 on KIU and ordered KIU to stop the prohibited practices. KIU appealed the decision.

2.4. Monitoring concentrations

An undertaking often must strengthen its market position if it wants to develop its investment potential. As a consequence, mergers and acquisitions have become a standard in the modern economy. Since they are required to counteract consolidations potentially restricting competition or such which may cause permanent changes in the market structure, the antitrust authorities evaluate the impact of such actions on competition and, if lawfully reasonable, may forbid concentration.

The UOKiK monitors only the largest transactions which affect or may affect competition on the Polish market. The obligation to notify the UOKiK of the intention to enter into a concentration applies only to those undertakings whose total turnover in the year preceding the notification exceeded the equivalent of EUR 1 billion globally or EUR 50 million in Poland.

Having completed proceedings on a concentration, the President of UOKiK may:

- **approve the concentration** - if as a result of the transaction market competition is not significantly restricted - in particular by the creation or strengthening of a dominant market position;
- **issue conditional consent** - if upon fulfilment of certain conditions the above prerequisite is met;
- **issue "extraordinary consent"** - used whenever a transaction, despite its anticompetitive effect, contributes to economic development or a technical advance or has a positive impact on the national economy;
- **prohibit a transaction** - if it is projected to result in the significant restriction of competition on the market, in particular by the creation or strengthening of a dominant position on the market.

³⁸ In accordance with the amended Act on keeping municipalities in order.

³⁹ Decision RWR-17/2013.

⁴⁰ Decision RKT-21/2013.

Any failure to provide information to the President of the UOKiK during the concentration proceedings or any concentration formed without the UOKiK's consent is subject to a fine of up to 10 percent of the revenue the company took in in the previous year. With the Office recording only a few each year, such cases are extremely rare. In 2013 there were only five.

In 2013, the UOKiK issued two decisions on the failure to report a concentration. The first⁴¹ concerned a chemical company, Grupa Azoty (Zakłady Azotowe in Puławy), which was fined PLN 60 000, and Instytut Nawozów Sztucznych in Puławy, which was fined PLN 15 000. The decision was final - the parties did not appeal - and both fines were paid.

In the second decision⁴² the President of the UOKiK imposed a fine of PLN 40 000 on Terg SA. The company failed to inform the UOKiK of its intent to acquire Electro.pl. The decision is not final - the company appealed it and did not pay the fine. The case is awaiting the decision of the Court of Competition and Consumer Protection (SOKiK).

In both cases, the Office was informed of the concentration by the parties but only after they had entered into a concentration. On such a basis, the Office institutes penalty proceedings to examine the circumstances, which may influence the amount of the fine (reasons for the failure to notify, revenues, market influence, earlier fines). Decisions were based on the fact that no information was given during concentration control proceedings.

Table 4. Concentration control proceedings and types of resolutions (comparison of 2012 and 2013)

	Number of proceedings	Number of proceedings
Merger cases examined by the Office in:	2012	2013
	194	206
completed in:	2012	2013
	155	177

Types of conclusions:	2012	2013
consent for a concentration	136	156
the approval of concentration which will significantly impede competition - waiver of a merger prohibition (Article 20 (2) of the Act on competition and consumer protection)	0	0
conditional consent	1	2
prohibition	0	0
discontinued merger proceedings	0	0
ruling on the discontinuance of concentration control proceedings	0	3
withdrawn merger notifications	16	16
decision on a fine for failure to notify the UOKiK of concentration	2	2
decision on imposing a fine for the undertaking's failure to provide information during concentration proceedings	1	3
withdrawal of notification	2	3

⁴¹ Decision DKK-77/2013.

⁴² Decision DKK-132/2013.

Table 5. Examples of decisions of the President of the UOKiK on concentration control in selected industries

Activity/Industry		Number of cases	Examples of decisions
Production and sale of materials for the construction industry		14	<ul style="list-style-type: none"> consent to the acquisition of a part of assets of Saint-Gobain Polska Sp. z o.o., headquartered in Wrocław, by 3W Dystrybucja Budowlana of Ruda Śląska (decision DKK-158/2013) consent to the acquisition of Contractor Sp. z o.o., headquartered in Kraków, by Lafarge Kruszywa i Beton Sp. z o.o., headquartered in Warsaw (decision DKK-16/2013)
Real property and developer services		14	<ul style="list-style-type: none"> consent to the acquisition of a part of assets of GTC Galeria Kazimierz Sp. z o.o., with headquarters in Warsaw, by IREEF Lux HoldCo 1 S.a.r.l., of Luxembourg (decision DKK-137/2013) consent to the acquisition of Wola Park Sp. z o.o., Warsaw, by Inter IKEA Centre Polska SA, headquartered in Janki (decision DKK-113/2013)
Chemicals		12	<ul style="list-style-type: none"> consent to the acquisition of a part of assets of Ciech SA, headquartered in Warsaw, and a part of assets of Zakłady Chemiczne Zachem SA, headquartered in Bydgoszcz, by BASF Polska Sp. z o.o., headquartered in Warsaw (decision DKK-20/2013) consent to the acquisition of Kopalnie i Zakłady Chemiczne Siarki Siarkopol SA, headquartered in Grzybów, by GRUPA AZOTY SA, headquartered in Tarnów (decision DKK-140/2013)
Production and sale of pharmaceutical products and healthcare services		11	<ul style="list-style-type: none"> consent to the acquisition of Partner Pharma Sp. z o.o., headquartered in Warsaw, by BRL Center-Polska Sp. z o.o. (decision DKK-111/2013) consent to the acquisition of Uzdrowisko Busko-Zdrój SA, headquartered in Busko-Zdrój, by the local government of the Świętokrzyskie Province (decision DKK-31/2013)
Food		11	<ul style="list-style-type: none"> consent to the acquisition of a part of assets of Agros-Nova Sp. z o.o. with its headquartered office in Warsaw by Polskie Przetwory Sp. z o.o. under organisation (decision DKK-162/2013) consent to the merger of Spółdzielcza Mleczarnia Spomlek, headquartered in Radzyń Podlaski, with Okręgowa Spółdzielnia Mleczarska, headquartered in Chojnice (decision DKK-90/2013)

Out of 158 cases of concentration consent issued in 2013 by the President of UOKiK, in two cases the transaction was conditioned on specific actions to be taken by undertakings in accordance with the decision. Conditional decisions applied to the purchase of a part of the assets of Orlen Gaz (a gas company) by Gaspol and the acquisition of Media Regionalne (a media company) by Polskapresse. In 2013, a concentration control proceeding lasted, on average, 58 days.

Selected decisions of the President of the UOKiK issued in 2013:

Conditional consent in the bottled gas market⁴³

The President of the UOKiK approved Gaspol's acquisition of a part of Orlen Gaz's assets. The transaction was, however, subject to certain conditions meant to decrease Gaspol's share in local markets, including the area located around four gas distribution plants originally owned by Orlen Gaz. Gaspol had to refrain from actively pursuing a takeover of the existing customers of Orlen Gaz, and was also obliged to inform the UOKiK that it had fulfilled the conditions the President of the UOKiK had laid out for it within the defined time limits. The purpose of the decision was to ensure that a competitive advantage was maintained in both entities' fuel markets.

Consent to the acquisition of Merlin.pl⁴⁴

Czerwona Torebka, a retail group involved in the construction and management of shopping centres, notified the UOKiK of its intention to take over a company operating in the e-commerce sector, Merlin.pl. The analysis showed that the concentration would not to a large extent restrict competition. In March 2013, the merger of the companies was approved. Three years earlier, the owner of Empik network had been close to taking over Merlin.pl. However, in February 2011, the Office did not approve the transaction because Empik's market position would have been so strong as to be virtually competition-free.

Consent to a concentration in the banking sector⁴⁵

In October 2013, the UOKiK gave its consent to the acquisition of Nordea by PKO BP following an analysis that showed that the concentration would not have a negative impact on competition. The consent also allowed PKO BP to acquire Nordea group companies. It was found that the concentration would have the biggest impact on Poland's home loans for households, household deposits and card product markets. Nevertheless, it was ultimately decided that the overall market structure would not change much and PKO BP would still have to compete with other banks in the markets.

2.5. Court judgments on antitrust cases

Undertakings may appeal and file complaints against decisions of the President of the UOKiK in the Court of Competition and Consumer Protection (SOKiK)⁴⁶ in Warsaw. The judgments of the SOKiK may be appealed in the Court of Appeal in Warsaw. Finally, in certain cases it is possible to file a cassation complaint to the Supreme Court. The UOKiK President's decisions are upheld by the Court of Competition and Consumer Protection in nearly 86% of such cases.

Table 6. Statistics on judgments in antitrust cases⁴⁷

	Court of Competition and Consumer Protection		Court of Appeal in Warsaw		Supreme Court	
	2012	2013	2012	2013	2012	2013
Total number of judgments issued in antitrust cases in 2012-2013, including:	60	71	29	22	2	3
vertical agreements	29	44	8	9	0	0
horizontal agreements	8	8	5	1	0	0
the abuse of a dominant position	19	19	15	10	2	2
concentration control	4	0	1	2	0	1

⁴³ Decision DKK-63/2013.

⁴⁴ Decision DKK-49/2013.

⁴⁵ Decision DKK-127/2013.

⁴⁶ In the case of decisions on general product safety, the undertaking may request that the case be reconsidered and then appeal to the Voivodship Administrative Court in Warsaw.

⁴⁷ Information about all appeals of decisions issued by the President of the UOKiK is available in the decision base at http://www.uokik.gov.pl/decyzje_prezesa_uokik3.php

Verdicts reached by the Court of Competition and Consumer Protection in antitrust cases	2012		2013	
	Number	Percentage %	Number	Percentage %
Overruling a decision of the President of the UOKiK	3	5	3	4
Changing a decision of the President of the UOKiK	10	17	7	10
Dismissing an undertaking's appeal	47	78	61	86

Selected judgments of the Court of Competition and Consumer Protection and the Court of Appeal issued in 2013:

■ Judgment of the SOKiK of 13 December 2013 on the appeal of cement cartel participants against the decision of the President of UOKiK⁴⁸

In December 2009, a decision on collusion in the cement market was issued. It was proved that the largest Polish producers of cement had divided the market by defining permissible shares and minimum prices, as well as amounts, time limits and sequence of price increases. Fines imposed on the cartel members were the largest imposed by the UOKiK in its twenty-year existence. Thanks to its cooperation with the Office under the leniency programme, one of the companies avoided being fined and another managed to reduce its fine substantially. The undertakings appealed the decision to the SOKiK. In its judgment of 13 December 2013, the court shared the position of the President of the UOKiK, confirming that a prohibited agreement had been executed, but reduced financial sanctions to PLN 339 million. The judgment is not final and the undertakings have appealed it further.

■ The SOKiK's judgment of 21 November 2013 on the appeal of 20 banks punished for the illegal definition of *interchange* fees against the decision of the President of the UOKiK⁴⁹

In its judgment, the SOKiK shared the position of the UOKiK presented in a precedence decision of 2006. The Office decided then that 13 of 20 banks jointly defined their *interchange* fees on Visa and MasterCard payment card transactions. The Office imposed a fine of PLN 164 million on the banks, all of which appealed the decision to the SOKiK. In November 2008, the court revoked the decision. The Office did not agree with the court's judgment and appealed it to the Court of Appeal, which came down on the side of the Office. The case was reconsidered by the SOKiK, which then ruled that a prohibited agreement had been executed, but it reduced fines imposed on the banks to PLN 44.3 million. The judgment is not final and the banks have in turn appealed it.



Decisions of the President of the UOKiK questioned by the SOKiK

■ Ruling of the SOKiK of 17 December 2013 on the appeal of five undertakings operating in the gutter sales market against the decision of the President of the UOKiK⁵⁰

In his decision⁵¹, the President of the UOKiK stated that ZTSS Gamrat⁵² and four distributors⁵³ had entered into a prohibited direct agreement on the price of gutter systems. The undertakings defined the maximum discount on further resale which depended, among other things, on monthly procurement volume. The initiator of the agreement

⁴⁸ File No. XVII Ama 174;173;176;175;178;177/10.

⁴⁹ File No. XVII Ama 114/10.

⁵⁰ File No. XVII Ama 178/11.

⁵¹ Decision RKR-32/2007.

⁵² Zakłady Tworzyw Sztucznych Gamrat produce gutter systems.

⁵³ Przedsiębiorstwo Produkcyjno-Handlowo-Usługowe Gamart in Jasło, Śląskie Centrum Handlowe PVC Gamrat in Katowice, Budmech WT W. Łojewski i Syn in Warsaw, Grupa Polskie Składy Budowlane in Busko-Zdrój.

anticipated sanctions would be imposed on it for not observing the limit. In addition, it reserved the right to control other parties to the agreement by inspecting their invoices.

However, the SOKiK did not share the the UOKiK's position. In the opinion of the Court, ZTS Gamrat and its four distributors did not execute an agreement on minimum prices and the restriction of competition. In the opinion of the Court, the fact that the distribution agreement was signed did not mean the company had participated in a prohibited agreement. Further, the President of the UOKiK failed to present sufficient evidence that the undertakings that had signed the agreement knew of annexes signed with their competitors. In the opinion of the SOKiK, that did not restrict their economic independence and the companies did not have a joint intention to violate the act on competition and consumer protection. The judgment of the SOKiK is final.

■ **The SOKiK's judgment of 20 May 2013 on the appeal of an undertaking providing water pipe connections against the decision of the President of the UOKiK⁵⁴**

The President of the UOKiK in a decision of 30 June 2011⁵⁵ stated that Zakład Wodociągów i Kanalizacji (ZWik) in Warka abused its dominant position in the local collective water supply and sewage disposal market. The undertaking made the acceptance of a water supply system connection dependent on water microbiological tests or the payment of the cost of such a test by an investor within the price of the connection constructed by ZWIK. Only after the acceptance could the investor constructing the water supply system execute a water supply or sewage disposal agreement with the company.

The SOKiK revoked the decision of the President, ruling that ZWIK's behaviour did not constitute the abuse of a dominant position. In the opinion of the court, the cost of the connection was payable by an entity whose property was connected to the network. Such a cost also included water bacteriological tests. The Office appealed the Court's judgement.

In its judgment⁵⁶ of 26 May 2014, the Court of Appeal overturned the entire decision and discontinued antitrust proceedings. The Court did not find any basis for claiming that a relevant market was an element of the practice or that ZWIK had a dominant position in the market. In the opinion of the Court, the undertaking's activity did not restrict competition. Its opinion was supported by the fact that its competitors made many more connections than ZWIK. The court also ruled that the cost of tests did not form a barrier that could influence market competition.

The UOKiK applied to the Court of Appeal for justification of its ruling.

2.6. Enforcement of EU competition law by the President of the UOKiK

The prohibition of applying competition-restricting practices is derived from the provisions set out in the Treaty on the Functioning of the European Union (TFEU). EU regulations require Member States' public authorities and courts to apply the Treaty directly, in parallel with national competition law, in cases in which specific actions of undertakings affect trade between EU Member States. In 2013, four proceedings in which both Polish and EU regulations were applied were conducted. One case was completed and three are still pending⁵⁷.

⁵⁴ File No. XVII Ama 131/11.

⁵⁵ Decision RŁO-17/2011.

⁵⁶ File No. VI ACa 1386/13.

⁵⁷ 1. Antitrust proceedings concerning the abuse of a collective dominant position in the retail market of mobile telephony by Polkomtel Sp. z o.o., T-Mobile Polska S.A. and Polska Telefonía Komórkowa Centertel Sp. z o.o.; 2. Antitrust proceedings concerning the suspicion of a competition-restricting agreement executed by wood-like board producers: Kronospan Szczecinek, Kronospan Mielec, Pfleiderer Grajewo, Pfleiderer Prospan and Kronopol; 3. Antitrust proceedings against Grabikowski-Grabikowska P.P.H.U. INEX Sp. j., Pro-Wet Śnioch, Wiese Sp. j. and IDT Biologika GmbH, Am Pharmapark, headquartered in Germany, with regard to the execution of a competition-restricting agreement in the Polish market of rabies vaccine for wild foxes.

3. Sector inquiries

Sector inquiries constitute an important component of competition policy, both at the national and local levels. They are aimed at monitoring the condition of competition in particular sectors of the economy. They are also essential for collecting evidence within proceedings and for analyses of consolidation processes carried out by the UOKiK.

In 2013, the UOKiK's Central Office and Branch Offices conducted a total of **39** inquiries, including **33** that applied to the domestic market, and **6** to local markets.

Conclusions from analyses often form the basis for instituting proceedings against prohibited market practices, like the abuse of a dominant position or the violation of collective consumer interests. Analysis also forms a starting point for a debate on the needs and directions of changes in particular markets. The results of the biggest inquiries, which may have a strong influence on the economy, are presented to the public, for example during debates held by the Office⁵⁸.

Selected sector inquiries conducted by the UOKiK in 2013:

Advertisement of parabanking institutions. Report on the analysis of advertisements of non-bank financial institutions offering consumer loans (May 2013)

An analysis conducted by the UOKiK from January to April 2013 looked at advertisements of non-bank financial institutions. The Office verified 37 undertakings and questioned the promotional messages of 23 that had published illegal advertisements. The analysis shows that lending companies subject to control used similar advertising phrases. They commonly offered **loans without BIK (Credit Information Bureau)** and suggested that clients were guaranteed to receive a loan, offered the **lowest interest rate and zero preliminary fees**, all of which was usually inconsistent with the actual terms of their offers. In addition, they failed to inform consumers of the costs of credit or other fees or, if such information was included in their advertisements, it was indecipherable.

The President of the UOKiK decided that the advertisements misled consumers. The UOKiK instituted proceedings concerning the violation of collective consumer interests against 23 undertakings and completed them by issuing administrative decisions. The Office refrained from imposing a fine in only three cases.

Report on the public procurement system vs. competition development in the economy (September 2013)

The report presented the public procurement system in Poland and selected EU member states. It specified key problems of the system from the point of view of market competition, as well as the risk of bid rigging and suggested proposals for related solutions. Apart from modifications that are to come into force together with the amended Act on competition and consumer protection, the Office suggested the following amendments be made to the Public Procurement Law:

- **limit the openness of tenders (which would enable the elimination of the most frequent cases of bid rigging like tender positioning and withdrawing);**
- **provide the option of excluding undertakings whose share in bid rigging has been proven from the bids.**

The Office also pointed out the negative consequences of selecting a bidder on the sole basis of a price offered, which, in the UOKiK's opinion, would favour prohibited agreements. The analysis was prepared as a result of the measures to be taken set out in the *Competition Policy for 2011-2013*⁵⁹.

⁵⁸ More detailed information can be found in the section on the information and educational activities of the UOKiK.

⁵⁹ The Competition Policy for 2011-2013 was adopted by the Government of the Republic of Poland in May 2011. One of the priorities set out therein was to step up measures to eliminate bid rigging (Level I. Area A Priority 1.) <http://www.uokik.gov.pl/download.php?plik=10668>

4. Public aid

To ensure equal competition standards to all undertakings, the European Commission must be notified of state aid schemes as well as changes in the conditions applicable to the use of such aid. An exception is aid provided under “group exemptions”⁶⁰. Neither does the notification requirement apply to *de minimis* aid, i.e. aid not exceeding EUR 200 000 gross during three calendar years (for road transport: EUR 100 000).

The legality of state aid granted to undertakings is assessed only by the European Commission. The main task of the UOKiK in this respect is to carry out a preliminary assessment of individual support measures and aid schemes in terms of their conformity with EU law. Based on the above powers, in 2013 the President of the UOKiK issued 47 opinions, including nine on aid schemes, 34 connected with individual aid and four connected with individual aid for restructuring purposes. Although the Office’s position is not binding, it is often taken into account in practice. In addition, on the basis of reports submitted by aiding institutions⁶¹, the President of the UOKiK develops and presents the Government with an annual report on public aid granted in the previous year. The Government subsequently presents the report to the Sejm (Parliament).

In 2013, the Office received 544 requests for interpretation and 600 drafts of government documents (legal acts, strategies, programmes, information, notices and reports), to determine whether the specific aid is regarded as state aid.

The Office notified the European Commission of 32 projects, including 13 concerning individual aid, four for individual aid for restructuring purposes, and 15 aid schemes. The Commission approved 35 projects. Two projects were withdrawn and 51 were analysed under the preliminary examination procedure. For two projects, formal explanatory proceedings were conducted⁶². Under group exemptions, the UOKiK notified the Commission of 12 projects, including four related to aid schemes and eight to individual aid.

Selected schemes reviewed and notified to the European Commission by the UOKiK in 2013:

- aid to restructure Polskie Linie Lotnicze LOT SA (an airline company);
- aid for PGNiG SA (an energy company) for the construction of an Underground Gas Warehouse in Husów;
- aid for MPR “Sarmatia” (an oil transport company) for the construction of the Brody-Adamowo crude oil pipeline (as a part of the Odessa-Brody-Płock pipeline);
- aid for the structured liquidation of cooperative lending entities;
- individual aid for Gaz-System (a gas company) to carry out six projects in a natural gas transmission network;
- individual aid for PKP Intercity SA (a railway company) to carry out a project for the purchase of passenger rolling stock to operate long-distance lines.

⁶⁰ The European Commission may issue regulations based on which certain categories of aid are automatically considered as consistent with the single market rules and are not subject to notification of and approval by the Commission. These are projects subject to group exemptions and *de minimis* aid.

⁶¹ Report on public aid in Poland granted to undertakings in 2012 and the Report on *de minimis* aid granted to undertakings in 2012 were approved by the Government on 25 November 2013.

⁶² The statistics also include requests filed in previous years and which were evaluated by the European Commission in 2013.



The remission of outstanding social security premiums

In 2013, the European Commission conducted proceedings on remitting outstanding social security premiums to undertakings under the Act of 9 November 2012 on remitting amounts due as a result of premiums unpaid by sole entrepreneurs⁶³. The Act applies to persons that had or still have their own business and are in arrears with social security premiums for the period from 1 January 1999 to 28 February 2009 (437 000 entities in total). The debt was estimated at approximately PLN 880 million. The European Commission shared the UOKiK's position and decided that such remission of debt is available equally to all undertakings obliged to pay social security premiums and that do not have current arrears. In this context, debt remitting is a general measure whose purpose is to improve the collection of premiums and legal compliance by entities.

5. The protection of collective consumer interests



Consumer Policy for
2010-2013

UOKiK
20 years of the Office of Competition and Consumer Protection

Consumers are the weaker market players and the President of the UOKiK is responsible for eliminating the violation of collective consumer interests by business entities. The Office's priorities in this area were defined in the *Consumer Policy for 2010-2013*, the central concern of which was to create a legal environment which enables consumers to exercise their interests fully, as well as to eliminate negative market practices used by undertakings against consumers.

General information

A practice that violates the collective interests of consumers is any unlawful activity performed by an undertaking which harms the interest of a potentially unlimited number of people⁶⁴. The fine for such a practice may reach 10 percent of the undertaking's revenues. The undertaking may also voluntarily undertake to change the prohibited practice and take specific actions to eliminate its effects. If the President of the UOKiK decides that these actions are sufficient to redress the infringement, the above commitment may be accepted and a fine will not be imposed.

5.1. Practices violating collective consumer interests

Proceedings with respect to practices violating collective consumer interests may only be instituted *ex officio*. However, as in cases regarding anticompetitive practices, the Office may also intervene after being notified of an infringement in writing. In 2013, the Office received 1622 notifications. In 223 cases, the notifications provided the basis for instituting explanatory proceedings, and in 95 cases for instituting proceedings on the violation of collective consumer interests.

⁶³ Journal of Laws No. 2012.1551.

⁶⁴ Art. 24 of the Act on competition and consumer protection defines an open list of practices that violate collective consumer interests.

Table 7. Number of proceedings on practices violating collective consumer interests conducted in 2012 and 2013

Number		Number	
Proceedings concerning practices violating collective consumer interests, including:	450	Proceedings concerning practices violating collective consumer interests, including:	523
instituted in 2012	376	instituted in 2013	389
instituted in previous years, but conducted in 2012	74	instituted in previous years, but conducted in 2013	134
completed in 2012	332	completed in 2013	333
Proceedings concerning a fine to be imposed on an undertaking ⁶⁵ , including:	48	Proceedings concerning a fine to be imposed on an undertaking ⁶⁶ , including:	40
instituted in 2012	35	instituted in 2013	21
instituted in previous years, but conducted in 2012	13	instituted in previous years, but conducted in 2013	19
completed in 2012	28	completed in 2013	35
Explanatory proceedings, including:	923	Explanatory proceedings, including:	1103
instituted in 2012	701	instituted in 2013	746
instituted in previous years, but conducted in 2012	222	instituted in previous years, but conducted in 2013	357
completed in 2012	534	completed in 2013	715

Table 8. Decisions issued in 2012 and 2013

	Number	
	2012	2013
Decisions recognising a practice as violating collective consumer interests and ordering it to be ceased	85	98
Decisions recognising a given practice as violating consumer interests and ordering its discontinuance	108	112
Commitment decisions	131	116
Total	324	326
Decisions imposing a fine on an undertaking ⁶⁷	24	26
Decisions on the discontinuance of proceedings concerning a violation of collective consumer interests, including:	8	14
finding no practice violating collective consumer interests	3	0
for other reasons	5	14
Proceedings concluded by ruling	4	1

⁶⁵ The above statistics comprise proceedings on the imposition of a fine on undertakings for failure to execute a decision or its delayed execution, for failure to provide information or the provision of false/misleading information at the request of the President of the UOKiK, or failure to cooperate during the proceedings.

⁶⁶ The above statistics comprise proceedings on the imposition of a fine on undertakings for failure to execute a decision or its delayed execution, for failure to provide information or the provision of false/misleading information at the request of the President of the UOKiK, or failure to cooperate during the proceedings.

⁶⁷ The above statistics comprise decisions on the imposition of a fine on undertakings for failure to execute a decision or its delayed execution, for failure to provide information or the provision of false/misleading information at the request of the President of the UOKiK, or for failure to cooperate during the proceedings.

Selected decisions issued by the President of the UOKiK in 2013:

■ Prohibited practices of insurance companies

The insurance company **Towarzystwo Ubezpieczeń Generali Życie**⁶⁸ misled its customers with regard to principles of the indexation of premiums and a sum insured. Customers were led to believe that both the sum insured and the premium were indexed by the same interest rate. That practice may have applied to around 10 percent of policyholders to whom the insurance company offered the indexation of the sum insured and the premiums. The Office found that by sending its indexation proposal, including untrue information, to consumers, the insurance company misled them. The company was obliged to stop the behaviour and pay a fine. The decision is not final and the company appealed it.

The President of the UOKiK found that draft contracts of **Towarzystwo Ubezpieczeń i Reasekuracji Allianz Polska**⁶⁹ (an insurance company), including insurance contracts covering home furnishings and comprehensive motor insurance, included provisions that precluded the company from liability when compensation had to be paid by law. Thus, customers were misled about their rights, which could have led them to not claim compensation they were entitled to. For the use of prohibited practices, the Office imposed a fine on the company, which it appealed in court. The UOKiK's decision is not final.

■ A mobile operator restricted consumer rights and did not comply with an SOKiK ruling⁷⁰

As a result of an analysis of Play's (a telecommunications company) regulations on telecommunications service and the provision of Internet access, the UOKiK had doubts concerning the restriction of consumer rights to make claims in accordance with the Civil Code when access to the Internet or telecommunications services was not possible and the fault lay with the undertaking.

In addition, the company did not comply with an SOKiK ruling which found a clause applied by P4 to be prohibited (making a decision as to whether correspondence was successfully delivered on the basis of that clause was illegal). If the clause was recorded in the register of prohibited clauses, then the undertaking should have amended its draft agreements to do away with it, but Play did so only after 5 months. The company used the prohibited clause in spite of the legally valid court judgment prohibiting it. The fine on violating collective consumer interests was over PLN 8 million. The decision is not final and the undertaking has appealed the decision in court.

■ Decisions of the President of the UOKiK concerning online shopping

Prohibited clauses in the rules of an e-bookshop⁷¹

In July 2012, the Office instituted proceedings against Matras, a bookseller whose online division's rules contained illegal clauses that were unfavourable for consumers, including, for example, a clause based on which *consumers did not have the right to request reimbursement for shipping costs if they cancelled an order they had made online*. A fine exceeding PLN 452 000 was imposed on the company. The decision is not final and the company has appealed in court.

An e-shop applied illegal clauses⁷²

Products bought online can only be returned in the original packaging. In case of a complaint, the customer may first request only that a product be repaired. These are examples of illegal clauses that were used by the online shop: www.zlotewyprzedaze.pl. Proceedings against the company were instituted on the basis of a notification received from the Local Consumer Ombudsman in Warsaw. Following the proceedings, the undertaking deleted the illegal clauses within two months of the decision becoming final, avoiding a fine.

⁶⁸ Decision DDK-14/2013.

⁶⁹ Decision RWR-44/2013.

⁷⁰ Decision RBG-14/2013.

⁷¹ Decision RBG-32/2012.

⁷² Decision RBG-22/2013.

Unfair promotional phrases misled consumers⁷³

Euro Net is the owner of the Internet shop Euro.com.pl, which sells brown and white goods. One of the company's promotions raised the Office's doubts. Euro Net used the phrase *Free delivery only till Friday to encourage consumers to shop at its online shop*. The offer was, however, less attractive since it turned out that Friday had no real significance and the delivery of orders was not in fact tied to any time period at all. The President of the UOKiK decided that the company had misled customers and imposed a fine of over PLN 500 000. The undertaking ceased the practice but appealed the ruling. The decision is not final.

5.2. Court rulings in cases concerning the violation of collective consumer interests

In 2013, the Court of Competition and Consumer Protection passed 77 judgments on appeals against decisions of the President of the UOKiK in cases concerning violations of collective consumer interests. The Court of appeal issued 30 rulings. The Supreme Court examined one case. In 59 cases, the SOKiK dismissed appeals and in 12 cases changed the decision. The SOKiK overruled the decision of the President of the UOKiK in six cases.

Table 9. Number of judgments on collective consumer violation in 2012-2013

	Court of Competition and Consumer Protection	Court of Appeal in Warsaw	Supreme Court
Judgments passed in 2012 in cases concerning the violation of collective consumer interests	53	32	0
Judgments passed in 2013 in cases concerning the violation of collective consumer interests	77	30	1

	2012		2013	
Conclusions of SOKiK judgments	Number	Percentage %	Number	Percentage %
Dismissing an undertaking's appeal	38	72	59	77
Overruling the decision of the President of the UOKiK	4	7	6	8
Changing the decision of the President of the UOKiK	11	21	12	15

Selected judgments of the Court of Competition and Consumer Protection (SOKiK) and of the Court of Appeal in Warsaw in 2013:

■ The SOKiK's ruling of 8 November 2013 on the appeal of Polkomtel against the President of the UOKiK⁷⁴

The ruling concerns a decision from December 2011,⁷⁵ which stated that Polkomtel (a telecommunications company) misled consumers in its advertisement for Rarka in MixPlus. The advertisement suggested that a promotional per-minute price applied to each voice call in MixPlus. In the opinion of the Office, consumers could have been compelled to take advantage of the offer on the basis of the advertisement, though they would not do so had they been reliably informed. The court shared the position of the President of the UOKiK and upheld the PLN 1.8 million fine. It further obliged the company to publish the court's decision on its website and publish the conclusion of the decision in a newspaper with national circulation. The SOKiK's judgment is not final and the undertaking appealed it.

⁷³ Decision RPZ-22/2013.

⁷⁴ File No. XVII AmA 54/12.

⁷⁵ Decision RWA-20/2011.

■ **Ruling of the Court of Appeal of 27 March 2013 on the appeal of Eller Service (owner of pobieraczek.pl) against an SOKiK ruling⁷⁶**

The court ruling relates to a decision of March 2010⁷⁷, in which the President of the UOKiK stated that owners of the pobieraczek.pl portal misled consumers by advertising their website as open for use, free of charge, for the first 10 days of registration. At the same time, they did not legibly inform consumers that the registration date was the first day of the paid agreement, which is executed for up to a year. In addition, a fee was charged on the first day and not, as suggested in the advertisement, after 10 days. The company exercised its right and appealed the decision. Two courts of second instance shared the UOKiK President's position. On 27 February 2012, the SOKiK, and on 27 March 2013, the Court of Appeal confirmed that the owners of the portal had misled consumers. The fine of almost PLN 240 000 was upheld.

Text-message competitions

■ **The SOKiK's judgment of 20 March 2013 on the appeal of MobileFormats against the President of the UOKiK⁷⁸ and the Court's judgment of 23 January 2013 on the appeal of InternetQ against the President of the UOKiK⁷⁹**

The Court of Competition and Consumer Protection confirmed two decisions of the President of the UOKiK on text-message competitions: *Serialowe kody wymień na nagrody* (exchange serial codes for prizes) - organised by MobileFormats, and *Pusty SMS* (Blank SMS) - organised by InternetQ.

In the opinion of the President of the UOKiK, phrases promoting both competitions were misleading for consumers. A slogan stating that *the lottery is guaranteed by Polish TV and supervised by the Ministry of Finance* could have made potential participants more trusting as they could have believed that, being overseen by the ministry, the lottery was safe. The President of the UOKiK imposed a fine of PLN 85 000 on the company, which it appealed. On 20 March 2013, the SOKiK shared the position of the Office and decided that MobileFormats' practices violated collective consumer interests.

The second ruling concerned InternetQ, an organiser of the *Pusty SMS* competition. In its advertisements, the company clearly suggested that consumers would receive an award if they sent an empty text message. However, in reality the company only guaranteed registration in the competition, not actual awards. Misleading consumers in this fashion is illegal. The President of the Office decided that the company used prohibited aggressive market practices and imposed a fine of nearly PLN 500 000. The company appealed to the SOKiK, which, on 23 January 2013, ruled with the UOKiK and upheld the fine. The undertaking subsequently appealed the Court's ruling. In its ruling of 7 November 2013⁸⁰ the Court of Appeal dismissed the company's appeal.

Decisions of the President of the UOKiK questioned by the SOKiK

■ **The SOKiK's ruling of 8 May 2013 on the appeal of Polkomtel SA against the President of the UOKiK⁸¹**

The Court of Appeal in Warsaw revoked the decision of the President of the UOKiK⁸² of 13 December 2010, which stated that Polkomtel SA had used practices that violated collective consumer interests. Polkomtel was delivering to network customers two service rules which, in the UOKiK's opinion, were illegible⁸³. Polkomtel also illegally made it difficult to terminate agreements free of charge. The Office found that the operator sent important information

⁷⁶ File No. VI ACa 864/12.

⁷⁷ Decision RWR-6/2010.

⁷⁸ File No. XVII Ama 121/11.

⁷⁹ File No. XVII Ama 19/11.

⁸⁰ File No. VI ACa 565/13.

⁸¹ File No. VI ACa 1580/12.

⁸² Decision RPZ-29/2010.

⁸³ "Telecommunications service provision to subscribers by Polkomtel SA" and "Prefix 1069 telecommunications service provision by Polkomtel SA", enforced on 1 July 2009.

to its customers in font sizes and colours that made deciphering the content of the correspondence impossible⁸⁴. In addition, consumers who wanted to cancel the operator's services⁸⁵ had problems doing so both at customer service points and a call centre. The company had adopted its internal rewards programme to encourage employees to retain the largest possible number of users planning to terminate their contracts.

The UOKiK's decision stated that making it difficult for weaker market players to decipher and understand documents violates the obligation of the company to prepare a clear and legible contract form⁸⁶. In addition, any unreliable treatment of a consumer as a partner is a violation of good practices.

The President of the UOKiK imposed a fine exceeding PLN 11.7 million on the company for the use of prohibited practices. In response to Polkomtel's appeal, the Court of Competition and Consumer Protection shared the opinion the Office presented in its decision⁸⁷, but reduced the fine for the second violation by 30 percent. As a result of another of the company's appeals, the court of second instance, in its judgment of 8 May 2013, overturned the UOKiK's decision on the form of information provided to consumers and decided that letters addressed to consumers by Polkomtel were legible and the font colour did not make them difficult to read. As regards problems the company caused customers seeking to terminate their contracts, the Court of Appeal sided with arguments presented by the President of the UOKiK and the Court of Competition and Consumer Protection. The court's ruling is final.

■ The SOKiK's ruling of 19 September 2013 on the appeal of Canal+ Cyfrowy sp. z o.o. against the President of the UOKiK⁸⁸

The SOKiK's ruling on the decision of the President of the UOKiK⁸⁹ of 21 July 2010 found that the manner in which Canal+ Cyfrowy delivered information about amendments to rules and contracts violated collective consumer interest and was an unfair market practice contrary to good practices⁹⁰. The company notified most of its customers of the changes by publishing the information only in "PLUS+", a magazine it sent to consumers⁹¹. In the opinion of the Office, informing consumers in this way could have been misleading and made it difficult for them to familiarise themselves with the planned changes. That, in turn, could restrict the ability of weaker market participants to exercise their right to terminate a contract when the undertaking modifies its existing contract forms.

In its judgment, the Court of Competition and Consumer Protection rejected the decision of the President of the UOKiK. The Court ruled that the manner in which the undertaking informed consumers of the planned changes did enable them to familiarise themselves with the contract form. The Court did not find any violation of good practices. In the opinion of the SOKiK, the manner of delivery and clarity of the message presented in the magazine addressed only to Cyfra+ users did not mislead consumers and provided conditions sufficient to make a decision. The judgment is not final. The Office filed an appeal and the case is pending.

5.3. Prohibited contract terms

Prohibited contract terms (abusive clauses) are those provisions which have not been agreed with the consumer individually and which shape the consumer's rights and obligations in a way that contradicts social norms and grossly violates consumer interests. In principle, they are not binding on the consumer, unless they specify the main performances of the parties, including the price, and only if they are explicitly formulated⁹².

It is the Court of Competition and Consumer Protection which decides whether a given contract term is prohibited or not. A court action may be brought by any person to whom a contract containing an abusive clause has been submitted or by consumer organisations, consumer ombudsmen and the President of the UOKiK. Contract terms confirmed as abusive by a final and binding decision of the Court are entered in the register published on the UOKiK

⁸⁴ The rules were prepared in an illegible graphical form, i.e. on one A4 sheet in three columns with the use of a very small blue font.

⁸⁵ In accordance with ten applicable telecommunications laws, a consumer could cancel the service without financial consequences in the case of any amendment to the telecommunications service rules.

⁸⁶ This results from Art. 385 § 2 of the Civil Code.

⁸⁷ File No. XVII Ama 45/11.

⁸⁸ File No. XVII Ama 2013/10.

⁸⁹ Decision DDK-7/2010.

⁹⁰ The violation of Art. 5.1 in conjunction with Art. 4.1 and 4.2 of the Act of 23 August 2007 on counteracting unfair market practices.

⁹¹ Number 27, May-June 2009.

⁹² Article 3853 of the Civil Code contains a list of 23 examples of prohibited clauses.

website⁹³. Their application is prohibited and may be regarded by the President of the UOKiK as a violation of collective consumer interests, punishable by a fine of up to 10 percent of the revenue of the offending undertaking obtained in the year preceding the decision.

Statistics for the enforcement of provisions concerning prohibited contract terms

The Office regularly conducts inspections of standard forms of agreements used by undertakings in transactions with consumers. Thus it identifies clauses that raise doubts as to their compliance with the Civil Code. In such cases, the Office brings a summons before the Court of Competition and Consumer Protection. In 2013, the Office referred **134** summons to the SOKiK against **35** undertakings contesting in total **115** various contract terms. In addition, **112** undertakings were requested to change contested clauses, which **81** did voluntarily.

In recent years, there has been a significant increase in the number of clauses entered in the register. In 2013 alone, **1326** contract clauses were deemed abusive⁹⁴.

Rulings in cases concerning abusive clauses:

■ Ruling of the Court of Appeal of 12 December 2013 on clauses used by Fundusz Hipoteczny Dom⁹⁵

In January 2013, SOKiK found abusive 3 clauses used in the contract forms of Fundusz Hipoteczny Dom, which offers life annuities to seniors. The President of the UOKiK filed a complaint against the company with the court. In its judgment of December 2013, the Court of Appeal shared the opinion of the Office and confirmed that the clauses should be registered as abusive. The clauses concerned withdrawal from a preliminary agreement, restrictions on third persons living with a consumer, and penalties for the violation of an agreement, among others. The judgment is final and clauses will be recorded in the register kept by the President of the UOKiK⁹⁶.

Controls of contract forms

Fees applied by parabanking institutions - Report (June 2013)

In the period from January to May 2013, the President of the UOKiK analysed fees, commissions and other charges set out in agreements used by lending companies. The Office audited 30 undertakings and analysed 73 contract forms and 300 contracts actually executed with consumers. The Office checked costs the companies charged consumers and analysed whether lenders reliably informed consumers of fees and whether the fees were set out in contracts. The Office usually questioned unreliable data in information forms, misinformation about RRSO and fees charged for services provided at home that had actually been carried out. The analysis formed the basis for instituting proceedings concerning the violation of collective consumer interests against all the undertakings audited. In addition, the UOKiK brought 12 complaints before the SOKiK to rule the clauses were illegal.

Report on the investigation of contract forms offered to consumers in the network gas market (February 2013)

The purpose of the market analysis was to audit practices applied by gas suppliers. Although the market has become more and more competitive, few consumers realise that they may change their gas provider. From November to December 2012, the UOKiK checked contracts, contract applications and rules applied by 16 undertakings. It examined 159 contract forms based on which over 6 million consumers had executed their contracts. The UOKiK found negligence in the case of all the undertakings audited. It found 178 irregularities in total, including 134 abusive clauses. The Office instituted proceedings against all 16 of the audited undertakings and issued 16 decisions on practices violating collective consumer interests (15 commitment decisions and one decision on recognising the practice as violating collective consumer interests and confirming that the undertaking had stopped using that practice). The President of the UOKiK brought eight complaints before the SOKiK to recognise 25 clauses as abusive. As of the end of 2013, no judgment in the above cases had been issued.

⁹³ http://uokik.gov.pl/rejestr_klauzul_niedozwolonych2.php

⁹⁴ This number relates to complaints brought by different entities, including the President of the UOKiK. The clauses entered in the register in 2013 resulted from judgments also passed in previous years.

⁹⁵ File No. VI ACa 817/13.

⁹⁶ http://uokik.gov.pl/rejestr_klauzul_niedozwolonych2.php

Report on the auditing of undertakings executing life annuity contracts (October 2013)

The Office inspected contract forms offered by all companies offering so-called life annuity products: **37** contract forms and **46** advertisements in total.

It questioned **17** forms used by **five** undertakings. One of the examples of clauses that raised doubts was saying that a consumer's closest relatives could live in an apartment that had been sold provided only that the consumer secure the permission of the undertaking. Another clause imposed onerous obligations on consumers, such as requiring them to pay the costs of major repairs in the apartment or house or - as one of the undertakings ordered under a penalty fixed by the contract - to obligatorily inform it of housing cooperative or **community meetings**.

The UOKiK instituted proceedings concerning the violation of collective consumer interests against **three** undertakings (they were not completed until 31 December 2013).

The Office also examined 17 service advertisements of five companies against which it instituted proceedings for violating collective consumer interests. In addition, the Office brought four complaints before the court to recognise clauses used by four undertakings as abusive.

The UOKiK states that the act of consumers transferring property rights to their real property must be regulated by law. The analysis conducted by the UOKiK showed that *the biggest threat to seniors is the lack of legal regulations on the execution of life annuity contracts*. Threats that may result from purchasing life annuity products include the lack of oversight of the market and undertakings' capital requirements.

Taking into account the above threats, the UOKiK was actively involved in the work on **draft assumptions to the Act on reversed mortgage loans** prepared by the Ministry of Finance. In May 2014, the draft act was delivered to the Sejm. Consumers who decide to purchase life annuity products will soon benefit from special protection.

5.4. Cooperation with consumer organisations

The President of the UOKiK cooperates with non-governmental organisations. Tender procedures are used to grant funds for the implementation of particular projects⁹⁷. In 2013, the President of the UOKiK provided grants totalling PLN 1.7 million to:

- **The Polish Consumer Federation to help it provide free advice and legal aid in the area of consumer redress and maintain its "Consumer Helpline"**⁹⁸ (PLN 1 514 500). Thanks to the grant, Federation experts provided 60 775 consultancies at branches throughout Poland and 95 951 by phone.
- **The Association of Consumer Ombudsmen for the development, editing and electronic distribution of a newsletter for consumer ombudsmen** (PLN 11 500);

The project consisted in preparing and distributing **four editions of an electronic newsletter** among municipal and county consumer ombudsmen. The quarterly presents up-to-date information on consumer issues, including a presentation of the latest Polish and international legislation.

- **The Association of Polish Consumers for its consumer e-mail centre "E- Poradnictwo"**⁹⁹ (PLN 201 000); 22 618 consultancies were provided by e-mail.

⁹⁷ The rules for the assignment of consumer protection tasks and the procedures for the transfer of funds are laid down in the Act on operations of public benefit organisations and volunteerism. The amount which can be allocated for the completion of these activities is specified annually in the Budget Act. The information on tenders is published in the press and in the Public Information Bulletin. It is also available at the Office's premises.

⁹⁸ at 800 007 707.

⁹⁹ A consumer may take advantage of free legal advice provided by e-mail by experienced lawyers. A detailed description of a given case must be sent by e-mail to porady@dlakonsumentow.pl

6. Market surveillance and product safety

6.1. General product safety

The President of the UOKiK oversees non-food consumer product safety. Direct inspections at the premises of undertakings are conducted by the Trade Inspection on its own initiative or at the request of the President of the UOKiK¹⁰⁰.

The President of the UOKiK institutes administrative proceedings after receiving inspection files from the Trade Inspection or information from other sources, e.g. from consumers or authorities of other EU Member States. Where a product is found to pose a threat to the life and health of users, the President may impose certain obligations on its manufacturer or distributor, e.g. prohibit the product from being launched on the market, request that the company warn consumers (e.g. by publishing press announcements), eliminate the danger, withdraw the product from the market or recall it from consumers¹⁰¹. In addition, the President may impose on the entity responsible for placing the product on the market a fine of up to PLN 100 000.

In 2013, the Office handled 301 general product safety cases¹⁰² and resolved 241 of them. The products the Office most frequently inspected were textiles for children (81), bicycles (35) and roller-blinds and blinds (25). The President issued 129 decisions, including 27 imposing specific obligations on undertakings, and 19 decisions on fines.

The register of dangerous products

Products considered by the President of the UOKiK to be non-compliant with safety requirements are entered in the Register of Dangerous Products¹⁰³. In 2013, 35 products were recorded therein.

Voluntary notifications from undertakings

That undertakings more and more frequently voluntarily notify UOKiK of irregularities and corrective actions taken has been a positive development. The information they provide is published on the UOKiK website. The Office also monitors the course of corrective actions. In 2013, undertakings submitted 89 voluntary notifications of campaigns. Statistics from the Office show that the largest number of notifications (62) concerned motor vehicles, while the remaining notifications were for toys, electric equipment and machines, among others.

The Rapex System

The Rapex System (*Rapid Alert System for Non-Food Consumer Products*) enables the rapid exchange of information between Member States and the European Commission on products that pose risks to consumers. Every week on its websites, the European Commission publishes publicly available notifications of dangerous products submitted by Member States. The UOKiK acts as a contact point for this system in Poland.

In 2013, 40 notifications were submitted to the system, most of which concerned toys and articles for children (19). In 41 cases, the UOKiK took action in response to information delivered by another EU Member State. In addition, the Office carried out investigations and communicated its position on notifications submitted by the authorities of other Member States.

¹⁰⁰ The President of the UOKiK approves inspection plans conducted by the Trade Inspection, both scheduled inspections and inspections carried out as part of the tasks of the Voivodship Inspectorates.

¹⁰¹ The withdrawal of a product from consumers means the undertaking concerned must rebuy it from users at the price of purchase, regardless of wear and tear. A consumer who is in possession of proof of purchase may seek such a refund directly from the distributor who sold the product or, in the absence of the proof of purchase, directly from the manufacturer.

¹⁰² The Act of 12 December 2003 on general product safety (Journal of Laws No. 2003.229.2275, as amended).

¹⁰³ http://publikacje.uokik.gov.pl/hermes3_pub/WebEngine/DocumentSearchForm.aspx?CDC=PublicRWN

6.2. The conformity assessment system

The President of the UOKiK monitors the system for the control of non-food products for their conformity with the essential requirements set out in the New Approach Directives¹⁰⁴. Within the President's remit, the President of the UOKiK conducts administrative proceedings pursuant to the Act on the conformity assessment system¹⁰⁵; when a product does not comply with the essential requirements, the President issues a decision ordering its withdrawal from the market and enters the product into a special register¹⁰⁶. In 2013, the UOKiK handled **402** cases and completed **288** of them. The largest group of inspected products were toys (132), followed by electrical equipment (35) and machines (14). The President of the Office issued **266** decisions, including **28** decisions imposing statutory obligations on undertakings.

The register of products that are non-compliant with essential, detailed or other requirements

The Office's activities also include maintaining a special register of products that fail to comply with essential, detailed or other requirements. It is available on its website. In 2013, the Office registered **68** products, including toys and electrical equipment.

Cooperation with specialised bodies

Upon receipt of information about products that fail to satisfy essential requirements, the President of the Office may instruct a competent specialised body to carry out an inspection or provide it with relevant information. In 2013, the UOKiK ordered **22** inspections to be done by the Voivodship Trade Inspection and in **three** cases it informed other specialised bodies of irregularities.

The ICSMS System

The Information and Communication System for Market Surveillance (ICSMS) has been operational in Poland since March 2013. The system enables the collection and exchange of information about products that do not comply with requirements set out in the EU harmonisation legislation between market regulatory authorities of EU Member states. A **Polish contact point** was established at the UOKiK. In 2013, the UOKiK delivered **24** notifications to the system, including **11** cases where it acted in response to notifications filed by other Member States.

¹⁰⁴ They relate to over 20 groups of products, e.g. electric equipment (including electronic equipment and household appliances), toys, personal protection equipment, construction materials, machines and elevators. Only articles which conform to the essential requirements set out in the relevant legal provisions should bear the CE mark.

¹⁰⁵ 8 Act of 30 August 2002 on the conformity assessment system (Journal of Laws No. 2010.138.935, as amended).

¹⁰⁶ The register of products that are non-compliant with essential, detailed or other requirements
http://publikacje.uokik.gov.pl/hermes3_pub/



6.3. Surveillance of Trade Inspection

The President of the UOKiK plans, coordinates and monitors inspections of food and non-food products and services carried out by voivodship inspectorates of the Trade Inspection and examines their results. The President also inspects fuel quality, and oversees nine accredited laboratories (controls and analysis, testing fuel and industrial chemical products, tests of toys, textile products and instrumental analysis), which are charged with testing products inspected by the Trade Inspection. In 2013, the laboratories tested **5573** samples and questioned **1670** of them because they did not comply with the legal requirements or standards declared by the undertaking.

Table 10. Number of planned inspections conducted by voivodship branches of Trade Inspection at the request of the President of the UOKiK in 2012-2013

Object of inspection	Number of inspections in 2012	Number of inspections in 2013
Food and agricultural articles	2360	9751
Non-food articles and services	1372	4463
General product safety	1162	1469
Compliance with New Approach Directives	1827	2130

In 2013, 18 inspections of food and agricultural articles were conducted, in particular to check whether milk products were not enriched with other fats, especially cheap vegetable fats. In addition, together with the Inspection of Trade Quality of Agricultural and Food Articles and the official food control authorities in all EU Member States, the quality of products containing beef was inspected¹⁰⁷ for horsemeat content. The Office also prepared the *Report on foodstuff labeling* and, finally, conducted 11 nationwide inspections of non-food articles and services, including textile products offered to consumers¹⁰⁸.

6.4. Liquid fuel quality scrutiny system

A list of petrol stations and wholesalers, along with the results of inspections that have been conducted, is published by the UOKiK on its website and updated every two weeks. The website contains an online form for submitting complaints on petrol stations offering sub-standard fuel quality. The list is updated every two weeks¹⁰⁹.

The results of inspections carried out in 2013 showed that:

- the quality of liquid fuel samples was questioned more rarely than in the previous year, for example: 3.92 percent of fuel samples (petrol and fuel oil) out of 945 samples inspected did not meet quality requirements, while in 2012 the figure was 4.14 percent;
- the quality of LPG deteriorated in comparison to 2012: inspections showed that 2.22 percent of the 496 samples taken were non-complaint (in 2012, 1.11 percent of samples were questioned).

The President of the UOKiK issued **89** decisions obliging undertakings to pay the cost of tests if the inspected fuel samples failed to meet the quality requirements.

¹⁰⁷ <http://www.uokik.gov.pl/download.php?plik=13080>

¹⁰⁸ http://www.uokik.gov.pl/aktualnosci.php?news_id=10282

¹⁰⁹ Complaints may be filed with the use of a form published on the UOKiK's website.
http://www.uokik.gov.pl/zgloszenie_paliwa_zlej_jakosci_formularz.php

7. International cooperation and contacts with EU institutions

In 2013, international cooperation contributed to the development of an effective competition and consumer protection policy. The Office was able to influence European regulations by taking part in the EU legislation process. In addition, thanks to the regular exchange of information and experience with foreign equivalent institutions and international organisations, UOKiK employees gained knowledge about other countries' legal standards and best practices. That knowledge was used in their regular activities involving the development and enforcement of Polish competition and consumer protection law. This is important in the context of the development and globalisation of the digital economy, which have led threats to competition and consumers to jump national borders. To counteract them, state governments must cooperate closely.

7.1. Multilateral cooperation

Protecting competition

In 2013, UOKiK employees participated in the work of working groups and subgroups and meetings of the European Competition Network (ECN). This is a platform for the exchange of information and experience, as well as the development of a single effective European competition policy. The Office was also involved in the publication activities of the network and published its articles in the "ECN Brief" and "ECN Newsletter". Another important tool to enable knowledge and experience to be circulated and exchanged under the ECN is informal inquiries sent by antitrust offices. In 2013, the UOKiK prepared responses to inquiries on the audiovisual market and paid TV services, the organisation of consolidated copyright management and the health insurance system, among others.

The **International Competition Network (ICN)** is a platform for cooperation and the exchange of experience for 129 competition protection authorities representing 114 antitrust jurisdictions from all over the world. On 23-26 April 2013, the 12th Annual Conference of the Network was held in Warsaw. This was the biggest and most important international event held by the UOKiK. The meeting was opened by the President of the Republic of Poland, Bronisław Komorowski. The fact that the Office was granted the right to organise such an event reflected the appreciation felt for UOKiK's international efforts. To organise the Annual ICN Conference, the UOKiK implemented a special project under which it analysed relations between antitrust authorities and courts (*Working with courts and judges*). The programme also included a debate on competition protection issues in the countries of Central and Eastern Europe, the Caucasus and Central Asia.

In 2013, during three meetings of the **Competition Committee of the Organisation for Economic Cooperation and Development (OECD)** and its task forces, UOKiK representatives presented Poland's experience in dealing with regional and local transport services, railways, competition in the fuel market, the definition of concentration, issues in municipal waste management, and screenings done to identify cartels. During the annual meeting of the **European Competition Authorities (ECA)**, the President of the UOKiK presented the results of the Office's current activity and took part in a discussion on vertical agreements on online sales.

Protection of consumers

A representative of the UOKiK's Management attended the meetings of the **Consumer Policy Network (CPN)** at the level of the Directors General. During the meetings, attendees discussed current issues in consumer protection in the European Union, including the Internet, energy and food supply. They also discussed current legislative initiatives of the European Commission (including general product safety and the market surveillance package, as well as a directive on certain regulations on claiming compensation for the violation of competition law). The UOKiK was also involved in the work of the **Consumer Protection Cooperation Network (CPC)**, which did its annual review of websites (*Internet Sweep*). In 2013, the review covered travel agency websites. The UOKiK investigated 10 websites where air tickets and accommodation could be booked. It found a number of practices in possible violation of

collective consumer interests, such as the automated inclusion of additional insurance in the cost of an airline ticket. As a result of its review, 10 explanatory proceedings and one proceeding to impose a fine for the failure to provide information were initiated. In most cases, the undertakings voluntarily stopped using the practices in question.

UOKiK representatives took part in a conference and workshops organised by the **International Consumer Protection and Enforcement Network (ICPEN)**, which associates consumer protection authorities from over 50 states. Its aim is to facilitate the exchange of information on cross-border market practices which could affect consumer interests. The UOKiK, as the administrator of the ICPEN website, cooperates with other countries that take up the presidency within the network to exchange information and develop new communication tools. The Office also took part in the **annual Internet Sweep action**, which, in 2013, covered websites offering online applications and games. Out of 30 websites subject to review, 19 were found to have irregularities, including providing misleading information about prices and the lack of rules for naming an undertaking, among others.

The UOKiK is involved in the work of **PROSAFE (Product Safety Enforcement Forum of Europe)**, whose major goal is to share experience and best practices connected with market surveillance, including general product and service safety. It also enables the exchange of information between control authorities in this area. In 2013, a UOKiK representative was re-appointed as Director of PROSAFE and took part in Joint Action projects including those concerning the control of pyrotechnical products and toys.

7.2. Bilateral cooperation

An important area of international cooperation is the development of direct contacts between the Polish competition authority and its counterparts in partner countries, both within and beyond the European Union.

Protection of competition

In 2013, a meeting with a representative of the US Department of Justice was held. The attendees discussed key aspects of concentration control in connection with the planned reform of the Polish competition law. The UOKiK also its cooperation with Georgia, whose representatives attended workshops on Polish competition protection regulations. The Office also attended an international round table in Tbilisi devoted to changes in Georgia's antitrust law. Finally, the UOKiK held seminars for representatives of the antitrust authorities of Bosnia and Herzegovina, Russian Federation and Morocco.

Protection of consumers

In 2013, the UOKiK hosted a delegation from Armenia, Georgia and the Russian Federation. During the meetings, Poland's system of consumer protection and market surveillance was discussed. The UOKiK was also involved in an officer exchange programme for market surveillance and non-food product safety, financed by the European Commission.

International meetings and conferences

Apart from the ICN conference, the UOKiK also hosted two other important events:

- In autumn 2013, the Office was visited by the **Commissioner for Consumer Policy, Neven Mimica**. The main issues addressed at the meeting were the EU's work on the package of general product safety and market surveillance, the RAPEX system and cooperation in the Consumer Protection Network.
- On 12 September 2013, the UOKiK hosted a meeting of the EU Merger Working Group, which was accompanied by workshops on **Concentration Control - New Challenges in Europe**. Discussions covered topics including amendments to the Regulation of the Council No. 139/2004, as suggested by the European Commission.

Evaluation of the UOKiK's activities by foreign specialised media

In the Global Competition Review's yearly ranking (Rating Enforcement), the UOKiK received another positive assessment for 2013, just as it did for 2012. It is ranked on a par with Switzerland, Sweden, Finland and Portugal. On a scale of two to five stars, the Office received **three**, which means **good**. The Office was named one of the best government administration authorities in Poland.

Global Competition Review Rating Enforcement			
** (fair)	*** (good)	**** (very good)	***** (elite)
Belgium, Chile, Denmark, Mexico, Pakistan, Turkey, Lithuania	Poland, Switzerland, Sweden, South Africa, Russia, Portugal, Norway, Israel, Ireland, Hungary, Greece, Finland, the Czech Republic, Austria, New Zealand, Korea, Italy, Canada	Japan, Australia, Brazil, the Netherlands, Spain, the UK	The European Commission, France, Germany, the UK (Competition Commission), USA (Department of Justice - Antitrust Division), USA (Federal Trade Commission)

Additionally, the UOKiK was nominated for an annual GCR Award in the category European Office of the Year.

8. Information and educational activities

Information and educational projects are an integral part of the UOKiK's activities. The Office's hope for these projects is to popularise knowledge about economic issues from the Office's competencies among all market players.

8.1. Social campaigns and conferences

Initiatives promoting market competition

■ Competition law workshops for students

At the turn of November and December 2013, the UOKiK held workshops entitled *Competition-restricting practices* addressed to future management staff, i.e. students of Management and Economics. The project was conducted at universities in Kraków, Katowice, Łódź, Bydgoszcz, Poznań, Wrocław, Gdańsk and Lublin. In addition, at the University of Gdańsk, UOKiK experts gave a lecture entitled *Competition and Consumer Protection law*, which was offered as an optional subject of study at the Faculty of Management.

■ Competition in the public procurement market (10 September 2013)¹¹⁰

A debate initiated discussion on the potential for increasing the openness and competitiveness of the public procurement system in Poland and effective methods of preventing and discovering bid rigging. A starting point for the discussion was the outcome of the UOKiK's report *The public procurement system vs. competition development in the economy*.

■ The European Congress of Small and Medium-sized Enterprises in Katowice (16-18 September 2013)

The UOKiK partnered with the SME Congress, during which a debate on the protection of competition was held. The President of the UOKiK also attended the opening session of the Congress and was the host of a debate on *Competition and consumer protection - How the President of the UOKiK can protect SMEs against dominant companies on the market*. The meeting focused on the protection of SMEs against market tycoons.

■ Effective competition protection - proposals of amendments to the law (Lublin, 10 October 2013)¹¹¹

The conference was held in cooperation with Maria Curie-Skłodowska University and focused on the amendment of the Act on competition and consumer protection.

■ Other events

The Office was one of organisers of the 4th International Antitrust Conference, held at the initiative of the Head of the Central Anti-corruption Bureau (9 December 2013). The UOKiK also discussed bid rigging.

Initiatives promoting consumer rights

■ E-commerce campaign

On 25 November 2013, the UOKiK kicked off its Internet campaign addressed to consumers shopping online. As a part of the campaign, the Office opened a special website www.ezakupy.uokik.gov.pl, a compendium of knowledge about e-customer rights that describes potential problems with virtual shopping. As of the end of June 2014, the website had been visited 100 000 times.



¹¹⁰ The videoconference record is available under "Multimedia" on www.uokik.gov.pl

¹¹¹ The videoconference record is available under "Multimedia" on www.uokik.gov.pl

■ Debate on the occasion of World Consumer Rights Day - A Consumer in the gas market (15 March 2013)¹¹²

During the debate, the results of *The report on the control of contract forms executed with consumers in the network gas market* prepared by the UOKiK (February 2013) and the social survey entitled *A consumer in the network gas market* conducted by TNS OBOP at the UOKiK's request in March 2013 were presented.

■ A meeting "Reversed mortgages - A chance for a peaceful autumn of life?" (24 October 2013)¹¹³

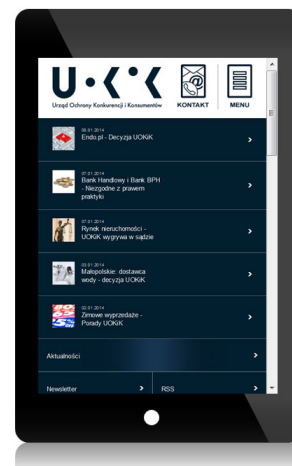
The meeting was an occasion to discuss reverse mortgage models, taking into account the social and economic situation of senior citizens today. The Office's *Report on the control of undertakings executing life annuity contracts* was the starting point for the discussion.

8.2. Internet projects

The UOKiK's mobile platform has been available since 20 December 2013.

The new website www.ezakupy.uokik.gov.pl has also been launched. It presents responses to the questions most frequently asked by consumers and undertakings about online shopping.

In addition, in October 2013, the Office became a partner to the *Consumer Classroom*¹¹⁴ project. This portal is addressed to teachers of young people aged 12-18 and provides ready-to-use teaching aids which enable students to learn about consumer rights and practical skills that are useful in their everyday market lives.



8.3. Other projects

The UOKiK presented awards in the competition for the **best Master's theses** on the protection of competition (for the fifth time) and on consumer-related issues (for the third time). In addition, the Office published three theses on competition protection which won awards in 2012.



In April 2013, the **9th Consumer Knowledge Competition** was organised in Greater Poland under the patronage of the President of the UOKiK. It was addressed to students of high schools. Co-organised by the UOKiK's branch office in Poznań, the competition was attended by over 500 students from the Greater Poland Voivodship.

The Office took part in the **Scientific Picnic** (15 June 2013), the 17th edition of the European outdoors event popularising science. Picnic participants familiarised themselves with scientific methods used by employers of the Specialised Laboratory of Textile Products and Instrumental Analysis in Łódź and the Specialised Laboratory of Toy Tests in Lublin.

Cooperation with mass media

The primary objective of the UOKiK's cooperation with the mass media is to convey its messages to the general public, thus raising the awareness of all market players.

¹¹² The videodebate record is available under "Multimedia" on www.uokik.gov.pl

¹¹³ Ibid.

¹¹⁴ www.consumerclassroom.eu

In 2013, the Office continued its cooperation with national, regional and local media. It published 226 press releases, including 33 on the protection of competition, 110 on the protection of consumers, and 52 on concentration control. The UOKiK addressed 24 releases on local issues to regional media, with 70 published in English. The President of the UOKiK has commented in nationwide daily newspapers, including “Puls Biznesu”, “Dziennik Gazeta Prawna” and “Gazeta Finansowa”.

The UOKiK, together with the daily newspaper “Rzeczpospolita”, conducted a programme entitled *Safe Holidays*. For ten weeks, the newspaper published the Office’s advice for consumers planning their holidays. In addition, at the initiative of the UOKiK, 32 institutions took part in the programme *Before the summer holiday - what should you know?*, conducted on 28 June 2013. The programme informed people about safety, youth rights and personal data protection, among other things.

In 2013, the Office released 9 852 press articles, 13 929 Internet publications and 3 525 radio and TV materials on decisions issued by the President of UOKiK and actions taken by the Office.

8.4. Publishing activities

As a part of the **UOKiK Library**, a collection of documents prepared by Office employees, the UOKiK published: *The impact of concentration on the economic effectiveness of undertakings of the Polish power sector* (Tomasz Dec), *Polish Competition Law - Commentary, Case Law And Texts* (Mateusz Błachucki) and *Vertical agreements* (Daniel Wojtczak).

In 2013, a dozen publications on consumer issues were also printed: *Resolution of consumer disputes* (leaflet), *Online shopping* (leaflet), *Holidays with a travel agency* (leaflet), *How to buy* (leaflet), *Consumer regulations for undertakings* (brochure), *How to manage in the real property market* (brochure), *A loan: not as black* (brochure), *Prohibited clauses - Read before you enter into an agreement* (brochure), *Consumer Handbook*, *Be a conscious 60+ consumer* (brochure and leaflet), *My consumer ABC* (colouring book), *Shopping with Maks* (comics).

All publications were distributed free of charge. They were also available in electronic form on the Office’s website: www.uokik.gov.pl.



Post scriptum

New organisation of the Office

At the beginning of 2014, the Office was reorganised. On 20 March, President Donald Tusk appointed Adam Jasser President of the Office of Competition and Consumer Protection. On 11 June, Bernadeta Kasztelan-Świetlik, who heads the protection of competition unit, including mergers and acquisitions, and Dorota Karczewska, in charge of the protection of consumers, were appointed Vice-presidents. The Advisory Council of the President of the UOKiK was also established. The Council is made up of experts in the protection of competition and consumers, representatives of the scientific community and practitioners, lawyers and economists. The main goal of the Council will be to prepare opinions, at the request of the President of UOKiK, on basic legal acts and drafts of strategic government documents on the protection of competition and consumers, recommend amendments to those documents and initiate cooperation with external experts, including from the scientific community.

The priority of the Office will be to take up initiatives aimed at improving the well-being of consumers and efficiently eliminate pathologies existing in the market. Therefore, the powers of the Department of Consumer Policy were widened and the emphasis will be placed on fast reaction to consumer problems and market monitoring, including new products and services and advertisements.

The UOKiK will also dynamically respond to the violation of competition: cartels and the abuse of a dominant position. The purpose of the changes is to accelerate cases, for example, by simplifying internal procedures and increasing the independence of its nine branch offices. All administrative decisions, including those made by the Department of Consumer Policy, will be preceded by in-depth economic analysis. Such an approach is reflected in the structure of the Office. The process will be supervised by the Chief Economist, i.e. Wojciech Szymczak, Head of the Department of Market Analyses.

Another of the Office's key goals is to develop undertakings' trust in the Office. The UOKiK is dedicated to dialogue, operational transparency, openness, procedural fairness and meeting deadlines. It also seeks to strengthen the "network for competition", under which the Office will step up its cooperation with public and local government administration authorities, industrial regulatory authorities, consumer ombudsmen, non-governmental organisations, chambers of undertakings, and the scientific community. The network will also include law enforcement bodies that work to uncover bid rigging.

Finally, a key goal to be achieved in 2014 will be to prepare consumers and undertakings for the enforcement of the act on consumer rights, which will systematically improve the protection of consumer rights, and the amended act on competition and consumer protection, which closes legal gaps in Poland's antitrust law by setting out a number of pro-consumer and pro-undertaking measures.





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