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# Survey of Polish Businesses' Knowledge of Competition Protection Law and the Principles of Granting State Aid

Warsaw, June 2009

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## **1. ABOUT THE SURVEY**

### **1.1. Goals**

1. Monitoring of changes in the knowledge of competition protection law (including the issues of *leniency* program);
2. Diagnosing the level of knowledge of OCCP as institution responsible for the protection of competitive principles of market's operation;
3. Assessment of OCCP as institution responsible for the protection of competitive principles of market's operation, including the level of knowledge of OCCP's activities and general knowledge of competition law;
4. Defining ethical standards of Polish businesses in the context of operation compliant with the principles of competition protection law;
5. Assessment of OCCP as anti-monopoly authority (diagnosis of the current image including the following: activity, functionality, effectiveness, speed of action, etc.);
6. Diagnosing the level of knowledge of principles of applying for state aid and principles of granting state aid;
7. Gathering information about barriers making it difficult or impossible for businesses to apply for/use state aid (e.g. problems gaining information, procedures, institutions granting aid, etc.);
8. Diagnosing the level of Polish businesses' willingness to apply for state aid.

## **1.2. Methodology and sample**

The survey of Polish businesses' knowledge of competition protection law and the principles of granting state aid was conducted by ARC Rynek i Opinia using the technique of paper and pencil interviewing (PAPI) on a sample of N=1200 businesses.

According to order's specification, the sample was divided into quotas based on businesses' size:

- up to 9 persons employed - N = 150
- between 10 and 49 persons employed - N = 250
- between 50 and 249 persons employed - N = 500
- 250 or more persons employed - N = 300

The process of sampling accounted for the industry in which a given business operated. Businesses' selection was representative as to the following division of industries:

- industry/production,
- construction,
- transport and logistics,
- services,
- commerce,
- other.

Respondents were owners or co-owners of enterprises, board members or marketing directors i.e. persons responsible for running enterprises, including their marketing.

Companies' features influencing answers to particular questions were identified using the method of CHAID (Chi Squared Automatic Interaction Detector. CHAID is a method of analysis using Chi square test for detection of interaction between variables. Used for description purposes, the method enables, among other things, clear division of population into categories of diversified intensification of a given feature (e.g. knowledge of laws connected with granting state aid).

An interview lasted approximately 45 minutes.

The survey was conducted between 11 May and 1 June 2009.

As the survey was aimed at monitoring changes in Polish businesses' level of knowledge of competition protection law and the principles of granting state aid, the obtained results were compared with the results of OCCP's survey conducted in 2006. This is referred to as 2006 surveys throughout the text.<sup>1</sup>

In the report, the following notions were adopted for the description of results:

- micro companies, smallest companies – up to 9 persons employed;
- small companies - 10-49 persons employed;
- medium companies – 50-249 persons employed;
- big companies, biggest companies – 250 or more persons employed.

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<sup>1</sup>Compare: Polish Businesses' Knowledge of Competition Protection Law and the Principles of Granting State Aid. Survey report. The Office of Competition and Consumer Protection, PBS DGA, Sopot, November 2006.

## **2. KEY FINDINGS**

### **2.1. Introduction**

Competition is a crucial element of market economy. Usually, the notion is understood as competition between unrelated businesses operating independently on the market, aimed at achieving similar economic goals, which is possible at the cost of other businesses whose activity is aimed at achieving the same goals. Efficient functioning of competition between businesses forms the basis for proper functioning and development of market economy. Competition between enterprises is good for national economy because more effective enterprises, which better satisfy consumer needs, are able to compete with foreign companies more efficiently. In most cases, competition on the market also brings measurable benefits to consumers, as they are offered more diversified, cheaper, higher quality products<sup>2</sup>. However, enterprises which have considerable advantage on the market may engage in practices aimed at eliminating competition or exploiting consumers and business partners, which results in destroying competition on a given market. That is why laws regulating the area are important, and businesses should not only know, but also obey them. The basic law regulating aspects connected with competition is the Act of 16 February 2007 on competition and consumer protection<sup>3</sup>, which determines conditions for the development and protection of competition as well as the rules on protection of interests of enterprises and consumers, undertaken in the public interest. Moreover, the Act regulates the rules and measures of counteracting practices restricting competition and practices violating collective consumer interests, as well as anticompetitive concentrations of enterprises or their associations, where such practices or concentrations cause or may cause effects in the territory of the Republic of Poland. Among issues regulated by the anti-monopoly act, particular attention is paid to prohibited anti-competition agreements (competition-restricting agreements), prohibition of abuse of a dominant position, and control of enterprises' concentrations. The Act also rules that the President of the Office of Competition and Consumer Protection (OCCP) shall be responsible for controlling the observance of competition law.

It must be emphasized that a serious threat for market economy is posed by businesses engaging in prohibited activity in order to eliminate competition, consisting in, e.g. avoiding price competition, limiting production, or market sharing. One of the methods for eliminating illegal forms of cooperation between businesses is the institution of *leniency*.

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<sup>2</sup> Compare: Competition Policy for years 2008-2010. OCCP, Warsaw 2008.

<sup>3</sup> Journal of Laws of 2007. No. 50, item. 331, with later amendments.

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Since 1 May 2004, Poland is obliged to abide by community laws concerning state aid. The Act of 30 April 2004 on the procedural issues concerning state aid<sup>4</sup> regulates the powers of the President of the Office of Competition and Consumer Protection in the field of state aid. According to the Act, the President of the Office of Competition and Consumer Protection issues opinions on drafts of aid schemes, notifies them to the European Commission, represents the Republic of Poland in procedures before European Commission and European courts, and monitors state aid granted to Polish enterprises.

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<sup>4</sup> Text in: Journal of Laws of 2007. No. 59, item 404, with later amendments.

## **2.2. Key conclusions of the survey**

The survey conducted among Polish businesses, including the assessment of their knowledge of competition protection law and the principles of granting state aid, brought the following conclusions for particular research areas:

- **Businesses' knowledge of OCCP**

The chief goal of competition policy for years 2008–2010 is creating, developing, and protecting competition, aimed at increasing the efficient functioning of national economy. An important part in the process is played by the President of the Office of Competition and Consumer Protection, exercising his powers through the Office of Competition and Consumer Protection. Hence it is positive that businesses perceive the Office as institution working for competition protection. However, it is worth emphasizing that although aided awareness of the Office remains at a level similar to that observed in 2006 survey (over 90 percent), its spontaneous awareness has decreased, particularly among small companies. That is probably connected with the fact that large companies are the most likely subjects of the Office's interventional or penalizing activities, consequently, they know OCCP well and consider competition law in their activities.

Smaller companies are more likely to become potential beneficiaries of OCCP's activities (e.g. in a situation where large entities abuse their dominant market position), so, it is important to put greater emphasis on information campaigns connected with the Office targeted at such enterprises. That particularly concerns information about the Office's scope of powers, as well as the possibility and method of notifying OCCP of suspected competition law violations.

- **Businesses' knowledge of OCCP's powers**

Like in 2006 measurement, most businesses correctly recognize the powers of the Office. In particular power areas changes have been observed, which, however, are not homogenous - no clear trend can be seen. In some areas, the percentage of persons attributing particular powers to OCCP has increased, whereas in other areas, it has decreased. But considerably greater knowledge of powers can be noticed in the area of prohibited concentrations of enterprises. Positive changes can also be seen in the

perception of OCCP's powers in the area of state aid. In 2006 survey, the notion of state aid was relatively new – not long ago, the category *de facto* did not exist in the awareness of an average entrepreneur. Currently, the subject is more familiar, the more so as state aid is now frequently discussed in the media (e.g. in the context of shipyards or anti-crisis activities undertaken by governments of some EU countries).

Despite the generally positive assessment of businesses' knowledge of OCCP's powers, attention should be paid to the fact it still remains incomplete. For instance, on the one hand, businesses are rightly aware of OCCP's power to issue opinions on enterprises' applications for state aid, but, on the other hand, they wrongly state that OCCP has the power to grant state aid to enterprises (the larger the company's employment, the more common the belief that such power exists).

In areas which – as might seem – should be of interest to small enterprises as potential victims of illegal practices of stronger competitors on the market (e.g. the power to conduct proceedings in the case of suspicion that competition-restricting practices have been applied, the power to order a business to refrain from competition-restricting practices) the level of their knowledge has decreased. That is connected with the conclusion which emerges from analysis of OCCP's knowledge and demonstrates that emphasis in communication activities should be put on the segment of smaller enterprises as potential beneficiaries of the Office's activities.

- **Businesses' knowledge of OCCP's activities**

In comparison to 2006, a smaller percentage of businesses have declared they had contact with activities undertaken by the Office. The figure has diminished by approximately 12 percentage points in the total sample (currently, less than 40 percent of respondents declare they have heard about particular activities undertaken by OCCP).

Respondents are relatively most likely to notice those activities of OCCP which attract the greatest amount of media attention – for instance, penalties imposed on businesses. OCCP's activities are less likely to be noticed by smaller enterprises, which, again, may mean it is necessary to intensify information activities targeted at companies of this size.

In the case of *leniency*, respondents' increased knowledge has been observed, which can be seen as proof of effectiveness of information campaign about the program. At the same time, emphasis should be put on the importance of both adopting new regulations (i.e. Regulation of the Council of Ministers concerning the mode of proceeding in cases of enterprises' applications to the President of the Office of Competition and Consumer

Protection for immunity from or reduction of fines), and development of the Office's President's guidelines for *leniency* program, which can also facilitate the program's usage for businesses. As businesses' awareness of such solution's existence is of particular importance, campaigns informing them of the possibility should be continued and should become an important element of propagating knowledge about competition law.

Among OCCP's various forms of activity, the Office's informational and educational efforts are appreciated, with most visible communication activities, irrespective of company's size, being as follows: OCCP's representatives' appearances in the media, press releases, the Office's website, press conferences, and information campaigns. The hierarchy of the most visible activities of the Office is similar to that identified in the previous measurement. It has been confirmed that the number of declarations concerning the knowledge of all forms of communication activity grows with company size.

- **Businesses' assessment of OCCP**

Most respondents have positive perception of OCCP's activity in the field of competition protection. The current survey demonstrates that the assessment of OCCP's activity as institution working for competition protection has considerably improved (in the case of general assessment, the percentage of "very positive" and "rather positive" answers has increased from 52 percent to 68 percent in big companies, and from 41 percent to 63 percent in medium companies). The Office has become an important point of reference for persons who conduct business activity and manage enterprises, it has appeared on the map of known and respected institutions - players on the market. Also positive is the perception of the Office's activities' effectiveness, but representatives of bigger companies perceive its activities more positively than representatives of smaller enterprises.

- **Businesses' knowledge of competition protection law**

Like in 2006 measurement, businesses give low rating to their knowledge of competition protection law. However, a half of them believe that Polish competition protection law ensures equal treatment to all enterprises, and almost a half express the opinion that competition protection law works in the interest of their companies. This means that, in comparison to 2006 measurement, businesses' trust in the system of competition protection has considerably increased, which is one of the most important findings of the survey. It has been observed that the bigger the companies which the respondents represent, the greater the number of positive opinions they express on competition protection law. Another important finding in the field of businesses' knowledge of competition protection law is the fact that the number of correct answers was visibly greater in questions describing concrete business situations than in those quoting legal norms. When asked about the letter of the law, businesses were more likely to give incorrect answers; on the other hand, when confronted with a practical example, they were more likely to give correct ones.

In answers to questions concerning businesses' level of knowledge of illegal practices, respondents were most likely to mention those connected with the abuse of a dominant position on the market (imposition of onerous agreement terms and conditions on business partners) and prohibited agreements which concern fixing prices and collusions between enterprises entering a tender. Businesses know less about illegality of practices connected with fixing production or sharing markets of sale with competition (based on territory or customers' segment). Awareness that some practices are illegal increases – for most practices analyzed – with company's size measured by employment. Irrespective of the practice, awareness of practices' illegality is highest in biggest companies.

Analysis of respondents' answers concerning examples of business cases from various markets confirms the results of declarations concerning behaviors in typical situations prohibited by competition protection laws. Respondents were most unlikely to engage in practices connected with illegal use of a dominant position, and most likely to engage in those connected with controlling production. It also appeared that in the case of bigger companies the acceptance of illegal practices is smaller. It should be noted that the likelihood to engage in a given practice depends on how legal it appears to respondent.

Like in 2006, also in 2009 the level of businesses' general knowledge of competition protection laws was not very high. Based on the current survey, it cannot be said that considerable improvement has been achieved in this scope. In their assessment of concrete

business cases' legality respondents scored higher than in the knowledge of legal requirements. However, it should be emphasized that in this scope bigger enterprises demonstrate a considerably higher level of knowledge, which confirms the conclusion formulated earlier – in the context of knowledge of OCCP – that there is a need to target intensified informational and educational campaigns at smaller enterprises as potential beneficiaries of the Office's regulatory activities.

- **Businesses' likelihood to violate legal regulations**

Most respondents declare they would not violate any of the competition protection laws listed, irrespective of the company's situation: chance for success or threatened existence. However, it may be a reason for concern that the survey has detected businesses' greater likelihood to engage in unethical practices, particularly among smaller companies. That presumably is connected with the climate brought about by economic crisis. It is possible that crisis situation results in relaxed norms and "justifies" illegal practices. In recent months, relaxed norms could be observed e.g. in the case of banks and their relations with customers.

- **Businesses' knowledge of antimonopoly laws**

In comparison to 2006 survey, a greater number of businesses were aware that in certain circumstances they are obliged to notify OCCP of planned mergers. Also, a greater tendency to know about the fact was maintained among bigger companies. As the main factor resulting in the obligation to report a planned merger respondents wrongly recognized the combined share in the market of enterprises planning to merge. Combined turnover of merging companies, which is the only law-regulated criterion for notifying concentrations, was the more likely to be identified, the more persons a given company employed.

- **Businesses' knowledge of the notion of state aid**

Almost 2/3 of respondents have heard about state aid schemes for businesses, and slightly over 1/4 (i.e. 42 percent in the 61 percent of those declaring to be aware of state aid schemes) looked for information on this type of assistance. But, when interpreting the results, one must not forget about considerable overrepresentation in the sample (in relation to businesses' population structure in Poland) of medium and big companies. That results in higher percentage of positive answers to the question concerning looking for information about state aid.

Most businesses which applied for state aid obtained it. Those which did not apply for this type of support declared the main obstacle was complicated procedure. Besides, low rating was given to access to information on the possibility of obtaining state aid.

A considerable problem with the possibility to use state aid schemes was noticed among micro companies, which 1) were less likely to have heard about them 2) give lower rating to state aid's availability, 3) are more likely to name discouraging procedures as the reason not to use state aid schemes. What is more, they succeed in obtaining such aid relatively rarely, which is why it would be advisable to target information campaigns also at this group of companies.

To summarize, it must be stressed that in comparison to 2006 measurement, positive changes have taken place in several important areas, or certain positive trends have been maintained. Businesses declare they have greater trust in the way of regulating and protecting competition on the market. Knowledge of OCCP and the Office's powers has remained at a similar level. Businesses rate OCCP's activities more positively. Knowledge of *leniency* program's principles has also increased.

The list of negative changes or negative trends which have been maintained includes considerably decreased knowledge of OCCP among small companies, and the fact that small companies demonstrate smaller knowledge of competition law's principles than big companies. Moreover, they are the ones most likely to violate some of the legal norms. In near future, activities should be intensified resulting from OCCP's *Competition Policy for Years 2008-2010*, particularly in the field of educational and information campaigns, aimed at propagating competition ideas and increasing the knowledge of laws regulating competition protection among businesses and their associations. It is particularly important to target activities at SME segment, concentrating a large majority of Polish business entities, thus being of key importance for the condition of the entire economy.

### 3. CHARACTERISTICS OF THE SAMPLE



The greatest proportion of enterprises covered by the survey employed from 50 to 249 persons (42 percent), followed by those employing over 250 persons (25 percent); operating in cities with over 300 thousand inhabitants (60 percent), and representing industry (40 percent). As for their legal status, most were limited liability companies (34 percent) and natural persons conducting business activity (31 percent); as far as the area of conducted activity is concerned, these were companies operating on local or regional markets (total of 53 percent). Representation of smallest companies – those employing up to 9 persons and operating in locations under 10 thousand of inhabitants – was smallest (13 percent).

**Table 1. Structure of the sample with key variables characterizing the enterprises covered.**

Number of employees		Percentage	Operating area		Percentage
Up to 9 employees		12,5%	Local (city, voivodship)		32,6%
10-49 employees		20,8%	Regional (several voivodships)		20,3%
50-249 employees		41,7%	Country-wide (all or almost all country)		26,7%
250+ employees		25,0%	International		20,4%
Industry			Legal status		
Industry/Production		39,9%	Limited Liability Company		34,2%
Commerce		20,0%	Sole Trader		31,0%
Services		17,3%	Joint Stock Company		11,9%
Construction		9,5%	Private Partnership		8,0%
Transport		5,3%	Cooperative		4,1%
Other		7,9%	General Partnership		3,4%
			Other		7,4%
Size of the city			Turnover in year 2008 in PLN		
Village		4,4%	Up to 999 000		9,2%
Up to 10 000 inhabitants		1,9%	1-9,9m		11,5%
From 10 001 to 20 000 inhabitants		4,3%	10m and more		12,4%
From 20 001 to 50 000 inhabitants		8,8%	Don't know / hard to say		7,4%
From 50 001 to 100 000 inhabitants		5,0%	Refused to answer		59,3%
From 100 001 to 200 000 inhabitants		9,7%			
From 200 001 to 300 000 inhabitants		5,2%			
300 000+ inhabitants		60,4%			
Don't know		0,3%			



54 percent of respondents were men. As far as their age is concerned, the largest group of respondents (43 percent) belonged to the 35-49 bracket. Younger and older persons respectively constituted 29 and 27 percent of the sample. Most respondents (61 percent) had higher or higher vocational education. The second largest group were persons with post-secondary education (29 percent). Representation of persons with incomplete higher or secondary education was smaller (8 and 3 percent respectively).

## 4. KNOWLEDGE OF OCCP AND ITS ACTIVITIES

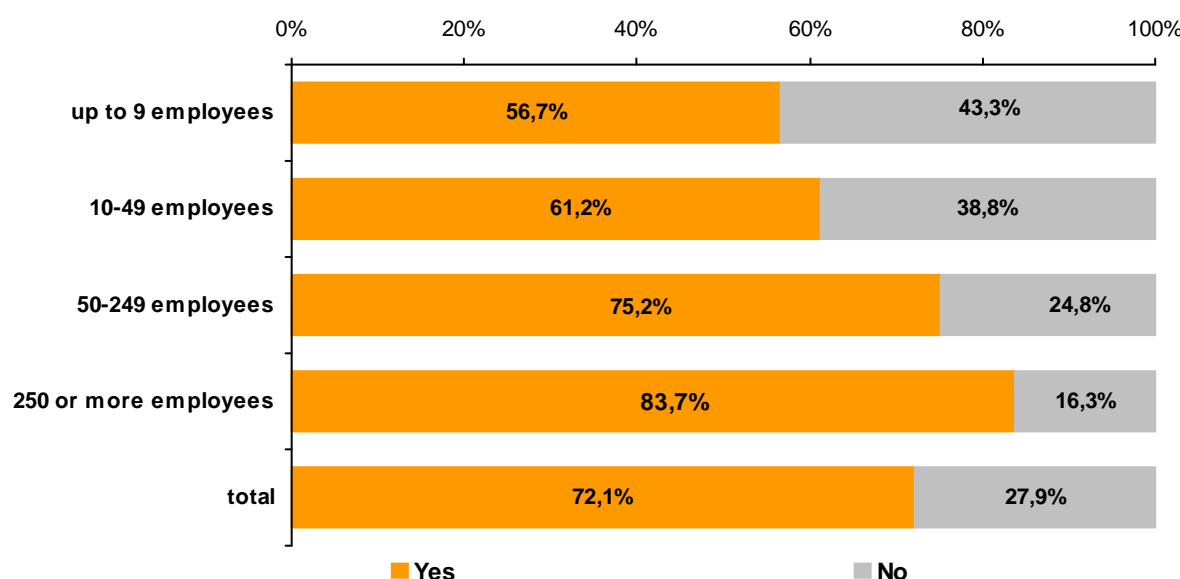


### 4.1. Knowledge of OCCP

An important element in the survey was businesses' definition of their knowledge of institutions working for competition protection.

**Q. A1. Do you know any institutions working for competition protection in Poland?**

N=1200. Question asked to all respondents.

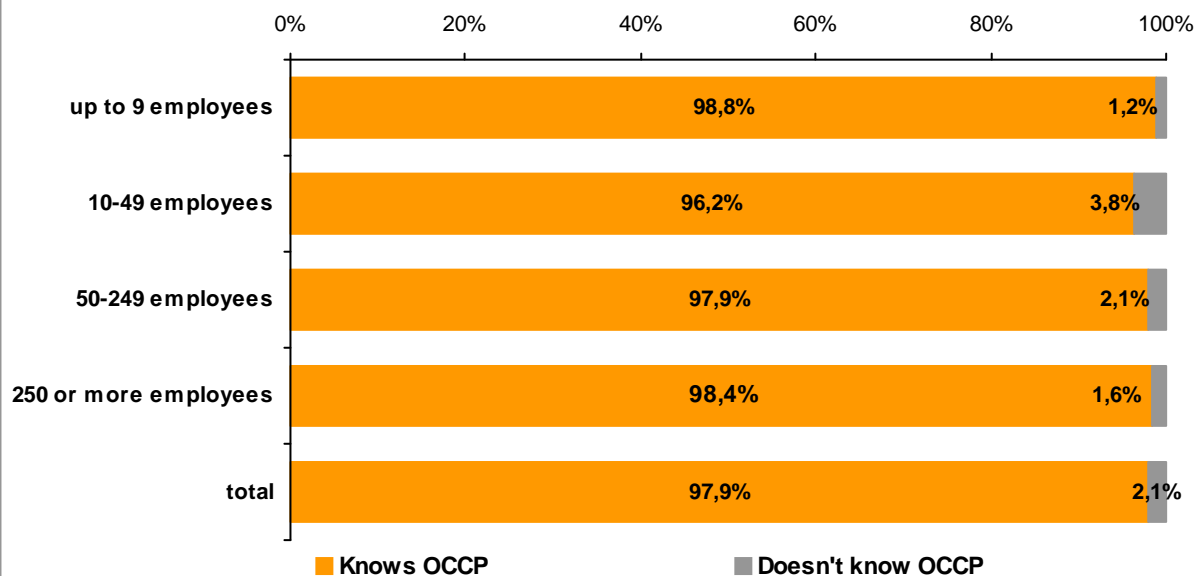


When asked if they knew an institution working for competition protection in Poland, almost ¾ of respondents answered in the positive. The level of knowledge was lowest in the

category of smallest companies (57 percent), and highest among biggest companies - those employing over 250 persons (84 percent).

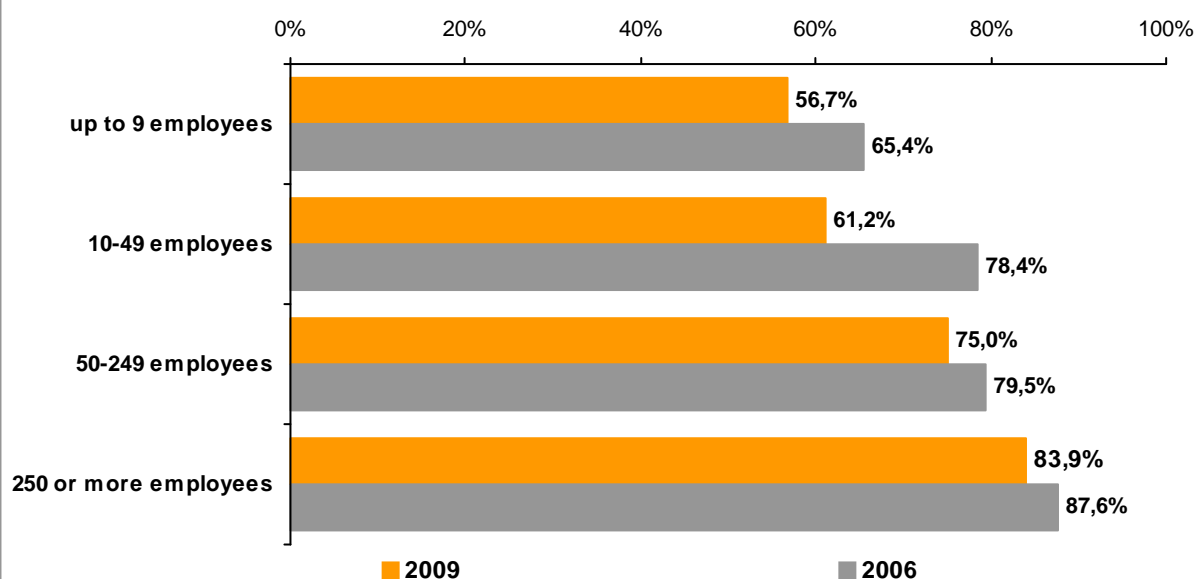
**Q. A2 What institutions working for competition protection do you know? – identification of OCCP**

N=883. Question asked to respondents who declared they knew an institution working for competition protection.



**Q. A2 What institutions working for competition protection do you know? – identification of OCCP, comparison with 2006**

2009, 2009 N=1200



Powers of the President of the Office of Competition and Consumer Protection as central body of government administration competent in matters of competition and consumer protection have been defined in the Act of 16 February 2007 on competition and consumer protection. Most respondents who said they knew an institution working for competition protection correctly and spontaneously identified OCCP as such institution. As a result, spontaneous awareness of OCCP (Q. A2) only slightly differs from the awareness of an institution working for competition protection (Q. A1). This means that the persons who are aware of the fact that this scope of problems is subject to administrative regulation, correctly attribute it to OCCP.

Other institutions, mentioned much less frequently, were as follows (the list includes institutions with a minimum of 5 indications):

- District (Municipal) Ombudsman (N=19),
- Consumer Federation (N=17),
- Office of Electronic Communications (N=8),
- Trade Inspection (N=8),
- Patent Office (N=6),
- Energy Regulatory Office (N=5),
- Consumer Rights' Ombudsman (N=5).

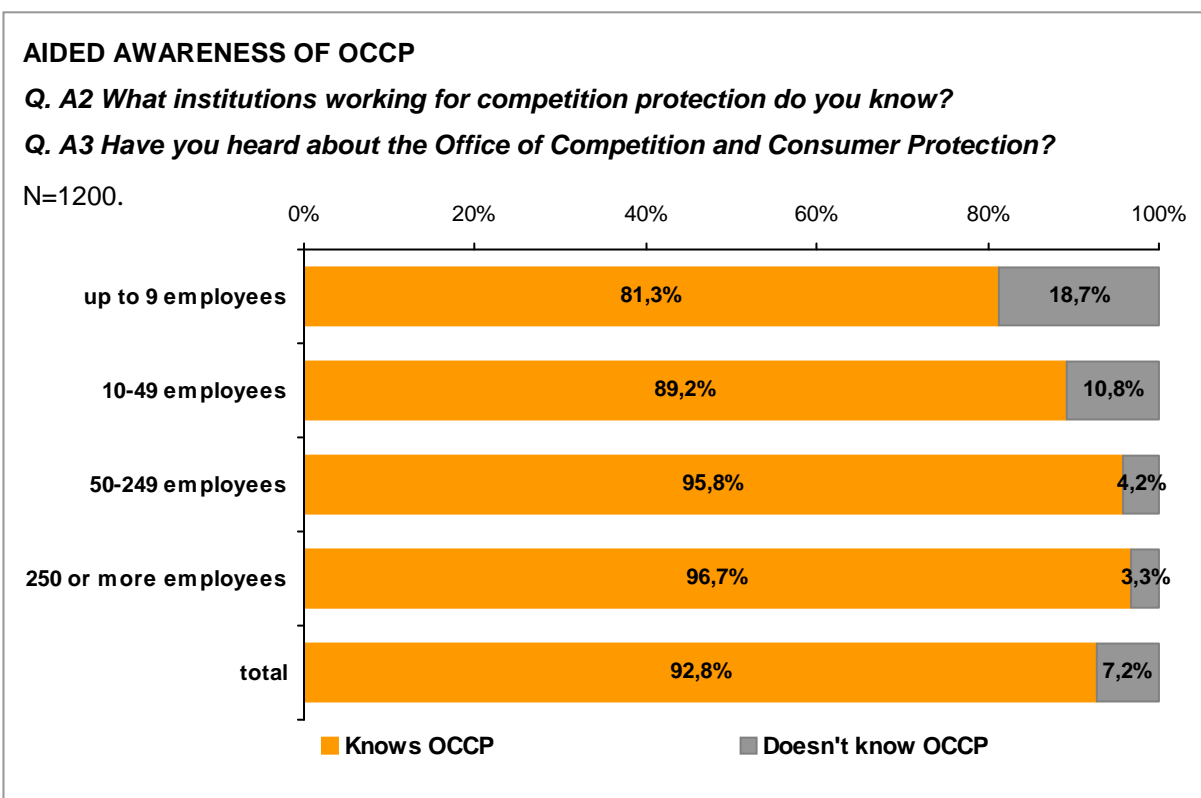
Among the institutions, respondents also mentioned Antimonopoly Office, which means the name still exists in some entrepreneurs' awareness, although the body was replaced by the Office of Competition and Consumer Protection in October 1996. That is when consumers' interests' protection was added to the scope of its responsibilities. At the same time, Head Inspector of Trade Inspection became subordinated to the President of the Office. It has also been observed that respondents quoted the names of other institutions incorrectly e.g. "National Trade Inspection" (incorrect) rather than "Trade Inspection" (correct).

Assessment of aided awareness of OCCP's was conducted on the basis of 3 questions:

- *A1. Do you know any institutions working for competition protection in Poland?*
- *A2. What institutions working for competition protection do you know?*
- *A3. Have you heard about the Office of Competition and Consumer Protection?*

Respondents who in Q. A1 said they knew no such institution were subsequently asked question A3. However, if they said they knew such institution, they were requested (in question A2) to name the institutions they knew. If they did not mention OCCP, they

were asked question A3, where aided awareness of the Office was checked (i.e. they were directly asked whether they have heard about the Office of Competition and Consumer Protection).



Aided awareness of OCCP runs from 81 percent to 97 percent, increasing with company's size measured by employment. It is worth noting that disproportions in aided awareness of OCCP between companies of different sizes are much smaller than in the case of spontaneous awareness. That might result from the fact that the Office's activity to a larger extent affects big companies – hence their much greater awareness of the Office.

Comparison of data obtained in 2006 and 2009 surveys shows that today respondents are much more familiar with the fact of existence of institutions working for competition protection in Poland than 3 years ago. Improvement can be seen mainly among smallest companies, where the percentage of companies aware of the fact has increased from 29 percent to 57 percent, but also among big companies, where the increase has been smallest: by 12 percentage points in comparison to 2006.

Although spontaneous awareness of OCCP has decreased (highest decrease - 17 percentage points - has been observed in companies employing between 10 and 49 persons, smallest – 5 percentage points - in biggest enterprises), aided awareness of OCCP remains on the same high level as in 2006 (93 percent).

## **4.2. Knowledge of OCCP's powers**

Powers of President of the Office of Competition and Consumer Protection, a central body of government administration, include developing antimonopoly policy and consumer protection. In the scope of competition protection, the Office's President's basic instrument is conducting antimonopoly proceedings in cases concerning competition-restricting practices, such as abuse of a dominant position on the market or entering into prohibited agreements (cartels). The proceedings can result in an order to refrain from the practices mentioned, and imposing a fine. OCCP's President also has the power to control concentrations in order to prevent situations where, as a result of enterprises' concentration, a dominant subject appears on the market. Besides, since 2004, OCCP's Presidents issues opinions on drafts of state aid granted to businesses within aid schemes or individual decisions, before they are sent to the European Commission.

OCCP's powers in the scope of competition protection are defined in the Act of 16 February 2007 on competition and consumer protection, while the Act of 30 April 2007 on the procedural issues concerning state aid regulates the powers of the President of the Office of Competition and Consumer Protection in the scope of state aid<sup>5</sup>. Knowledge of OCCP's powers has been checked using a series of questions concerning the Office's powers, with one of the questions mentioning a power which is not vested in OCCP. The questions about powers vested in the Office were as follows:

1. Does the Office have the power to prohibit enterprises' associations?
2. Does the Office have the power to issue opinions on enterprises' applications for state aid?
3. Does the Office have the power to impose a fine on an enterprise which engaged in prohibited practices?
4. Does the Office have the power to conduct proceedings in cases where there is a suspicion that competition-restricting practices have been applied?
5. Does the Office have the power to order an enterprise to refrain from applying competition-restricting practices?
6. Does the Office have the power to conduct a search on an enterprise's premises? (after obtaining permission from the Court of Competition and Consumer Protection) if there is a suspicion antimonopoly laws have been violated?

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<sup>5</sup> Compare: The Office of Competition and Consumer Protection. 2008 Report on Activity. OCCP, Warsaw 2009.

On the other hand, the question about powers not vested in OCCP, aimed at verifying respondents' knowledge, was as follows:

1. Does the office have the power to grant state aid to enterprises?

OCCP's powers which respondents are most familiar with are as follows:

- imposing fines on companies engaging in illegal practices,
- conducting proceedings in cases where there is a suspicion that competition-restricting practices have been employed,
- ordering an enterprise to refrain from competition-restricting practices.

In the question about prohibited associations of enterprises, the highest percentage of firm declarations ("yes") concerning the possession of such power was observed among biggest companies (35 percent). Also when "yes" and "yes, rather" answers were totaled, this group of enterprises appeared to have greatest knowledge in this scope (62 percent). Lowest level of knowledge of this power of OCCP was observed among representatives of smallest companies, where the percentage of "yes" answers was more than two times lower than in the case of biggest companies, and "yes" or "yes, rather" answers were given by 45 percent of respondents.

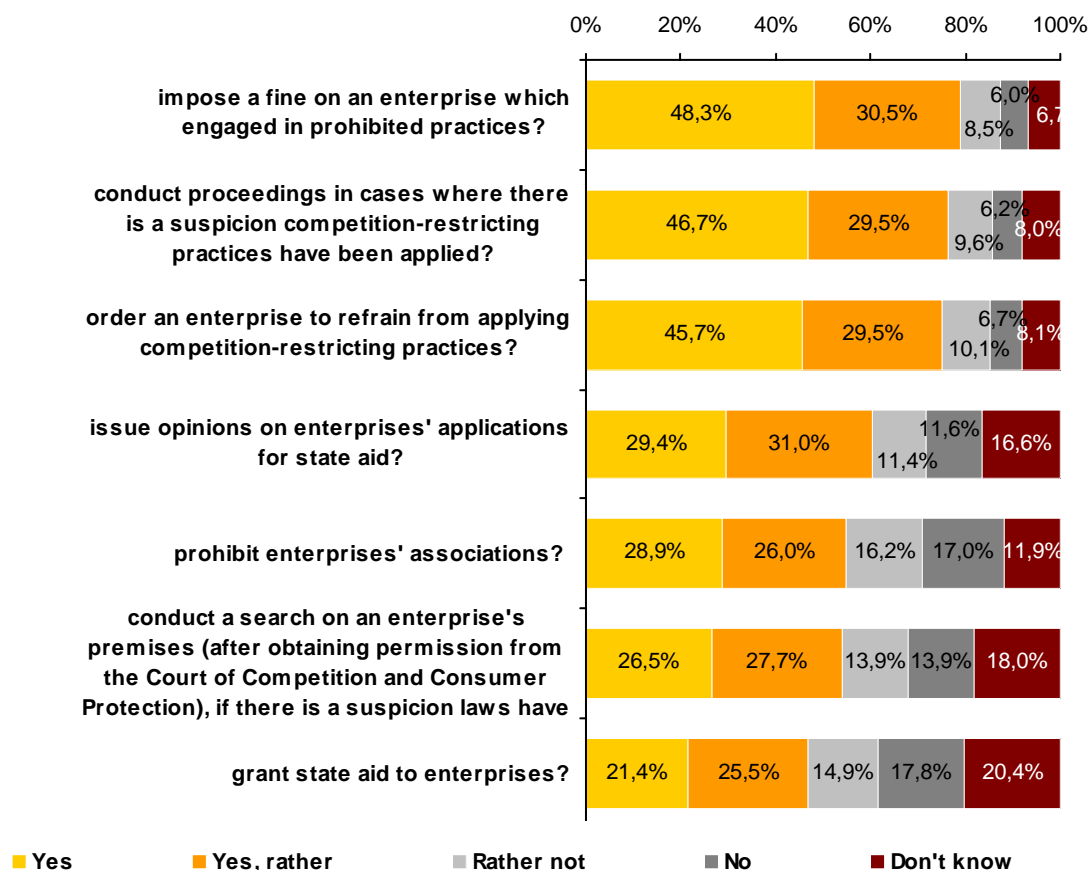
As for OCCP's power to issue opinions on enterprises' applications for state aid, the distribution of "yes, definitely" answers shows biggest companies' advantage over smallest, however, the difference disappears if the total of positive answers ("yes, definitely" and "yes, rather") is considered.

The power to conduct a search on an enterprise's premises, after obtaining permission from the Court of Competition and Consumer protection, if there is a suspicion that antimonopoly laws have been violated, was usually attributed to OCCP by companies employing up to 9 persons as well as those employing over 250 persons.

For analyzing companies' features influencing answers to particular questions, CHAID method has been used<sup>6</sup>. The analysis showed that knowledge of OCCP's powers, understood as knowledge of all powers of the Office, is greater in the case of biggest companies, and companies situated in locations with under 300 thousand of inhabitants.

**Q. A4.1-A47. Does the Office have the power to..?**

N=1114. Answered by respondents familiar with OCCP



<sup>6</sup> Detailed description of Chaid metod can be found in chapter 1.2.



**Table 2. Q. A4.1-A47. Does the Office have the power to...?**

N=1114. Answered by respondents familiar with OCCP

Is the OCCP allowed to...?	Up to 9 employees		10-49 employees		50-249 employees		250 and more employees	
	Yes	Rather yes	Yes	Rather yes	Yes	Rather yes	Yes	Rather yes
	% in row for company of each size							
prohibit enterprises' associations?	15	30	23	26	32	24	35	27
issue opinions on enterprises' applications for state aid?	25	36	28	31	28	32	35	28
impose a fine on an enterprise which engaged in prohibited practices?	48	33	42	36	44	31	60	24
conduct proceedings in cases where there is a suspicion competition-restricting practices have been applied?	41	31	41	33	47	28	52	28
order an enterprise to refrain from applying competition-restricting practices?	38	32	41	32	44	29	55	27
grant state aid to enterprises?	13	32	23	26	23	25	21	24
conduct a search on an enterprise's premises (after obtaining permission from the Court of Competition and Consumer Protection), if there is a suspicion laws have been violated	24	39	24	29	26	25	31	26

Having compared survey results obtained in 2009 with those obtained in 2006, it must be emphasized that during the 3 years businesses' knowledge of OCCP's powers has changed, however, the changes have not gone in one direction (when analyzing the level of

businesses' knowledge of OCCP's powers, it has been observed the knowledge of some powers has increased, while the knowledge of other powers has decreased).

**Table 3. Directions of changes in businesses' knowledge of OCCP's powers in years 2006-2009.**

OCCP's powers	Percentage share of "yes" and "yes, rather" answers depending on business' size measured by employment 2009 vs 2006			
	0-9 employees	10-49 employees	50-249 employees	250 or more employees
<b>POWERS VESTED IN OCCP</b>				
power to prohibit enterprises' associations	44.5percent 14.5 p.p. ↑	49.5percent 19.8 p.p. ↑	56.2percent 17.1 p.p. ↑	61.3percent 10.6 p.p. ↑
power to issue opinions on enterprises' applications for state aid	61.1percent 13.8 p.p. ↑	59.0percent 17.2 p.p. ↑	59.5percent 11.5 p.p. ↑	62.7percent 10.8 p.p. ↑
power to impose a fine on an enterprise which engaged in prohibited practices	80.6percent 1 p.p. ↑	78.5percent 0.4 p.p. ↓	75.5percent 12.5 p.p. ↓	83.7percent 6.1 p.p. ↓
power to conduct proceedings in cases where there is a suspicion that competition-restricting practices have been applied	72.6percent 4.6 p.p. ↓	74.5percent 8.3 p.p. ↓	75.2percent 13 p.p. ↓	80.9percent 11.1 p.p. ↓
power to order an enterprise to refrain from competition-restricting practices	70.6percent 0.6 p.p. ↓	73.0percent 5.2 p.p. ↓	73.2percent 8.8 p.p. ↓	82.1percent 5.7 p.p. ↓
<b>POWERS NOT VESTED IN OCCP</b>				
power to grant state aid to enterprises	44.8percent 7.6 p.p. ↑	49.1percent 15.2 p.p. ↑	47.4percent 20.7 p.p. ↑	45.2percent 21.4 p.p. ↑

↑↓ - increase/decrease of respondents' knowledge of the existence of particular OCCP's powers, expressed in percentage points, 2009 against 2006.

In comparison to 2006 survey, there has been an increase in businesses' knowledge of the following powers of OCCP: power to prohibit enterprises' concentrations, and power to issue opinions on enterprises' applications for state aid. Knowledge of OCCP's power to prohibit enterprises' concentrations has increased in all types of companies, defined based on employment. The percentage of businesses correctly recognizing the powers of OCCP

in the area of issuing opinions on granting state aid has also increased in both biggest companies, and those employing up to 9 persons.

In the current survey, businesses were less likely to mention the Office's power to impose a fine on an enterprise engaging in prohibited practices, but it must be noted these were businesses employing 50 or more persons that were less likely than in the previous survey to attribute this power to OCCP.

Somewhat fewer respondents than in 2006 attributed to OCCP the power to conduct proceedings in cases where there is a suspicion that an enterprise engaged in competition-restricting practices. Decreased awareness of this power was particularly clearly visible in companies employing 50-249 persons, as well as those employing 250 or more persons. The percentage of companies declaring OCCP has the power to prohibit competition-restricting practices has also decreased.

In comparison to 2006 measurement, businesses are more likely to attribute to OCCP powers which the Office actually does not have, that is, the power to grant state aid.

#### **4.3. Knowledge of activities undertaken by OCCP**

President of the Office of Competition and Consumer Protection is a central body of state administration. They report directly to the Prime Minister. They are appointed by the Prime Minister from among persons shortlisted by way of open competition. The powers of OCCP's President include developing antimonopoly policy and consumer protection policy. The Office's President's basic instrument in the scope of competition protection is conducting antimonopoly proceedings in cases concerning competition-restricting practices – abuse of a dominant position on the market and prohibited agreements (cartels). The proceedings can result in an order to refrain from the practices and imposing a fine. OCCP's President also has the power to control concentrations in order to prevent situations where associations of enterprises can lead to the appearance of a dominant subject on the market<sup>7</sup>.

The Act on competition and consumer protection prohibits, among other things, agreements which have as their object or effect elimination, restriction, or any other infringement of competition in the relevant market, in particular those consisting in:

- 1) fixing, directly or indirectly, prices and other trading conditions;
- 2) limiting or controlling production or sale as well as technical development or investments;
- 3) sharing markets of sale or purchase;
- 4) applying to equivalent transactions with third parties onerous or not homogenous agreement terms and conditions, thus creating for these parties diversified conditions of competition;
- 5) making conclusion of an agreement subject to acceptance or fulfillment by the other party of another performance, having neither substantial nor customary relation with the subject of such agreement;
- 6) limiting access to the market or eliminating from the market of undertakings which are not parties to the agreement;
- 7) collusion between undertakings entering a tender or by those undertakings and the undertaking being the tender organizer, of the terms and conditions of bids to be proposed, particularly as regards the scope of works and the price.

The abuse of a dominant position in the relevant market by undertakings is also prohibited, which in particular consists in:

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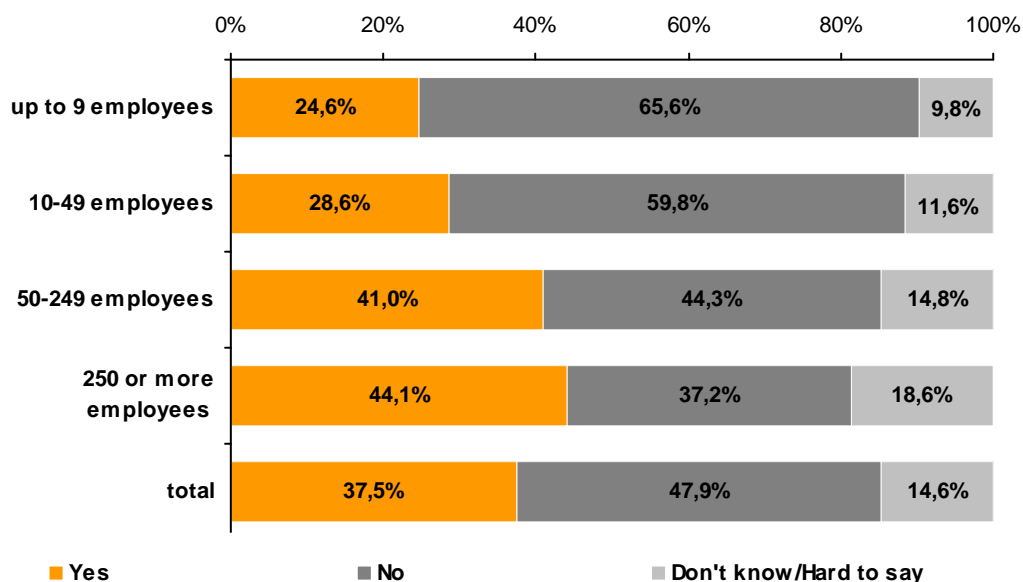
<sup>7</sup> [http://www.OCCP.gov.pl/pl/o\\_urzedzie/informacje\\_ogolne/kompetencje\\_prezesa\\_OCCP/](http://www.OCCP.gov.pl/pl/o_urzedzie/informacje_ogolne/kompetencje_prezesa_OCCP/)

- 1) direct or indirect imposition of unfair prices, including predatory prices or prices glaringly low, delayed payment terms or other trading conditions;
- 2) limiting production, sale or technological progress to the prejudice of contracting parties or consumers;
- 3) application to equivalent transactions with third parties of onerous or not homogenous agreement terms and conditions, thus creating for these parties diversified conditions of competition;
- 4) making conclusion of the agreement subject to acceptance or fulfillment by the other party of another performance having neither substantial nor customary relation with the subject of agreement;
- 5) counteracting formation of conditions necessary for the emergence or development of competition;
- 6) imposition by the undertaking of onerous agreement terms and conditions, yielding to this undertaking unjustified profits;
- 7) market sharing according to territorial, product, or entity-related criteria.

Over 1/3 of respondents declared they were familiar with OCCP's activities undertaken to counteract competition-restricting practices, whereas in 2006 survey as many as 49 percent of businesses covered declared they were familiar with these activities.

**Q. A6. Have you heard about any particular activities undertaken by the Office of Competition and Consumer Protection in order to counteract competition-restricting practices?**

N=1114. Answered by respondents familiar with OCCP



Levels of spontaneous awareness of activities undertaken by OCCP differ considerably depending on the size of companies represented by respondents. While in the case of biggest companies (measured by employment) spontaneous awareness reaches 44 percent, in smallest, the figure is less than ¼ of respondents. A similar relation appears if company's turnover is considered. Whereas companies with turnover of PLN 1 m. declared awareness of OCCP's activities reaching 28 percent, medium companies (turnover of PLN 1-9 m.) and big companies (turnover of PLN 10 m. or higher) were much more likely to notice OCCP's activities (40 percent and 52 percent respectively).

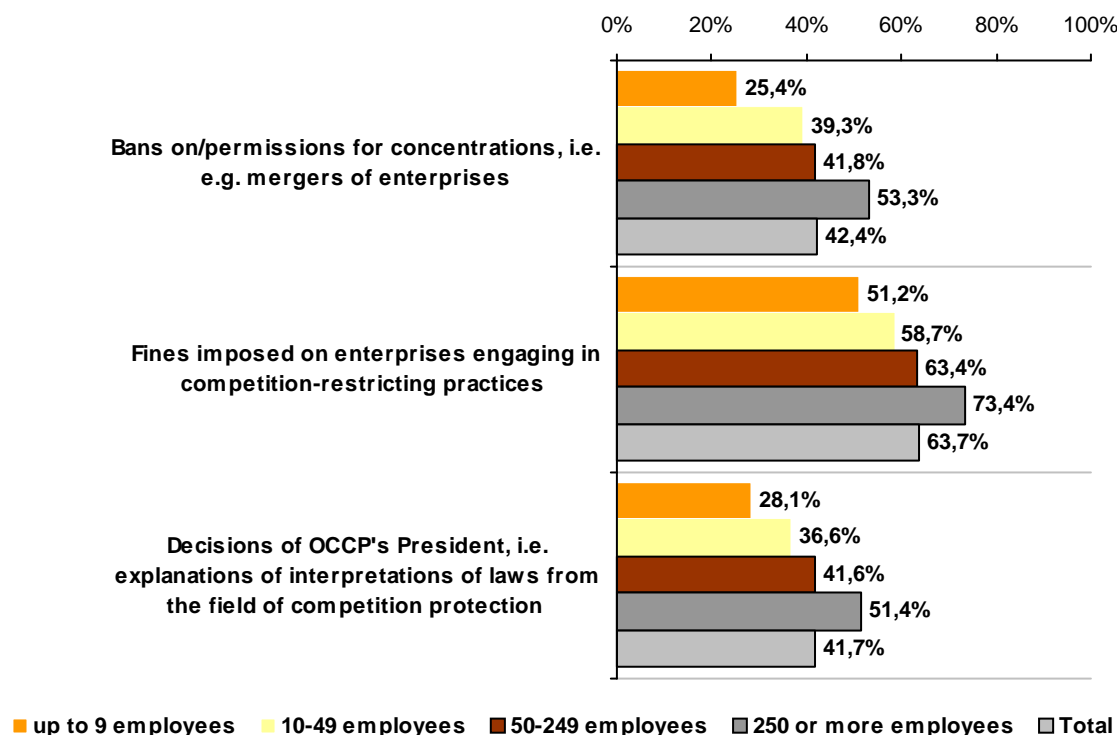
Before being asked to name OCCP's activities which they are aware of, respondents had a chance to express their spontaneous opinions on the subject. Approximately 1/3 took the opportunity. Most mentioned fines which OCCP imposed on Telekomunikacja Polska S.A. It is worth emphasizing that also in 2006 survey the largest number of respondents mentioned the Office's activities in the case of Telekomunikacja Polska S.A. Thus it can be stated that the dispute between the institutions has become OCCP's showcase to the general public.

Respondents were also relatively likely to mention:

- bans on/permissions for concentrations, e.g. mergers of enterprises,
- fines imposed on enterprises for practices infringing consumer rights,
- fines imposed on enterprises for engaging in competition-restricting practices.

**Q. A8. Have you heard about the following activities of the Office of Competition and Consumer Protection? - percentage of „yes” answers**

N=1114. Answered by respondents familiar with OCCP



As far as activities regulated by the law are concerned, the area which businesses are most likely to notice are fines imposed on enterprises. That probably results from the fact that such activities attract considerable media attention. Usually, fines imposed on enterprises are publicized by the media. What is more, the fines are frequently very high. It is worth emphasizing that in 2008 OCCP imposed fines amounting to PLN 95.37 m., including fines for engaging in competition-restricting practices (PLN 67.67 m.), and fines for

not notifying the intention of concentration or implementing concentration without the required permission of the President of OCCP (PLN 95.7 thousand)<sup>8</sup>.

Businesses are less likely to notice OCCP's activity connected with controlling concentrations, which is aimed at counteracting excessive consolidations of enterprises resulting in considerable restriction of competition, although, as OCCP data demonstrate, only in 2008, 197 cases of concentrations were examined, of which 177 were finished, e.g. by granting permissions for concentrations (153 decisions)<sup>9</sup>.

Somewhat fewer respondents mentioned the decisions issued by the President of OCCP, i.e. explanations of interpretations of laws from the field of competition protection.

However, it should be emphasized that irrespective of the type of activity analyzed, it has been observed that the bigger the company (measured by employment), the greater the likelihood these activities of OCCP will be noticed.

In the survey, attention was also paid to businesses' level of knowledge of OCCP's communication activities. In its actions, the Office concentrates on far-flung information and educational campaigns targeted at all participants of the market. Besides, the main goal of OCCP's cooperation with the media is reaching nation-wide public opinion, thus contributing to increased awareness of all participants of the market.

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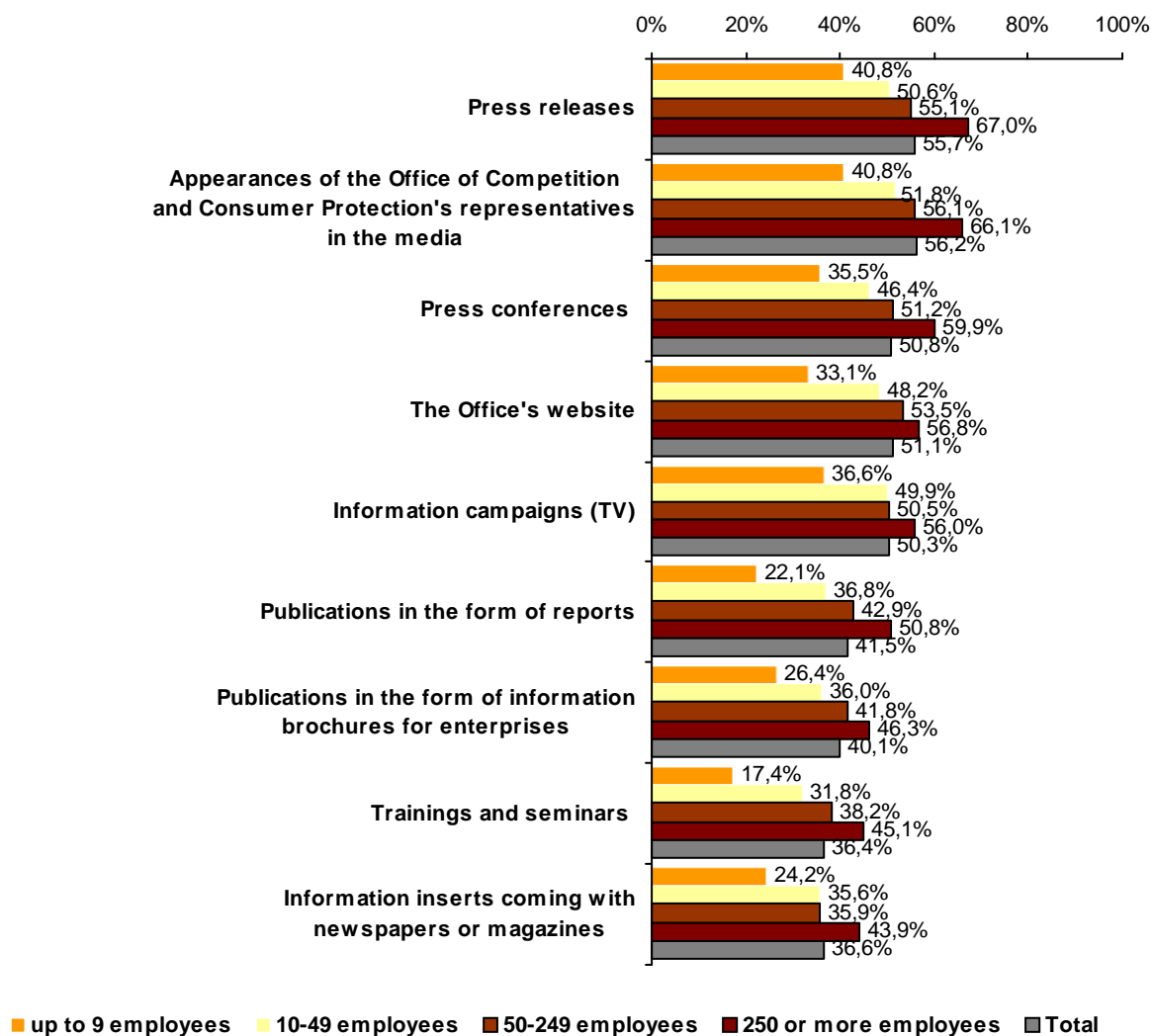
<sup>8</sup>Compare: *The Office...*, op.cit., p. 9.

<sup>9</sup>Compare. *The Office...*, op.cit., pp. 24-27.



**Q. A8A Have you heard about the following activities of the Office of Competition and Consumer Protection? – percentage of „yes” answers**

N=1114. Answered by respondents familiar with OCCP



Irrespective of the size of companies which they represented, respondents were most likely to notice the following communication activities of OCCP:

- appearances of OCCP's representatives in the media,
- press releases,
- the Office's website,
- press conferences,
- information campaigns.

It has been observed that the number of declarations concerning the awareness of all forms of communication activities increases with company size.

OCCP's intensive activity in the field of information and education is confirmed by analysis of data from OCCP's report for year 2008, on whose basis it can be stated that in that year the Office actively cooperated with Poland-wide media as well as regional and local media. Almost 140 press releases were issued (including 65 on competition protection, 54 on consumer protection, and 6 on state aid). Besides, 14 thousand publications appeared in the press and the internet, coupled with over 2 thousand radio and television materials concerning decisions issued by the Office's President and other activities undertaken by OCCP. The Office answered over 8 thousand questions from journalists. Also, educational campaigns were conducted among business entities (including publications, workshops and seminars for enterprises)<sup>10</sup>.

When comparing the results of 2006 and 2009 surveys, it has been stated that during the 3 years businesses' knowledge of particular activities undertaken by the Office of Competition and Consumer Protection in order to counteract competition-restricting practices has diminished. Depending on the number of employees, there has been a decrease by 9 (small companies) to 17 percentage points (big companies). However, the fact that companies with over 50 employees demonstrate considerably better knowledge of OCCP's activities than smaller companies hasn't changed.

In comparison to 2006, in 2009 a greater percentage of respondents have heard about the following activities of OCCP:

- press conferences,
- trainings and seminars,
- information inserts coming with newspapers or magazines.

On the other hand, in 2009 smaller awareness of communication activities was observed in relation to:

- press releases,

- OCCP's representatives' appearances in the media.

In both surveys, press releases and OCCP's representatives' appearances in the media were the most visible forms of the Office's communication activities. Similarly, in both measurements respondents were considerably less likely to declare they had contact with forms such as trainings and seminars or information inserts coming with newspapers and magazines, although an increase of their visibility has been observed in comparison to the survey conducted in 2006.

#### **4.4. Knowledge of activities connected with *leniency***

In 2008, the Office conducted over 40 proceedings concerning competition-restricting agreements. Enterprises' collusions concerning e.g. prices of goods or sharing markets are among the most harmful infringements of competition law and are extremely difficult to detect due to their secret character. Besides, they have negative impact on the economy, which is why penalties imposed on offenders are severe and can amount to as much as 10 percent of their income. Institution which enables renouncement of high financial penalties is the program of *leniency* (English)<sup>11</sup>. It provides the possibility to reduce financial responsibility for participation in a cartel in exchange for providing evidence of collusion and withdrawing from it.

In 2009, Regulation of the Council of Ministers of 26 January came into force, on the mode of proceeding in cases where enterprises apply to the President of the Office of Competition and Consumer Protection for renouncement of imposing a financial penalty or its reduction<sup>12</sup>. Also, President of the Office of Competition and Consumer Protection's Guidelines on leniency were adopted – a practical guide for enterprises defining the mode of submitting and processing of applications for renouncement or reduction of financial penalties (so-called "*leniency* applications")<sup>13</sup>.

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<sup>10</sup> Compare: *The Office...*, op. cit., pp. 52-56.

<sup>11</sup> *Leniency* program was first introduced in 1978 in the United States by the Department of Justice. In the European Union, the policy of more lenient treatment of enterprises choosing to cooperate with antimonopoly authority was pioneered by the European Commission. Compare: *Leniency*. OCCP, Warsaw 2004.

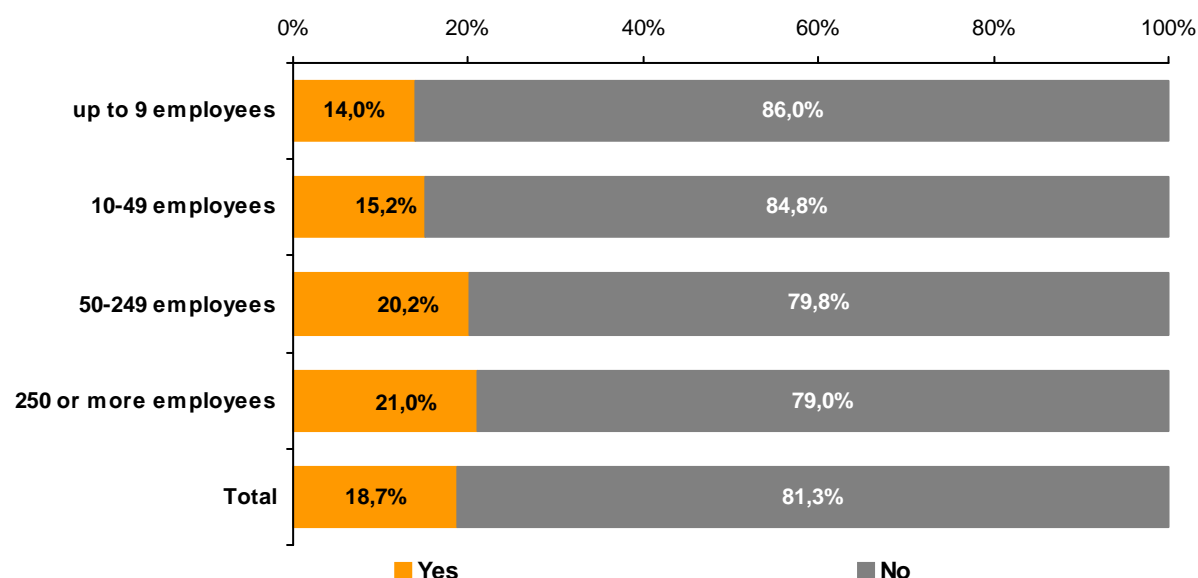
<sup>12</sup> Journal of Laws of 2009. No. 20, item. 109.

<sup>13</sup> Compare: [http://www.OCCP.gov.pl/pl/ochrona\\_konkurencji/program\\_lagodzenia\\_kar/](http://www.OCCP.gov.pl/pl/ochrona_konkurencji/program_lagodzenia_kar/)

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**Q. A5. The term leniency refers to regulations which allow for the possibility of the Office of Competition and Consumer Protection granting immunity from fines or their reduction to an enterprise participating in illegal competition-restricting agreement which undertakes cooperation with OCCP and provides information of an existence of an illegal competition-restricting agreement. Have you ever heard about the program?**

N=1114. Question asked to all respondents familiar with OCCP.



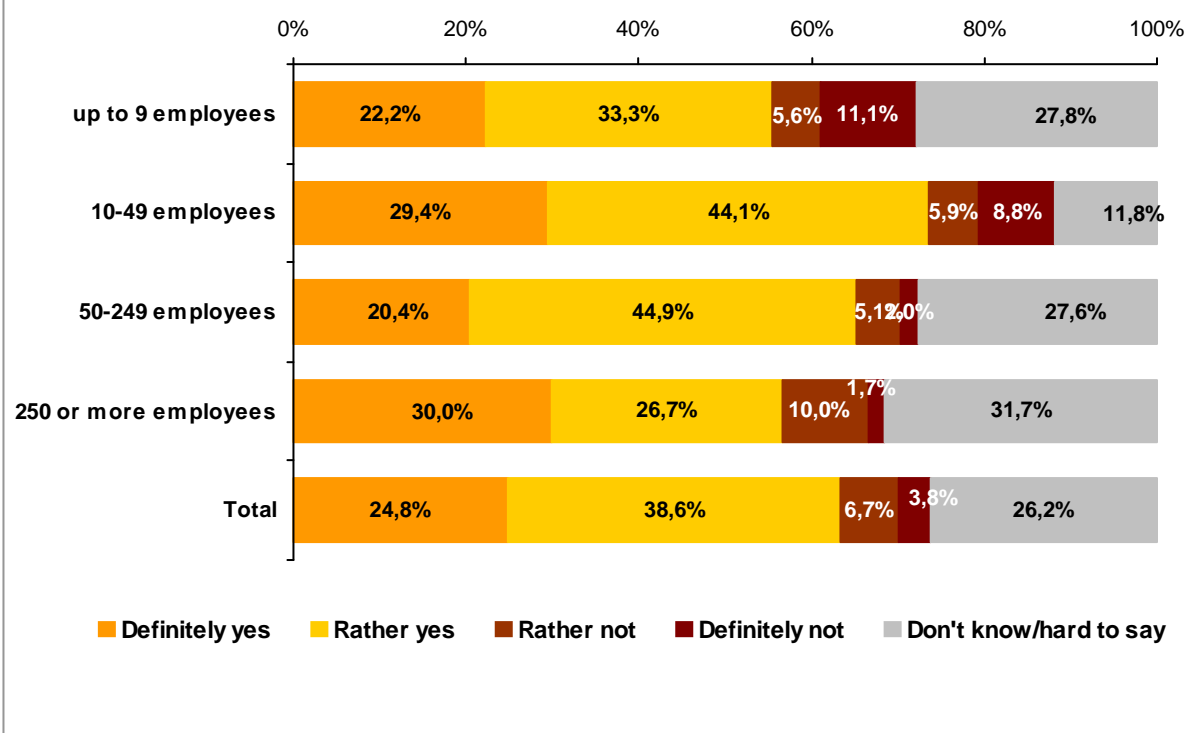
Overall, 1/5 of respondents have heard about the existence of *leniency* program. The program's awareness was higher among representatives of big (measured by employment) companies than among those representing small companies. A similar trend is visible in the analysis of results in categories of enterprises defined on the basis of turnover (up to PLN 1 m. – 15 percent; PLN 1-9 m. – 19 percent; PLN 10 m. or over – 26 percent).

In comparison to the survey conducted in 2006 (micro companies – 4 percent; small – 9 percent; medium – 13 percent; big - 22 percent), results obtained in 2009 show businesses' increased awareness of *leniency* program. The increase was greatest in the case of smallest companies, employing up to 9 persons (from 4 percent in 2006 to 14 percent in 2009). Like 3 years ago, the level of the program's awareness increased with enterprise's size measured by employment, and the differences were not so large in 2009 (in 2009, the difference between smallest and biggest company was 7 percent, whereas in 2006 it was 18 percent).

This year's survey also examined businesses' likelihood to use the program of *leniency*.

**Q. A5A If your company was part of a cartel, would you consider using leniency program?**

N=1114. Question asked to persons familiar with OCCP



Most respondents are favorably disposed towards *leniency* program. The total of “yes, definitely” and “yes, rather” answers runs from 56 percent in the case of smallest companies to 74 percent in the case of those employing between 10 and 49 persons.

Referring to the number of *leniency* applications so far submitted to OCCP in Poland, it must be emphasized relatively few businesses have taken advantage of the program (in 2004 – 1 application was submitted to OCCP, in 2005 and 2006 – 2 applications each; in 2007 – 6, and in 2008 – 5 applications)<sup>14</sup>.

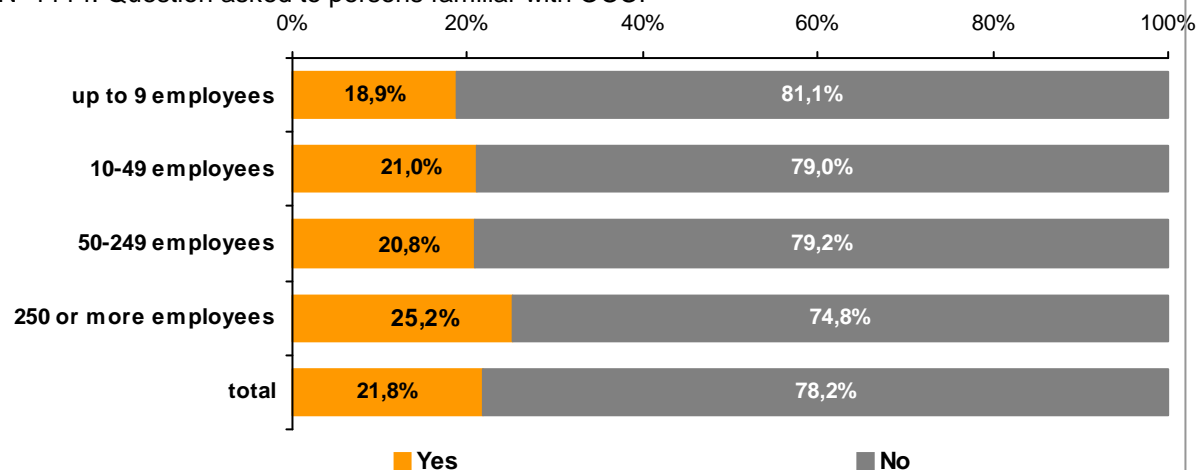
So, Regulation of the Council of Ministers concerning the mode of proceeding in cases of enterprises' applications to the President of the Office of Competition and Consumer Protection for immunity from or reduction of fines mentioned earlier in the text, as well as the Office's President's guidelines on *leniency* can certainly facilitate the solution's usage for enterprises. However, first, it is important for enterprises to be aware of the solution's existence. Hence an important element of the survey was defining the visibility of advertisement being part of the Office's educational campaign promoting knowledge of

<sup>14</sup> Compare: *The Office...*, op. cit., p. 19.

competition law. A comic and TV advertisement entitled "Joke" have been created, which encourage enterprises to voluntarily confess to price fixing<sup>15</sup>. The question about the advertisement's visibility was aided by presentation of the comic from campaign promoting *leniency* program. It was not stated whether it was television or press advertisement.

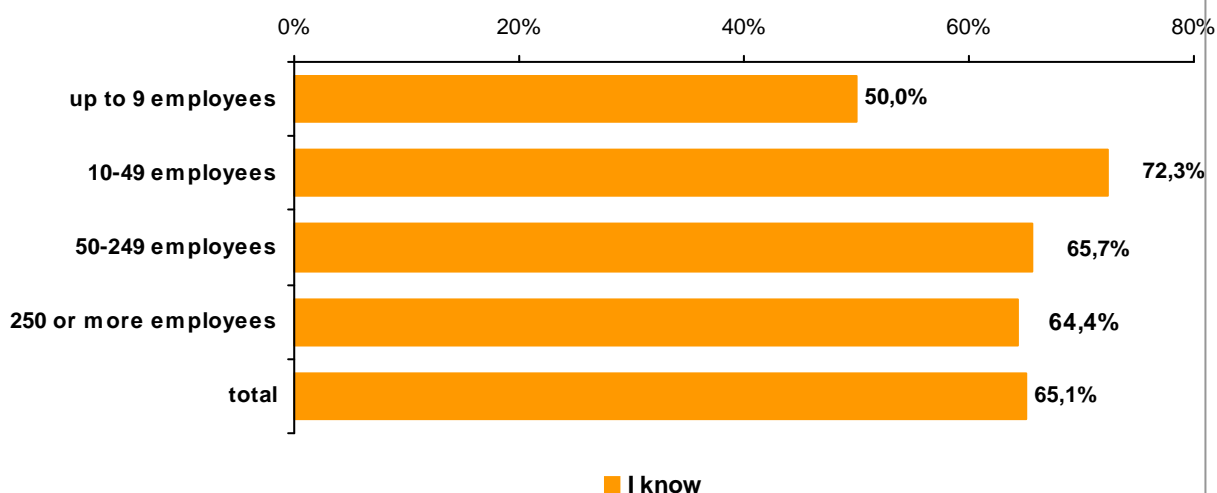
**Q. A9. Have you seen this advertisement?**

N=1114. Question asked to persons familiar with OCCP



**Q. A9A. What legal regulation does this advertisement refer to?**

N=243. Question asked to persons familiar with OCCP who have seen the advertisement, spontaneous answers.

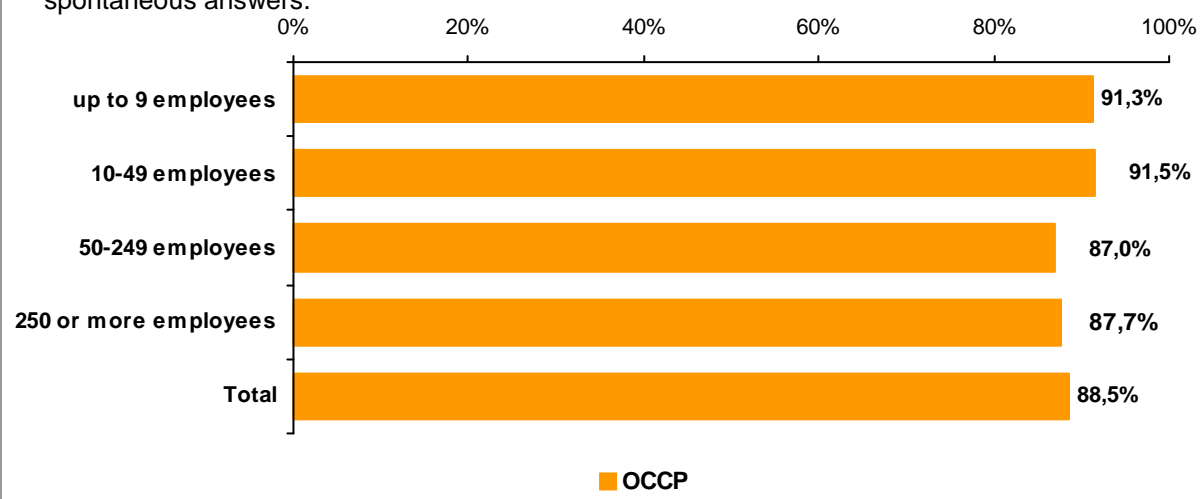


<sup>15</sup>Compare: [http://www.OCCP.gov.pl/pl/ochrona\\_konkurencji/program\\_lagodzenia\\_kar/](http://www.OCCP.gov.pl/pl/ochrona_konkurencji/program_lagodzenia_kar/)

The advertisement refers to the prohibition contained in the Act on competition and consumer protection of enterprises' fixing of prices, as well as laws regulating the possibility of extraordinary renouncement of fines for fixing of prices within *leniency* program. Among respondents who declared they were familiar with the advertisement, 65 percent declared they knew what legal regulation it referred to. Employees of smallest companies were least likely to declare they know what regulation the advertisement referred to. More persons knew what institution financed the advertisement. About 90 percent of the respondents who declared they knew the advertisement, irrespective of enterprise's size, declared it was OCCP.

**Q. A9B. According to you, what institution financed this advertisement?**

N=243. Question asked to persons who are familiar with OCCP and have seen the advertisement, spontaneous answers.



## **5. OCCP AS ANTIMONOPOLY AUTHORITY, KNOWLEDGE OF ANTIMONOPOLY LAWS**



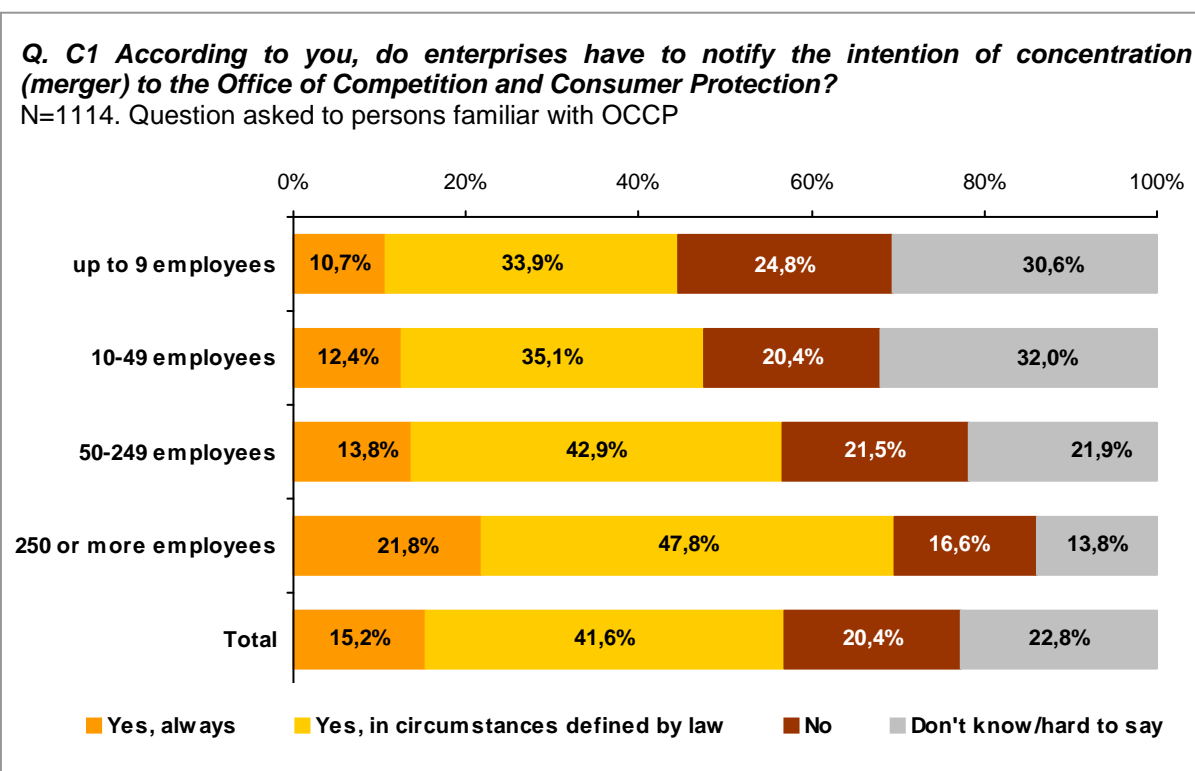
The Act of 16 February on competition and consumer protection states that the intention of concentration is subject to a notification submitted to the President of OCCP, in the case where:

- the combined worldwide turnover of undertakings participating in the concentration in the financial year preceding the year of the notification exceeds the equivalent of EUR 1 000 000 000, or
- the combined turnover of undertakings participating in the concentration in the territory of the Republic of Poland in the financial year preceding the year of the notifications exceeds the equivalent of EUR 50 000 000.

The fact that in circumstances defined by law an enterprise is obliged to notify the intention of concentration to OCCP is known to 34 percent of respondents representing smallest companies and 48 percent of those representing biggest companies. Interestingly, in most categories of enterprises, defined by employment, there are more supporters of the idea that such intention must always be notified, than supporters of the opinion that mergers don't have to be notified at all.

When analyzing the results, attention should be paid to the fact that high percentage of “yes – always” answers in the category of biggest companies, concerning notification of mergers, may result from the fact that some of the biggest companies, because of their turnover volumes, do have to notify intentions of mergers always when they plan them.



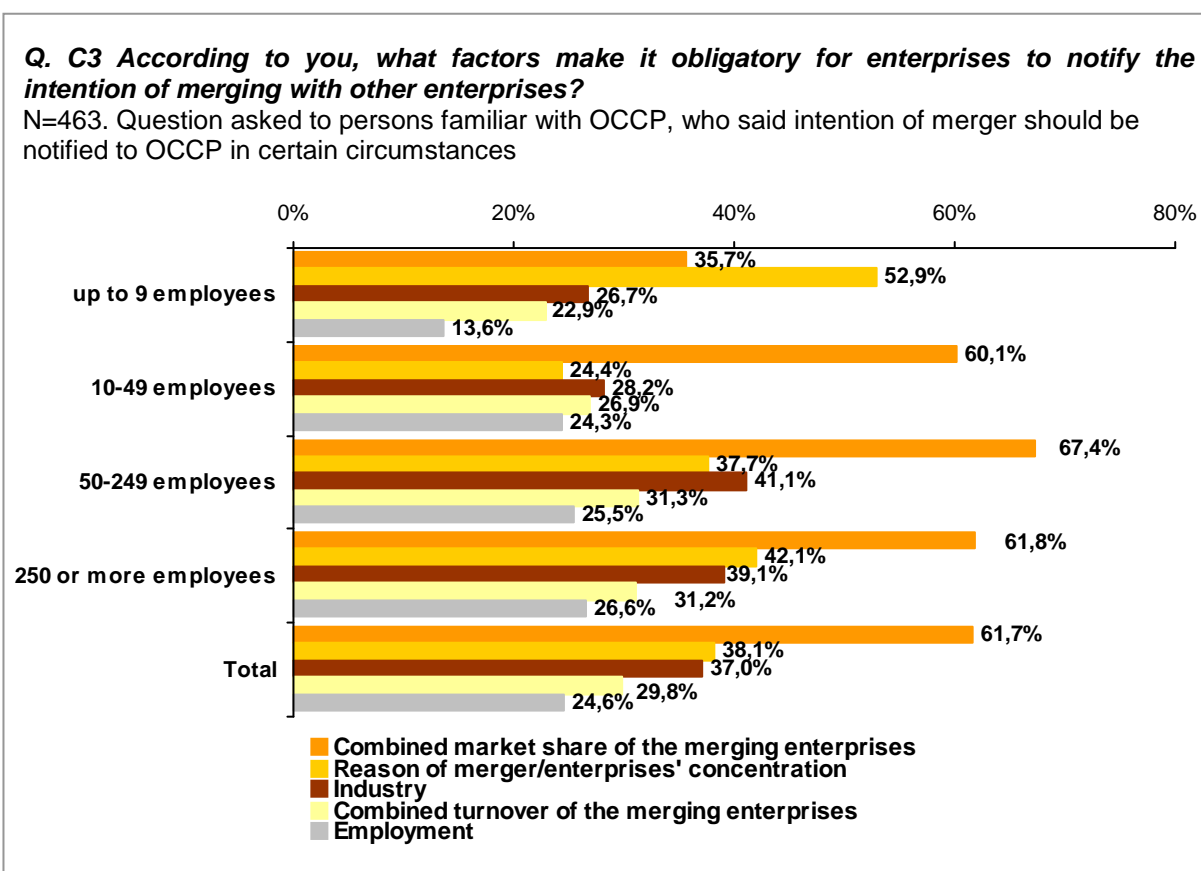


Respondents, who correctly answered the question about the obligation to notify mergers to OCCP, were asked to elaborate on their answers, i.e. say what factors, according to them, make it obligatory for an enterprise to notify the intention of merger. Possible answers were read out by interviewers. Among the options included in the questionnaire, the untrue factors were as follows: the reason (cause) of merger, employment, and industry.

As the main factor making notification of intended concentration obligatory, respondents recognize combined share in the market of enterprises participating in concentration (62 percent). Only in the category of smallest companies, the most often identified factor was the reason of merger. Combined turnover of enterprises participating in the concentration, being the only legally regulated criterion of concentrations' notification, is the more likely to be identified, the more persons a given company employs. Still, it is only the fourth factor mentioned by respondents if frequency of indications is considered (30 percent). It is more likely to be identified by respondents representing companies which employ over 50 persons, who are also more likely to mention the industry i.e. a factor irrelevant when notifying mergers, although influencing the decision issued by OCCP.

Data presented here contribute to the proposition that businesses demonstrate insufficient knowledge of the requirements of competition protection law referring to the

intention of implementing mergers. That was already visible in the results of 2006 survey, where the problem was even more evident.

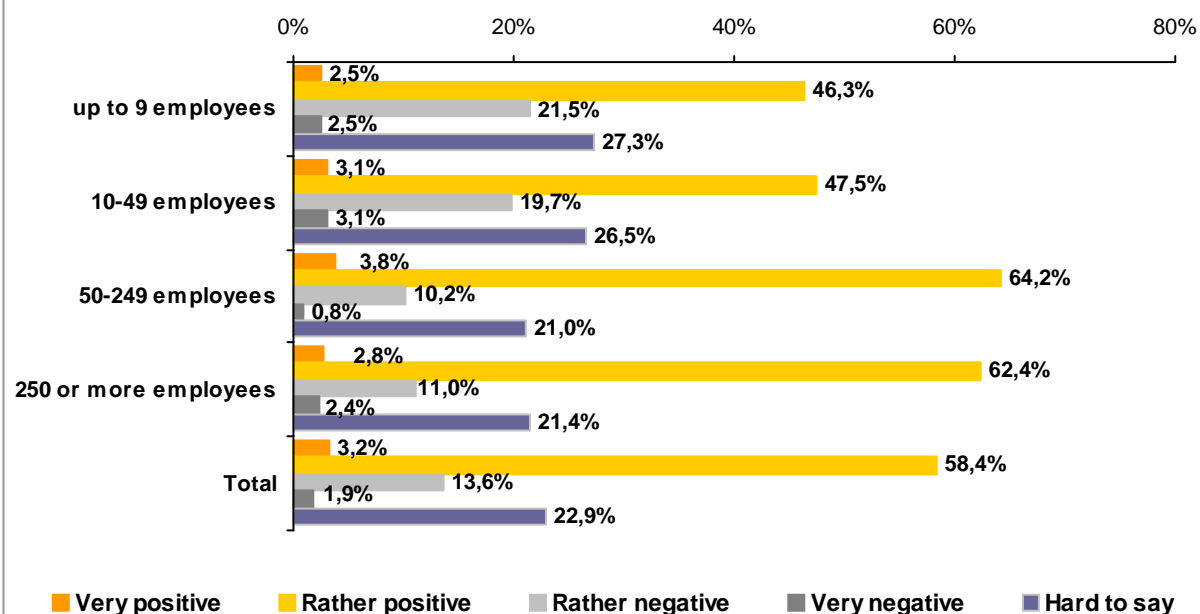


In comparison to 2006 survey, in 2009, a greater number of respondents knew that in certain circumstances an enterprise is obliged to notify the intention of a merger to OCCP (in 2006, depending on company size, knowledge of the fact ranged from 17 percent of respondents in the case of smaller companies to 36 percent of respondents in the case of companies employing 250 or more persons; while in 2009 the knowledge ranged from 34 percent in the case of smallest companies to 48 percent in the case of biggest companies). Also maintained was the tendency of bigger companies' greater awareness of the fact.

At the same time, there has been an increase in the knowledge of the fact that combined turnover of enterprises about to merge is a criterion conditioning the necessity to notify OCCP of the intention of concentration (irrespective of company size, increase by about 13 percentage points). However, no changes have been observed in the structure of companies' size in relation to the knowledge of the described criterion – companies employing from 50 persons still demonstrate better knowledge of this criterion of concentration than companies with smaller employment (micro companies – 23 percent; big companies – 31 percent).

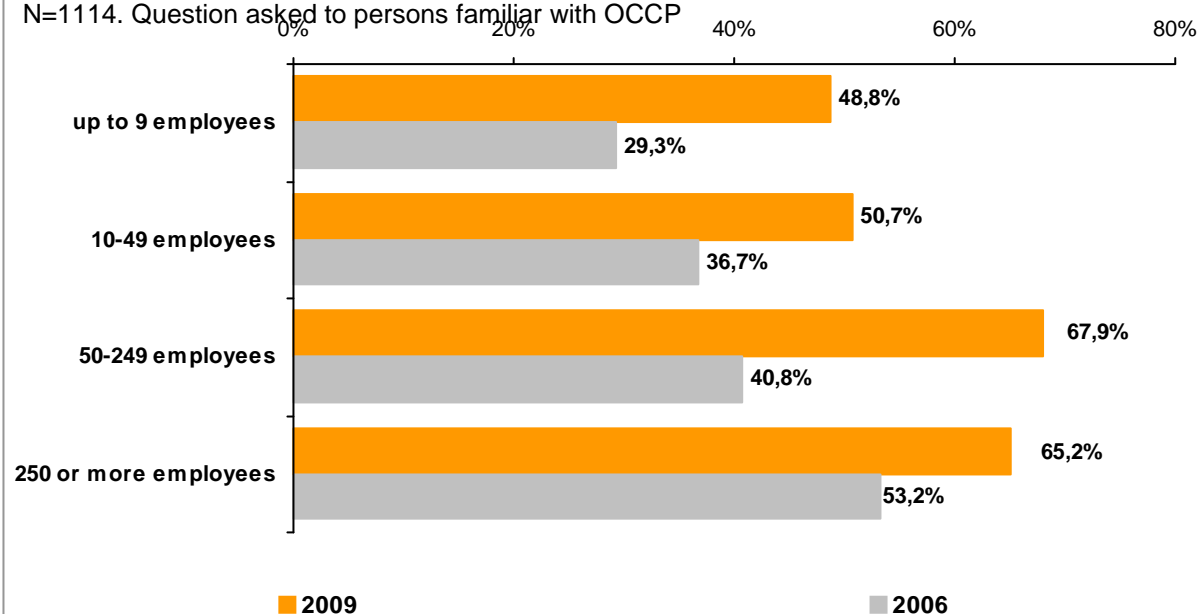
**Q. C4 What is your general opinion about the Office of Competition and Consumer Protection's activity as antimonopoly authority?**

N=1114. Question asked to persons familiar with OCCP



**Q. C4 What is your general opinion about the Office of Competition and Consumer Protection's activity as antimonopoly authority? Comparison between 2009 and 2006 surveys.**

N=1114. Question asked to persons familiar with OCCP



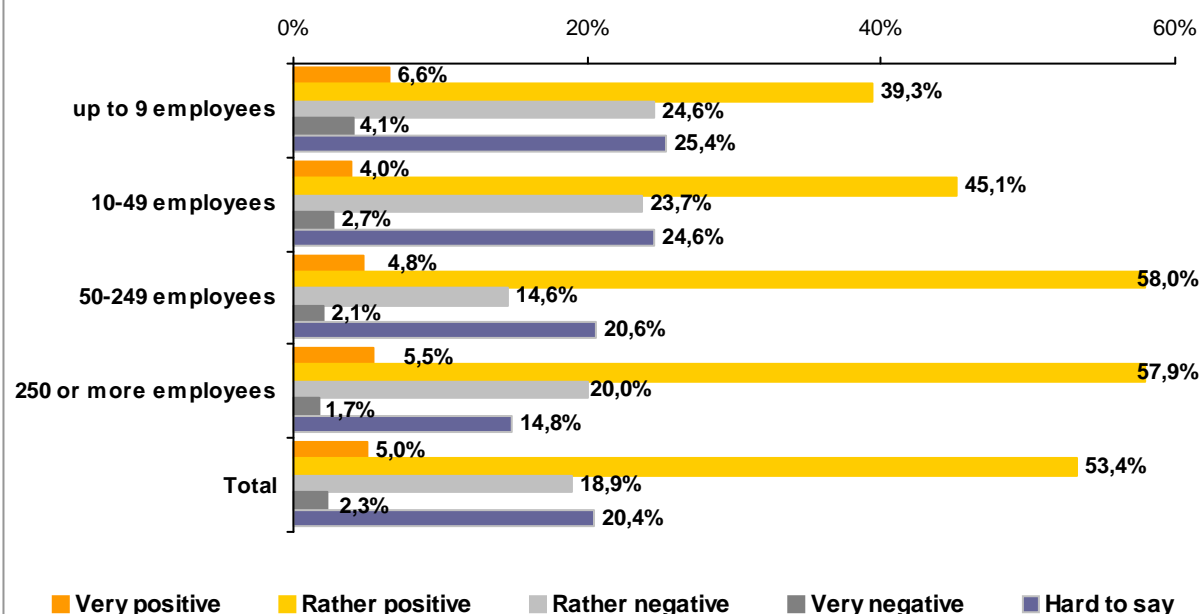
Respondents give positive rating to OCCP's activity as antimonopoly authority, though definitely positive ratings are rare. The larger the company, the more positive the perception of OCCP. Rating also becomes more positive as respondents' level of education increases (persons with vocational education - 46 percent of positive opinions; persons with higher education – 65 percent).

It is worth emphasizing that in comparison to 2006 results, in 2009, respondents, irrespective of the size of companies which they represented, rated the activity of OCCP as antimonopoly authority more positively. In both surveys', particularly positive rating was given by entrepreneurs representing companies with greater employment (50 persons or over).

Results of assessment of OCCP's speed of action, effectiveness, and intensity of activity are quite similar to the results of the Office's general assessment. This means that respondents' opinions are rather superficial; they probably don't know OCCP's activity well enough to be able to assess it in detail. Moreover, the smaller the company the respondent represents (measured by employment), the less positive his assessment of OCCP's speed of action, as well as the intensity of its antimonopoly activity.

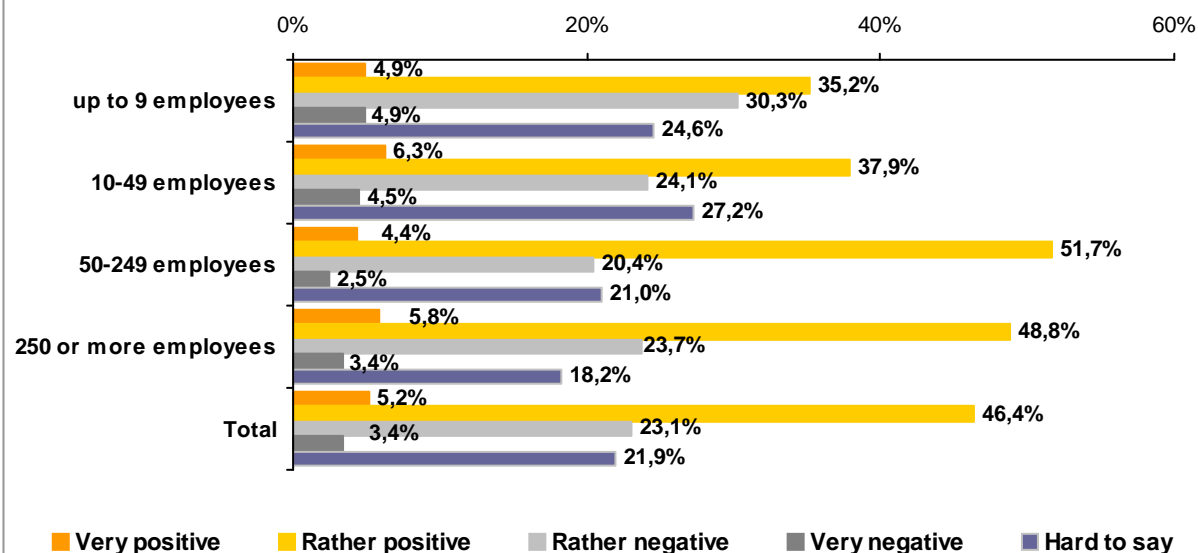
***Q. C5.1 What is your opinion about the activity of OCCP as antimonopoly authority from the perspective of effectiveness of its actions?***

N=1114. Question asked to persons familiar with OCCP



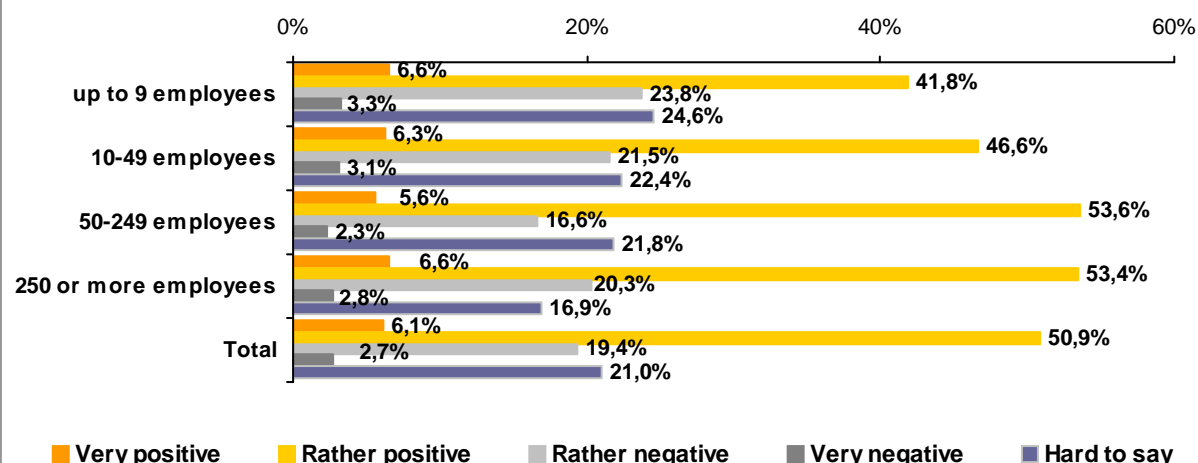
**Q. C5.2 What is your opinion about the activity of the Office of Competition and Consumer Protection as antimonopoly authority from the perspective of the speed of its action?**

N=1114. Question asked to persons familiar with OCCP



**Q. C5.3 What is your opinion about the activity of the Office of Competition and Consumer Protection as antimonopoly authority from the perspective of intensity of its antimonopoly activity?**

N=1114. Question asked to persons familiar with OCCP



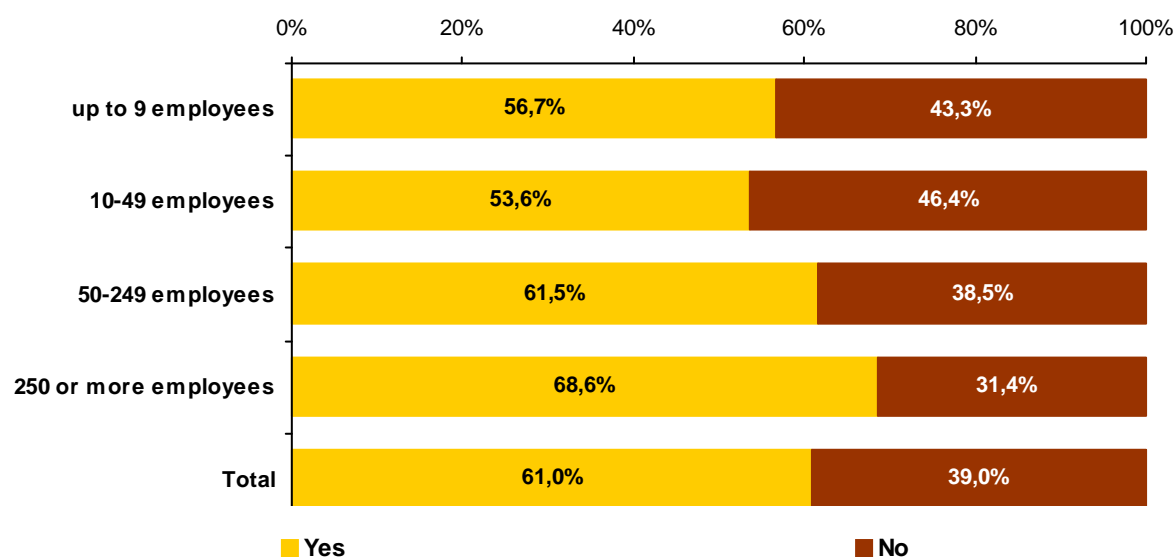
## 6. USING STATE AID AND ASSESSMENT OF OCCP'S ROLE IN THIS SCOPE

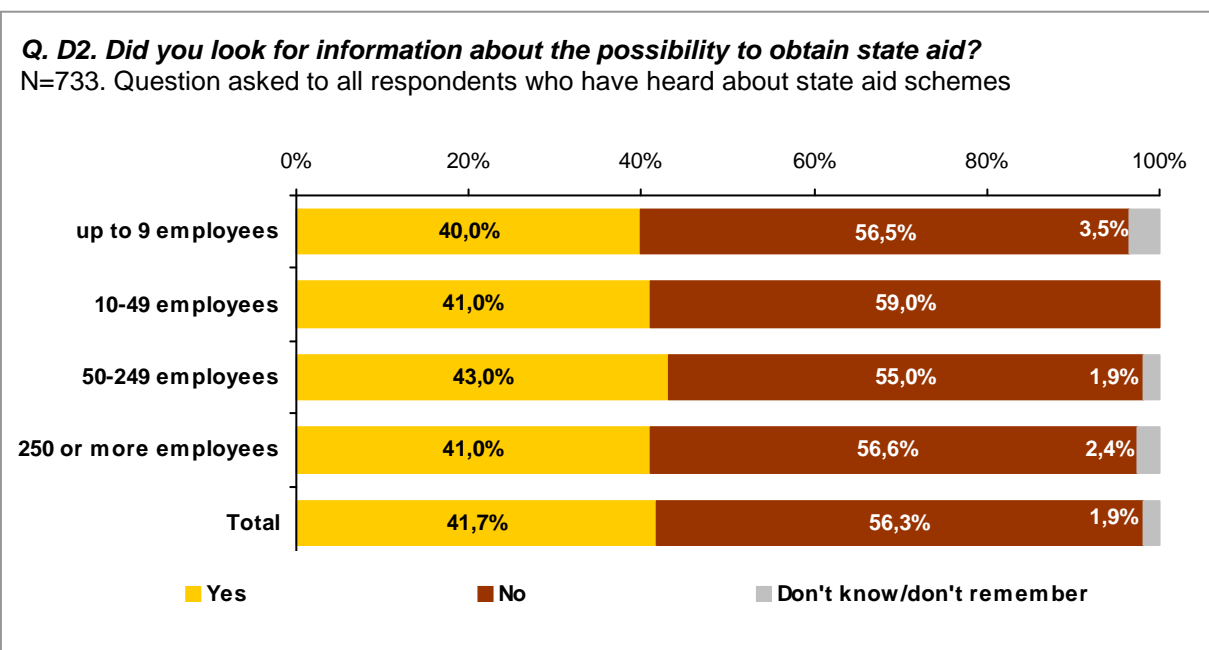


Since 2004, President of OCCP issues opinions on drafts of aid schemes granted to enterprises within aid programs and individual aid programs before sending them to the European Commission which is the only body with authority to take decisions on aid's compliance with the Common Market. On the basis of reports from subjects granting aid, President of the Office prepares annual reports on the size of aid granted.

### ***Q. D1. Have you heard about state aid schemes for enterprises?***

N=1200. Question asked to all respondents





Almost 2/3 of respondents have heard about state aid schemes for enterprises (61 percent). Awareness of the schemes was highest among largest enterprises, also those with higher turnover and greater reach. Other factors which had considerable influence on respondents' opinions in this scope were entrepreneurs' age, their education and companies' turnover. Namely, awareness of the schemes' increases with respondents' age (under 35 years of age – 52 percent; over 49 years of age – 70 percent), their level of education (higher – 66 percent; other – 54 percent), as well as turnover of companies which they manage (turnover under PLN 1 m. – 58 percent; turnover of PLN 10 m. or over – 78 percent).

42 percent of respondents who have heard about the possibility look for information about state aid. The fact of looking for such information does not depend on the size of enterprises represented by respondents. Persons who looked for information about state aid schemes said the access to information was very easy or rather easy (50 percent). Availability of information is rated somewhat lower by respondents representing companies employing under 50 persons.

Based on the data obtained from respondents, less than 1/4 of enterprises applied for state aid. In comparison to other companies, small enterprises stand out because only every ninth of them applied for state aid. The likelihood of applying for state aid was greater among companies with largest turnover (38 percent as compared to 23 percent in the case

of the remaining companies), as well as companies of international reach (30 percent as compared to 20 percent in the case of companies with other scopes of operation).

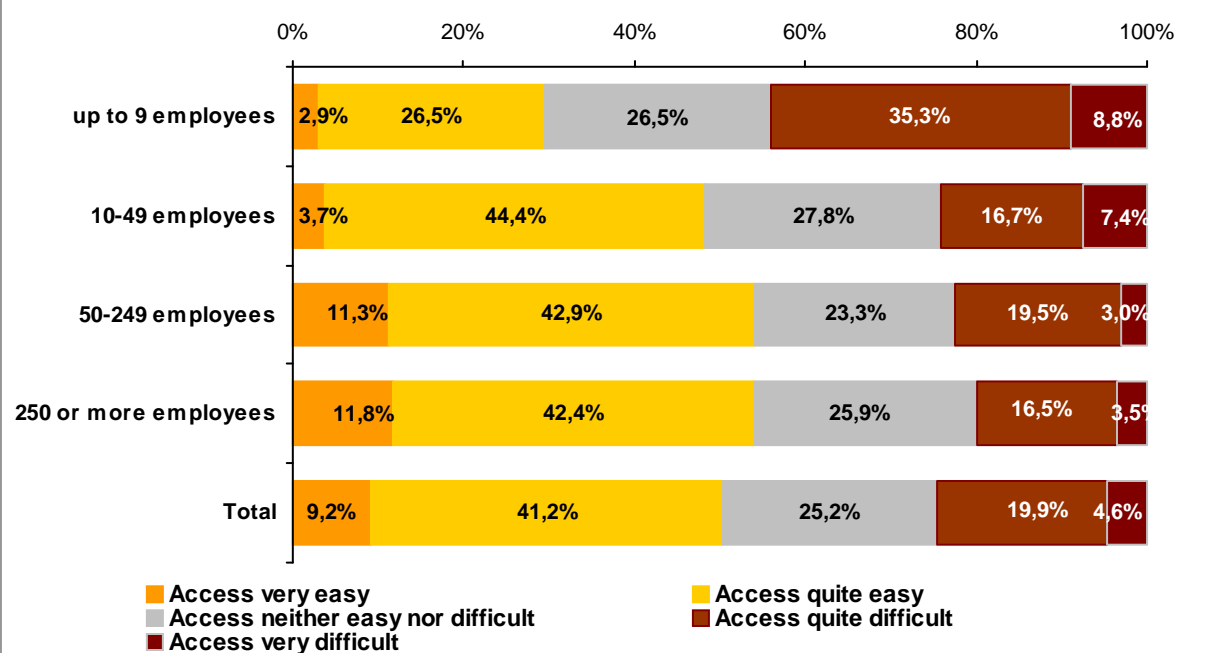
Companies which did not apply for state aid usually declared they had no such need (63 percent). Among other answers, there appears the opinion of 1/4 of respondents that procedures connected with applying for aid are discouraging – the problem was more likely to be mentioned by representatives of smaller companies.

Among companies which applied for state aid, almost 3/4 received it. Highest percentage was observed among biggest, and lowest among smallest enterprises.

According to approximately 50 percent of respondents who applied for state aid, the process of applying was difficult (36 percent) or very difficult (11 percent). The length of the procedure, according to approximately 46 percent of respondents, and the lack of clear principles in the process of applying for aid (opinion of 39 percent) are factors which discourage respondents from using this type of assistance.

**Q. D3 What is your opinion about availability of information on the possibility of obtaining state aid?**

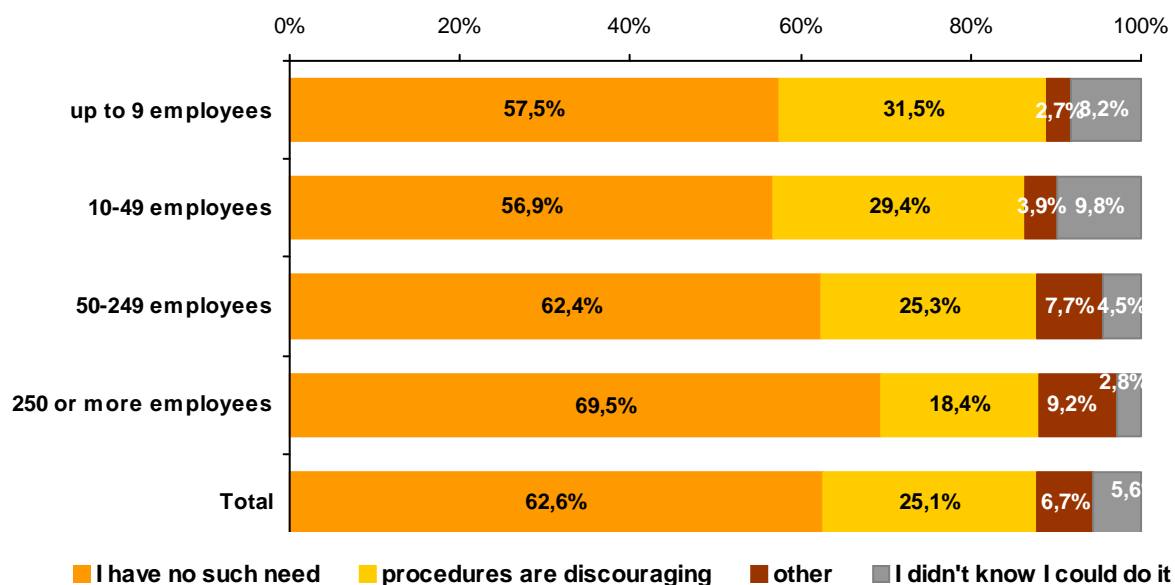
N=306. Question asked to respondents who have heard about state aid schemes and looked for information on the subject.





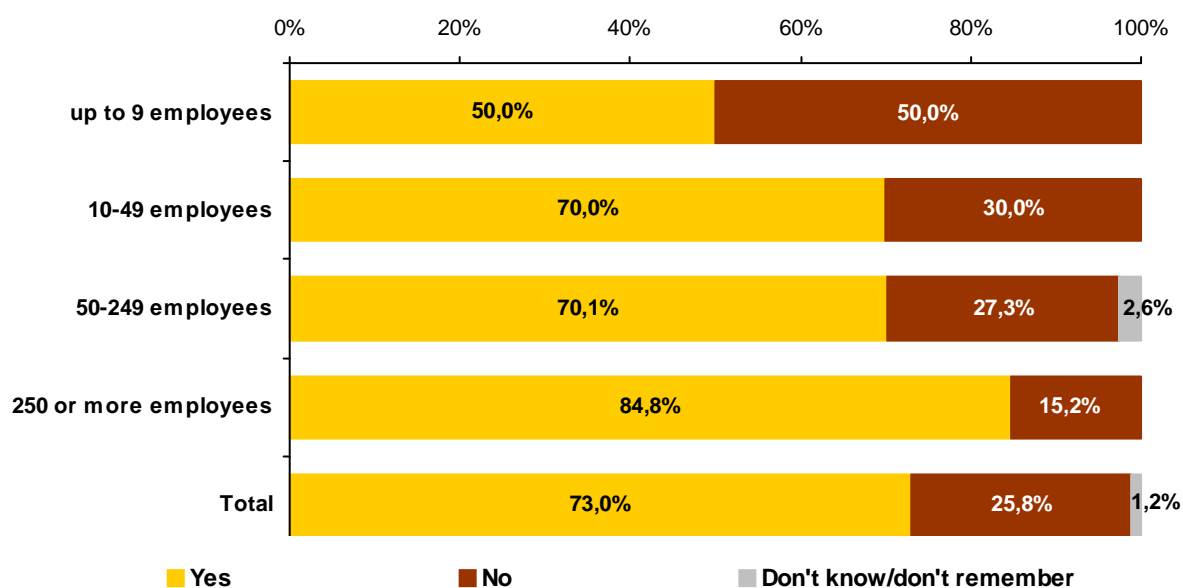
**Q. D4A Identify the main reasons which prevented you from applying for state aid in years 2007-2009?**

N=537. Question asked to all respondents who have heard about state aid schemes but did not apply for them.



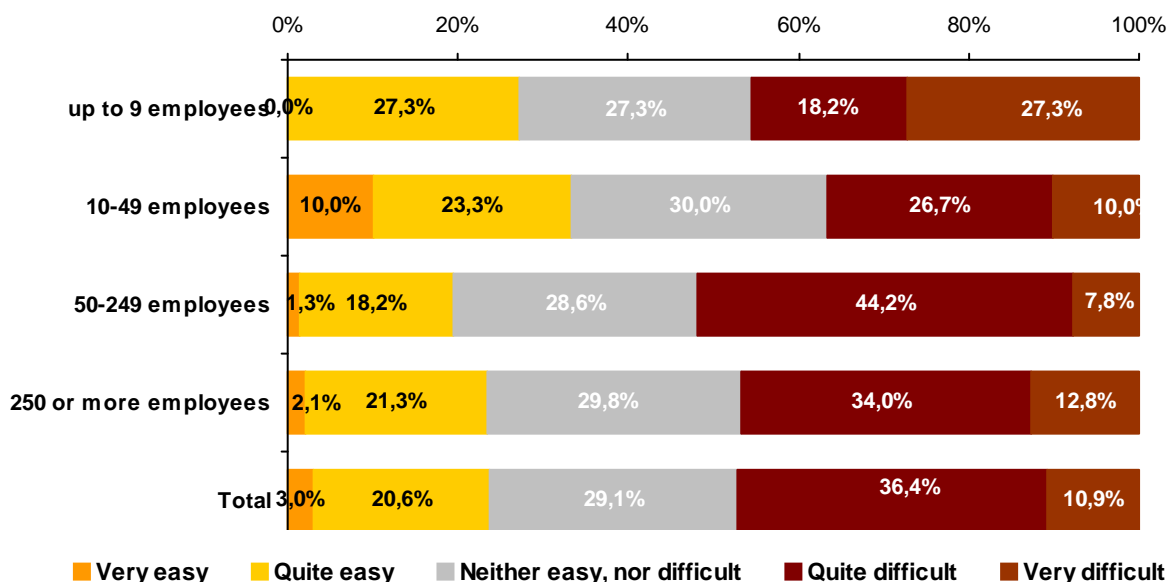
**Q. D5 Did your company receive state aid in years 2007 –2009?**

N=166. Question asked to all respondents who have heard about state aid schemes and applied for them.



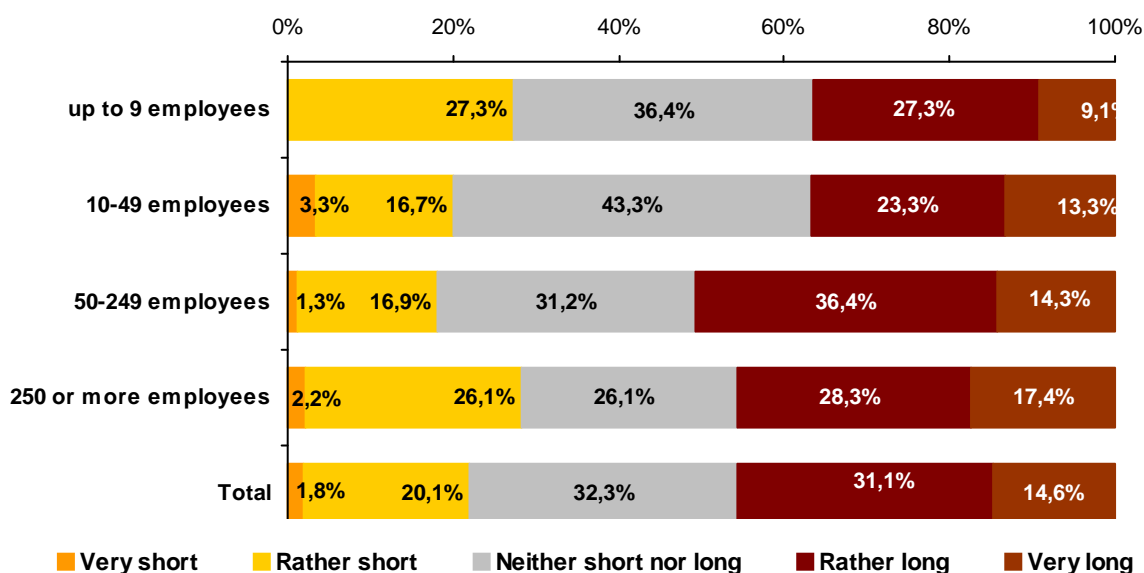
**Q. D7. According to you, how easy was the process of applying for state aid?**

N=166. Question asked to all respondents who have heard about state aid schemes and applied for them.



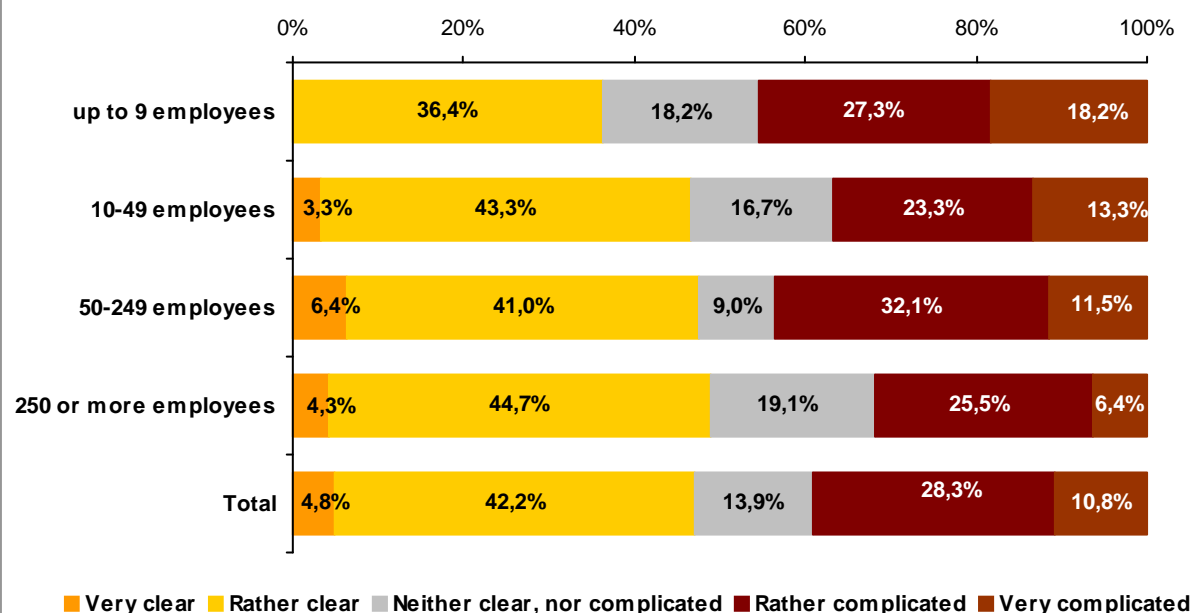
**Q. D8. According to you, how short/long was the process of applying for state aid?**

N=166. Question asked to all respondents who have heard about state aid schemes and applied for them.



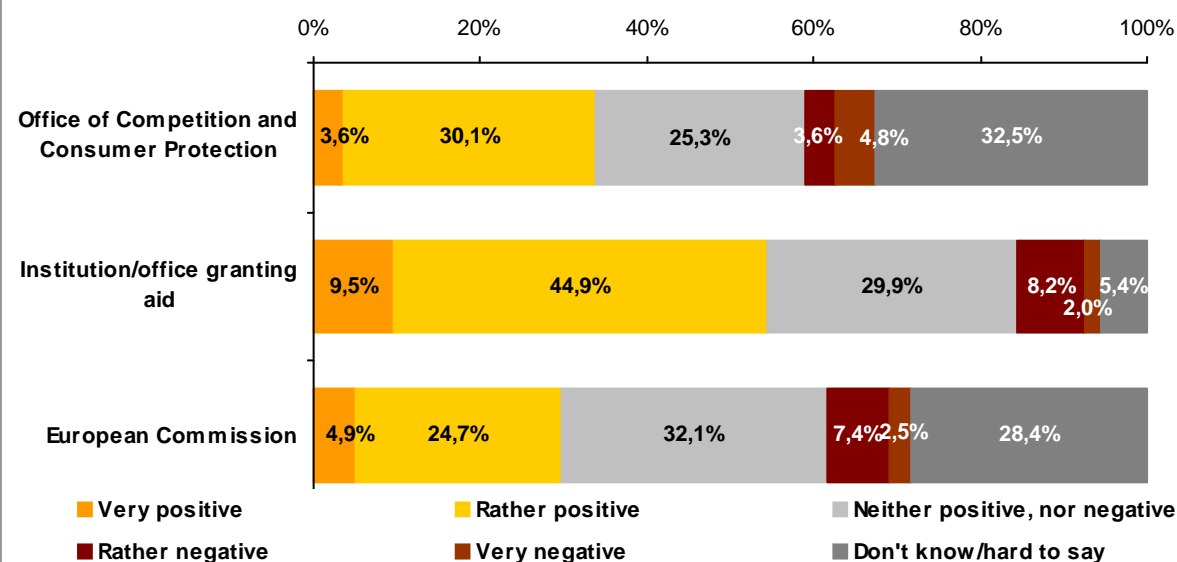
**Q. D9. According to you, how clear was the process of applying for state aid?**

N=166. Question asked to all respondents who have heard about state aid schemes and applied for them.



**Q. D10. What is your assessment of cooperation with the following institutions while trying to obtain state aid?**

N=83 (OCCP); N=147 (Institution/Office granting aid); N=81 (EC). Question asked to all respondents who have heard about state aid schemes and applied for them.



Respondents gave least positive rating to cooperation with European Commission (10 percent saw it as very negative or rather negative, with only 30 percent assessing it as very positive or rather positive).

Institutions where respondents were most likely to apply for state aid were offices dealing with employment – District Employment Offices, Voivodship Employment Offices, and Voluntary Labor Corps.

It must be emphasized that the process of applying for state aid is more likely to be assessed negatively than positively in the following aspects of assessment covered by the survey:

- degree of difficulty – respondents were more likely to state that the process of applying for state aid was very difficult or rather difficult than that it was very easy or rather easy (the percentage share of answers was 47 percent and 24 percent respectively);
- length – respondents were more likely to say that the process of applying for state aid was very long or rather long than that it was very short or rather short (percentage share of answers: 46 percent and 22 percent respectively).

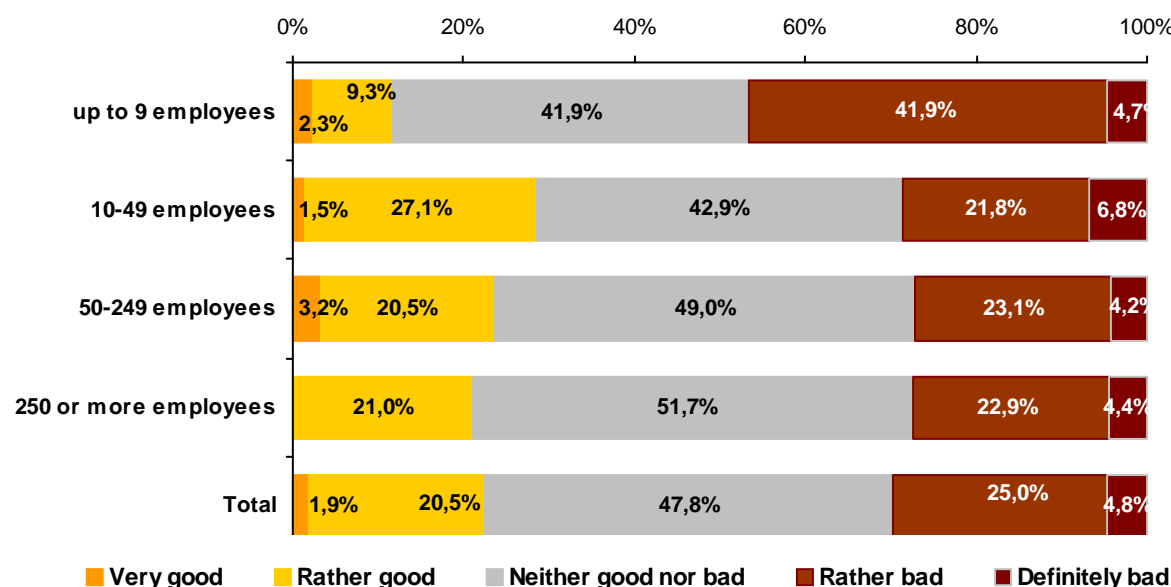
On the other hand, respondents gave more positive rating to the fact that:

- access to information about the possibility of obtaining state aid is very easy or rather easy and not rather difficult or very difficult (percentage share of answers: 50 percent and 25 percent respectively);
- process of applying for state aid is very clear or rather clear and not very complicated or rather complicated (percentage share of answers 47 percent and 39 percent respectively).

Among entrepreneurs covered by the survey, 67 percent believe their companies can apply for state aid. Such level of knowledge should be seen as high, besides, it is independent from company size (percentage of “don't know” answers). “No” answer is not equivalent to respondent's lack of knowledge – when answering the question why the company does not apply for this type of assistance, many respondents were likely to say it is not entitled to it for some reason (e.g. aid obtained before).

Knowledge of principles of applying for state aid is on medium level – respondents were most likely to define it as neither good nor bad (48 percent). Least likely to declare that their knowledge of the principles was very good or good were representatives of smallest enterprises (12 percent of respondents), and most likely – representatives of enterprises employing between 10 and 49 persons (29 percent).

**Q. D15. Could you assess your knowledge of principles of applying for state aid?** N=732.  
Question asked to all respondents who have heard about state aid schemes



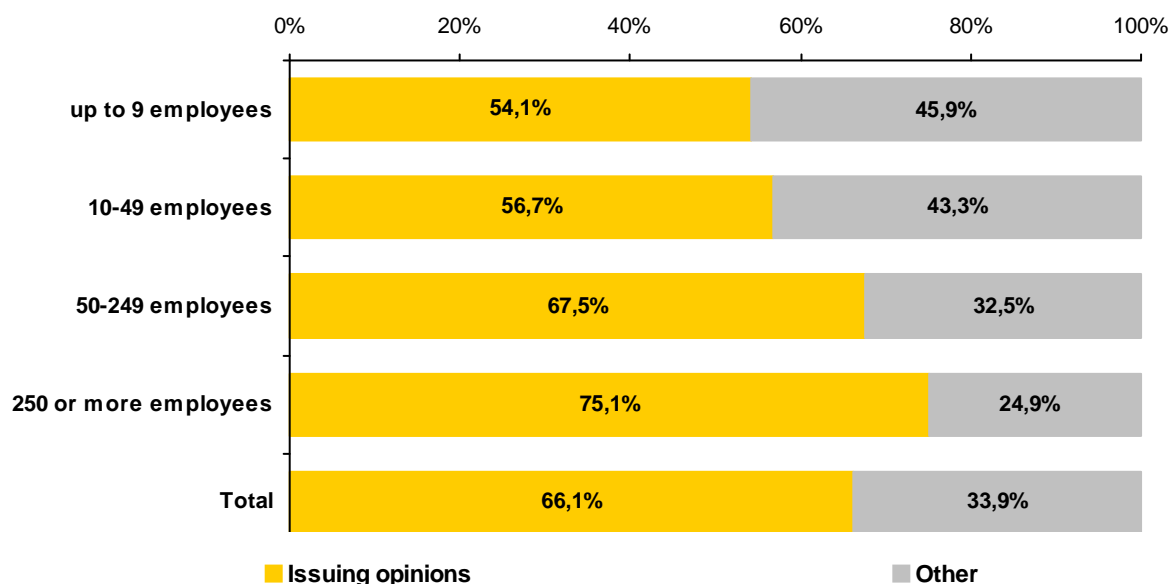
Before being asked about their knowledge of OCCP's role in the process of granting state aid, respondents were requested to spontaneously identify institutions which grant such aid. In answers, OCCP was mentioned only sporadically. Respondents were most likely to identify European Commission as aid-granting institution, and among national institutions – Marshal Office and Employment Agency.

When assessing OCCP's activities in the process of granting state aid, respondents stressed its power to issue relevant opinions. It has been observed the larger the companies (measured by employment) which the respondents represented, the more likely they were to identify OCCP as performing this function.

Among those who have heard about state aid schemes, less than 1/3 of respondents intend to apply for state aid for their companies in the future. Interest is greatest among enterprises employing between 10 and 249 persons, and smallest – among small companies employing up to 9 persons.

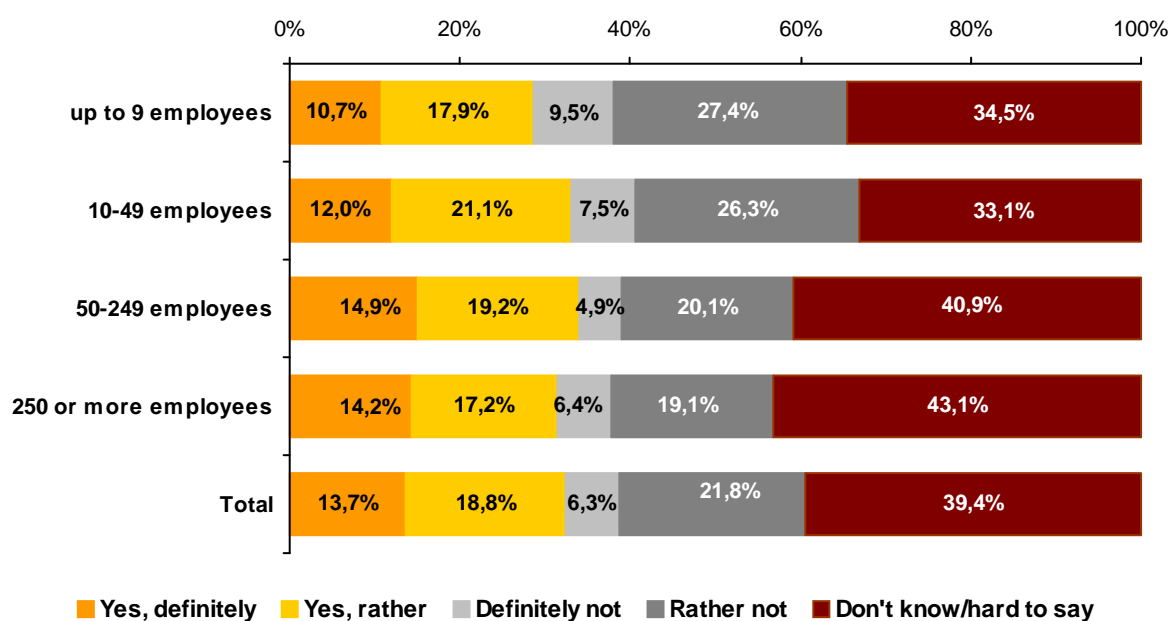
**Q. D17. What is the role of OCCP in the process of granting state aid?**

N=732 Question asked to all respondents who have heard about state aid schemes, spontaneous answers.



**Q. D18. Do you intend to apply for state aid for your company in the future?**

N=732. Question asked to all respondents who have heard about state aid schemes



The number of entrepreneurs who have heard about state aid schemes for enterprises was smaller in 2009 than in 2006. A decrease has been observed particularly in the case of companies employing at least 10 persons (17 percentage points in small companies, 19 percentage points in big companies, and 21 percentage points in medium companies). However, medium and big companies – in comparison to micro and small companies – still demonstrate greater awareness of the existence of state aid for enterprises.

Among persons who have heard about state aid schemes, 42 percent looked for information on the subject, a result similar to that obtained in the survey conducted 3 years ago. According to respondents, availability of information about the possibility of obtaining state aid has now considerably improved.

The process of applying for state aid is still relatively likely to be seen as difficult. However, the situation is changing to the better, particularly in companies employing between 10 and 49 persons – in comparison to the previous measurement, the percentage of answers describing the process of applying as very easy has visibly increased. Also the length of the process of applying for state aid has improved. Previously, respondents were most likely to describe it as “rather long”, now they say it is “neither long, nor short”. The process is also seen as clearer. The view is expressed by most respondents, whereas in the previous survey, of 2006, opinions prevailed the process was complicated.

In the current survey, 66 percent of respondents defined the role of OCCP as issuing opinions, which constitutes an increase by 6 percentage points in comparison to the previous survey, and assessment of cooperation with OCCP in the process of applying for granting state aid was definitely positive, like 3 years ago.

In 2006, respondents, when asked about their knowledge of principles of applying for state aid, assessed their competence negatively. In the current survey, neutral opinions prevailed, which suggests the level of knowledge is average. The percentage of respondents assessing their knowledge positively was almost equal to the percentage of entrepreneurs expressing an opposite opinion.

## **7. KNOWLEDGE AND ASSESSMENT OF POLISH COMPETITION PROTECTION LAW**



A half of persons managing companies believe that Polish competition protection law ensures equal treatment to all enterprises. The opinion is least likely to be expressed by representatives of smallest companies. Besides, it has been observed that the bigger the companies the respondents represent, the more positive their opinions on the subject.

When asked if competition protection law works in the interest of their companies, managers of smallest enterprises were most likely to declare that they don't find the law helpful. Opinions of persons managing bigger companies are quite different.

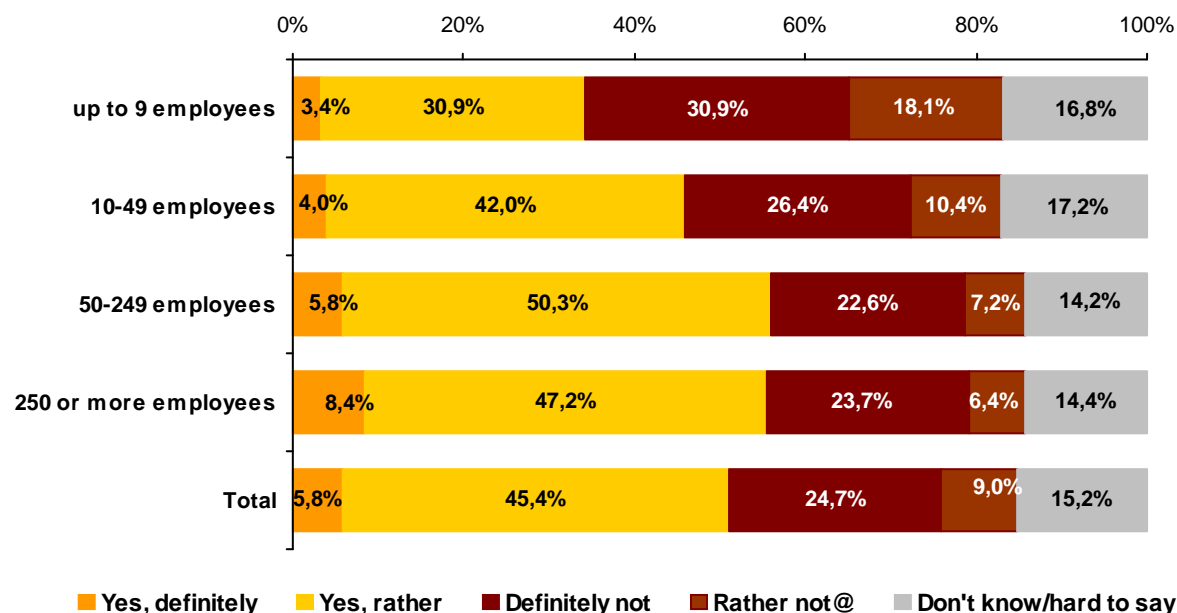
However, negative or positive opinions about competition protection law's influence on companies' activity do not result from managers' personal experience during the last two years as such declarations were expressed by only a few percent of respondents. It can be assumed the opinions originate either in managers' earlier experience, or in their general assessment of Polish competition protection law.

Only few respondents (7 percent) declared that competition protection law influenced their companies' operation. Those who did so quoted various reasons. Frequently, same aspects (e.g. concentration decisions) were assessed positively by some but negatively by others (e.g. "we got merger permission" or "establishment of a large merged company that would dictate conditions on the market was prevented" – i.e. in some cases, respondents are happy with concentration permissions, in others, they welcome refusals of such permissions).



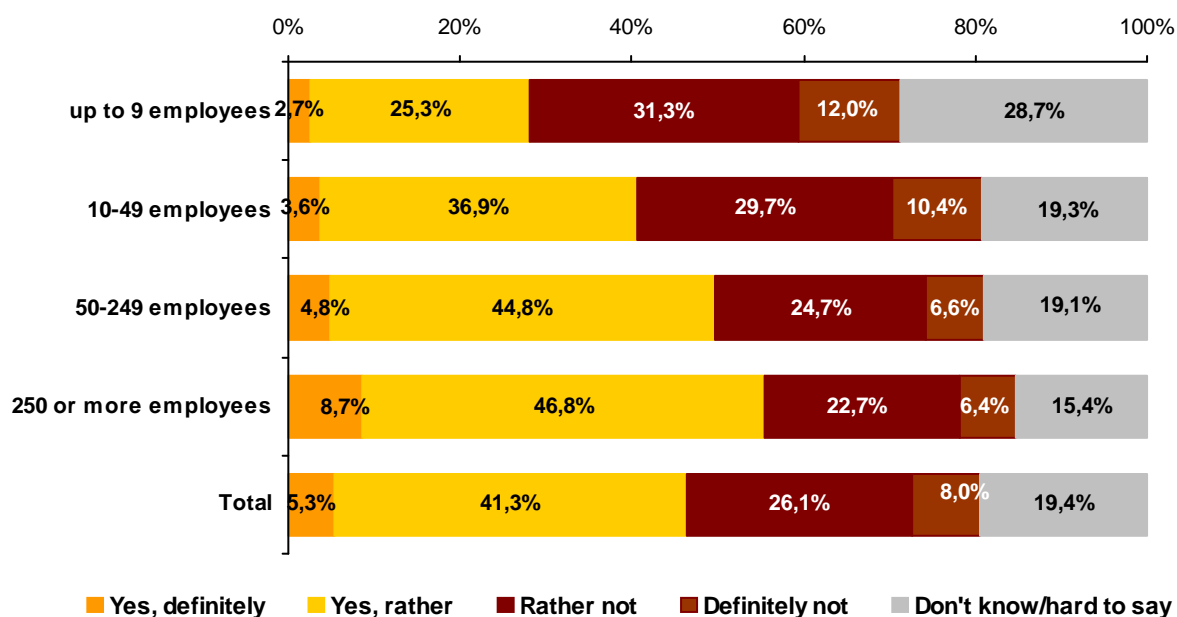
**Q. B4. Does Polish competition protection law ensure equal treatment to all enterprises?**

N=1200. Question asked to all respondents



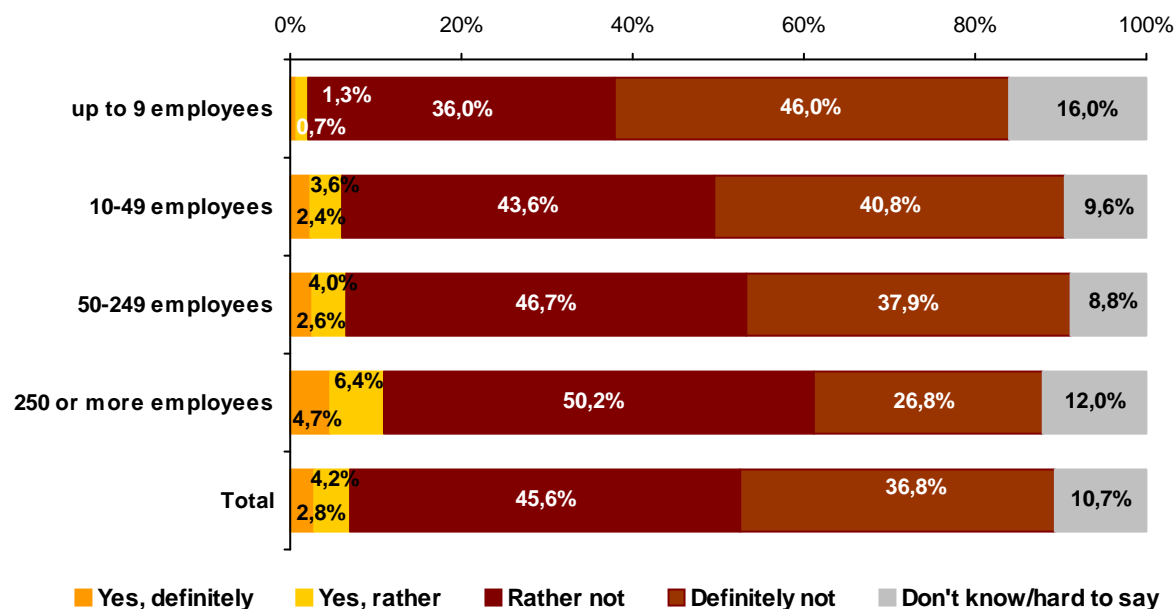
**Q.B5. Does Polish competition protection law protect the interests of enterprises such as yours?**

N=1200. Question asked to all respondents



**Q. B6. Has Polish competition protection law had an influence on the operation of your company in years 2007-2009?**

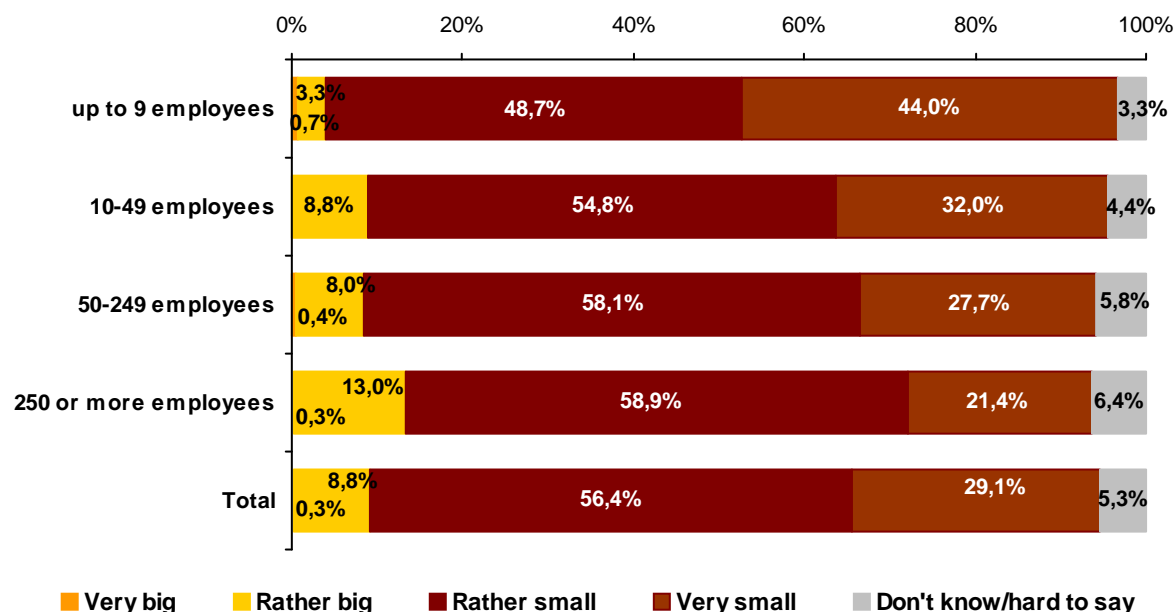
N=1200. Question asked to all respondents



Respondents assess their knowledge of both Polish and European Union's competition law as small. Only several percent of the persons covered by the survey defined it as big, and the option "very big" was chosen very rarely. No differences have been noticed between their knowledge of Polish competition law and the respective regulations in the entire territory of European Union.

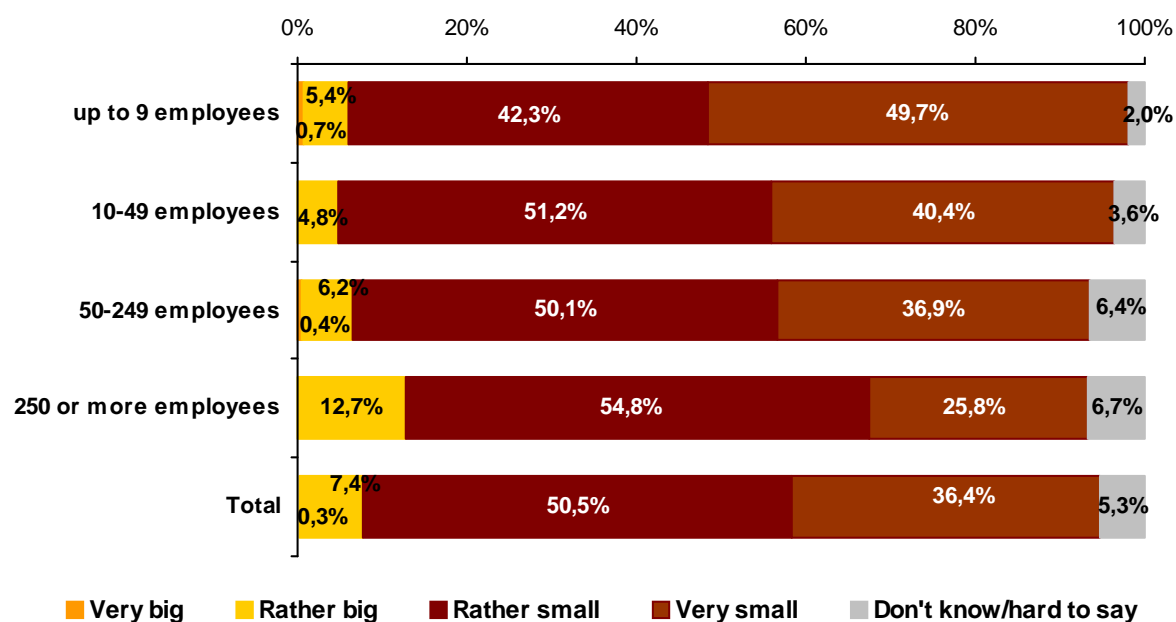
**Q. B8. In Poland, since 2007, the act on competition and consumer protection has been in force, which regulates the conditions of development and protection of competition. How do you assess your knowledge of Polish competition protection law?**

N=1200. Question asked to all respondents.



**Q. B9. How do you assess your knowledge of competition protection law in European Union?**

N=1200. Question asked to all respondents.

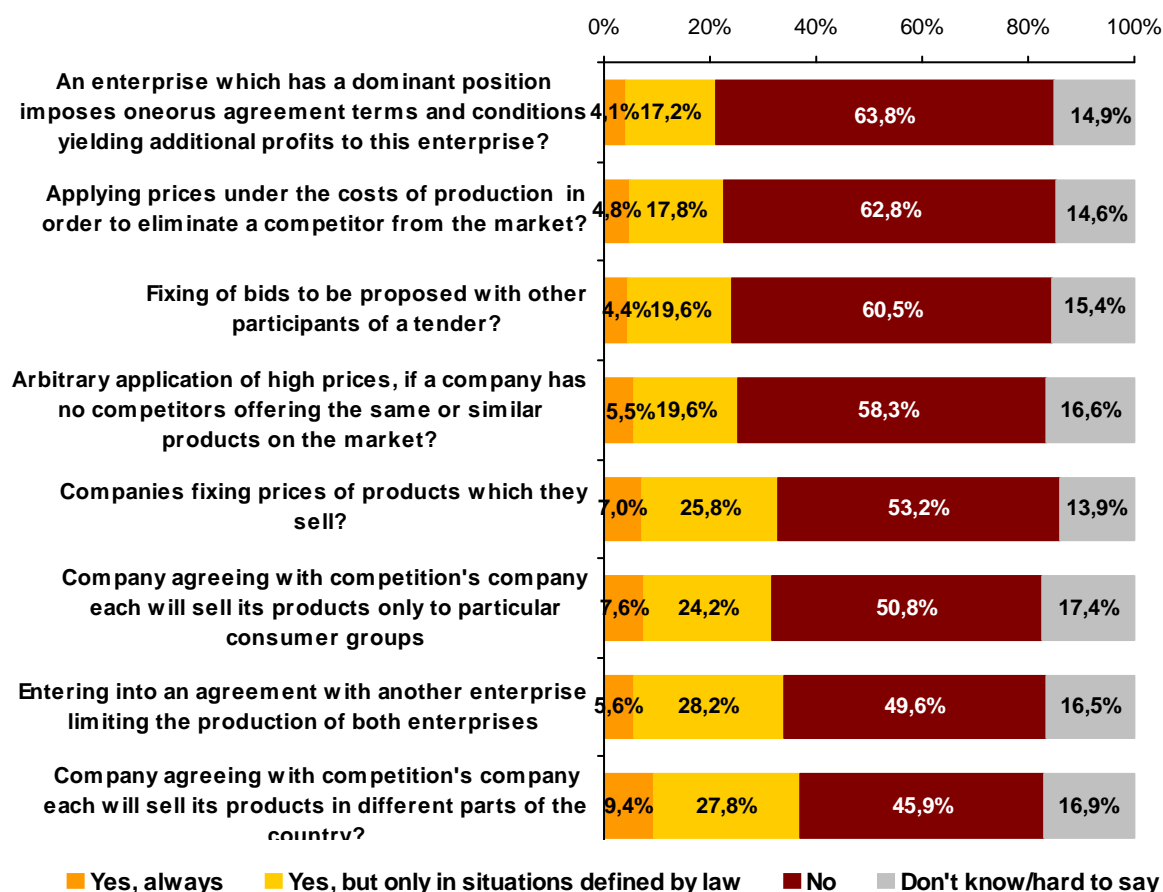


Along general knowledge of competition protection law, the survey tested – using case studies – practical application of competition protection law, as well as respondents' level of knowledge of legality of business practices regulated by law.

Respondents had 8 illegal practices presented to them. Depending on the type of practice, 46 to 64 percent of respondents were aware of their illegality. Practices most likely to be identified as illegal are those concerning the abuse of a dominant position on the market (imposing onerous contract terms and conditions on contracting parties), prohibited agreements concerning price fixing, and tender collusions. Least known is the fact of illegality of practices connected with regulating production and those concerning sharing the markets of sale (according to territory or customers' segment).

**Q. B12. According to you, is it legal...**

N=1200. Question asked to all respondents



**Table 4. Q. B12. According to you, is it legal...**

Business practices	Up to 9 employees	10-49 employees	50-249 employees	250 and more employees
	% of "NO" answers			
Companies fixing prices of products which they sell?	49	46	55	59
Company agreeing with competition's company each will sell its products in different parts of the country?	39	42	46	52
Company agreeing with competition's company each will sell its products only to particular consumer groups	44	48	50	57
Entering into an agreement with another enterprise limiting the production of both enterprises	42	48	50	55
Fixing of bids to be proposed with other participants of a tender?	49	55	62	69
Applying prices under the costs of production in order to eliminate a competitor from the market?	61	60	60	72
An enterprise which has a dominant position imposes one-sided agreement terms and conditions yielding additional profits to this enterprise?	63	58	63	71
Arbitrary application of high prices, if a company has no competitors offering the same or similar products on the market?	60	54	56	65

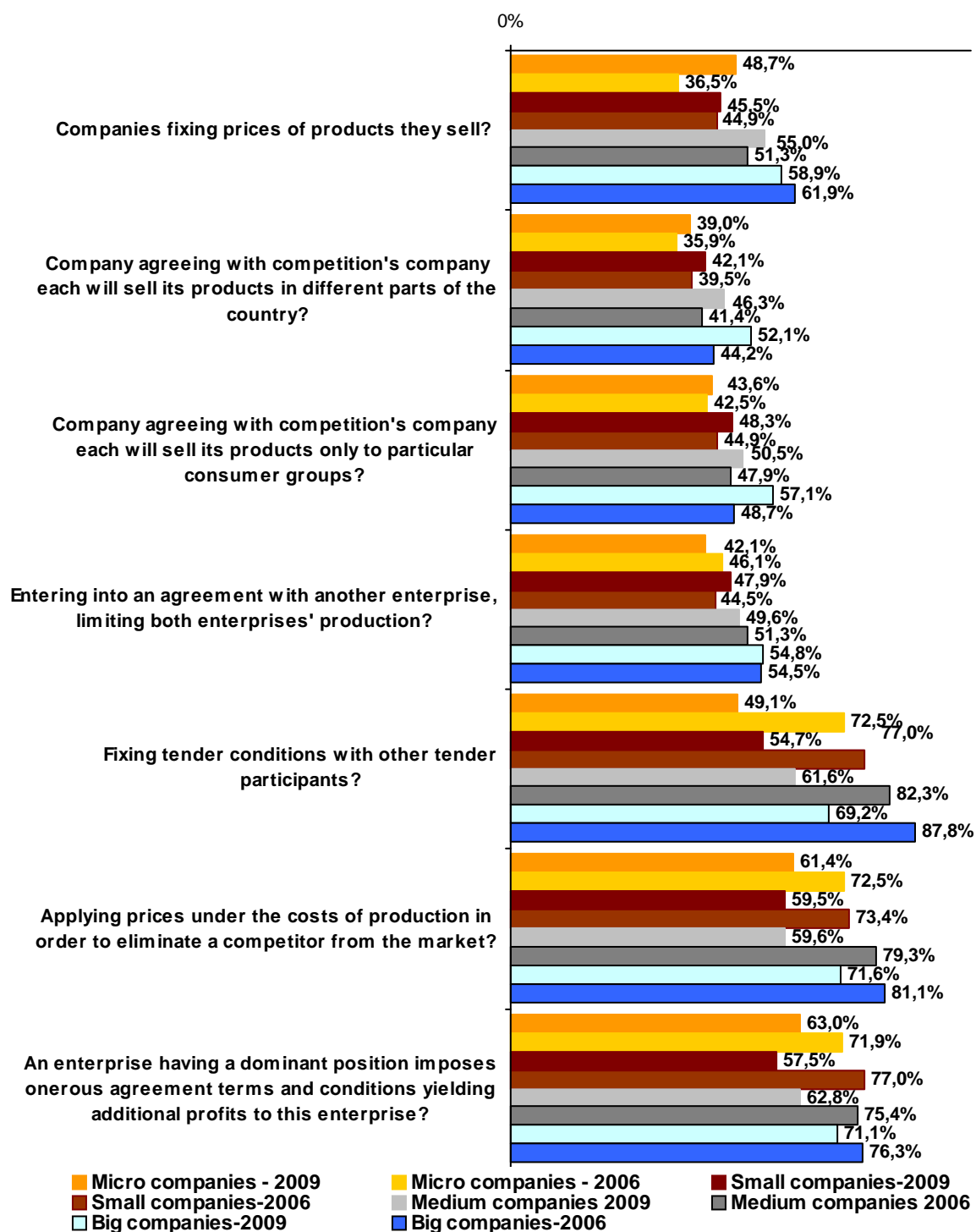
For most practices analyzed the level of knowledge that some of them are illegal increases with company size measured by employment. Irrespective of the practice, awareness of their illegality is highest among biggest companies.

After having assessed legality of business practices prohibited by competition law, respondents were requested to determine the legality of concrete situations:

- *In some town, owners of hair salons fixed minimum prices for their services.*
- *A Poland-wide newspaper drastically lowered advertisement prices in one region, aiming to force a local newspaper out of the market.*
- *On an industry meeting, companies agreed that, because of crisis, for each of them to be able to maintain the price level without having to lay off employees, each would reduce production by 30 percent.*
- *A company having a dominant position on the market of devices for reception of satellite television imposed an obligation on cable TV networks to service its devices partially with their own means and at their own cost.*

**Q. B12. According to you, is it legal... - Comparison of 2009 and 2006 – „NO” answers**

N=1200. Question asked to all respondents



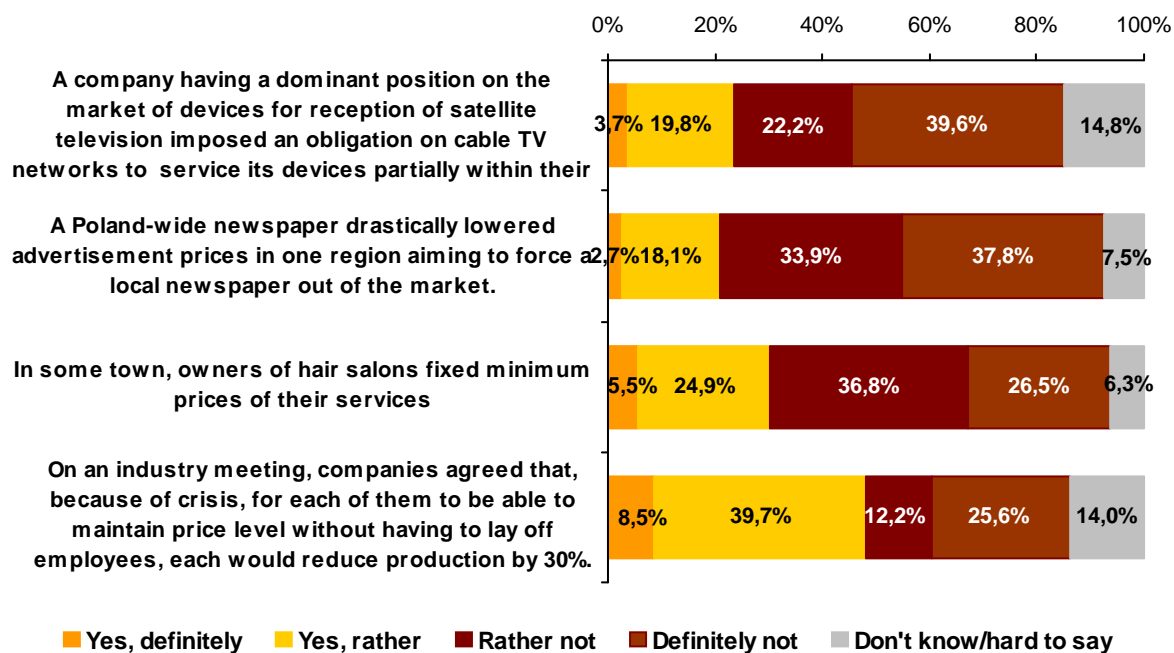
Analysis of concrete situations showed identical regularities as analysis of business practices. As illegal, respondents were more likely to recognize practices connected with the abuse of a dominant position on the market, than those connected with prohibited agreements aimed at limiting production. It was also evident that smallest companies assess the presented situations' legality less correctly than other enterprises. They demonstrate lowest level of knowledge of the prohibition of entering into agreements with another enterprise, limiting the production of both enterprises. In their case, the percentage of answers stating the practice was "illegal" or "rather illegal" was 23 percent, whereas in the case of biggest companies, it was considerably higher (44 percent). That is understandable, as small companies are unlikely to violate the law in this way because of their – usually small - scale of production.

Biggest companies demonstrated highest awareness of illegality of the following situations:

- applying prices under the costs of production in order to eliminate a competitor from the market (74 percent – situation from Q. B26);
- companies fixing prices of products which they sell (69 percent – situation from Q. B25);
- an enterprise having a dominant position imposing onerous agreement terms and conditions yielding additional profits to this enterprise (59 percent – situation from Q. B28);
- entering into an agreement with another enterprise, limiting the production of both enterprises (44 percent – situation from Q. B27).

**Q. B25 - B28. According to you, was it legal...**

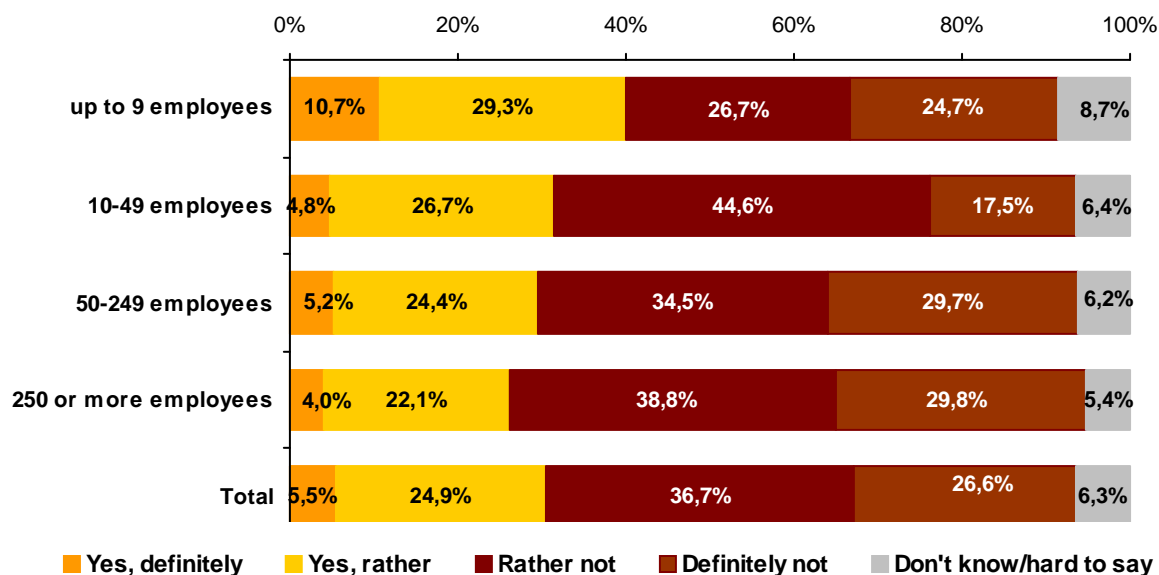
N=1200.





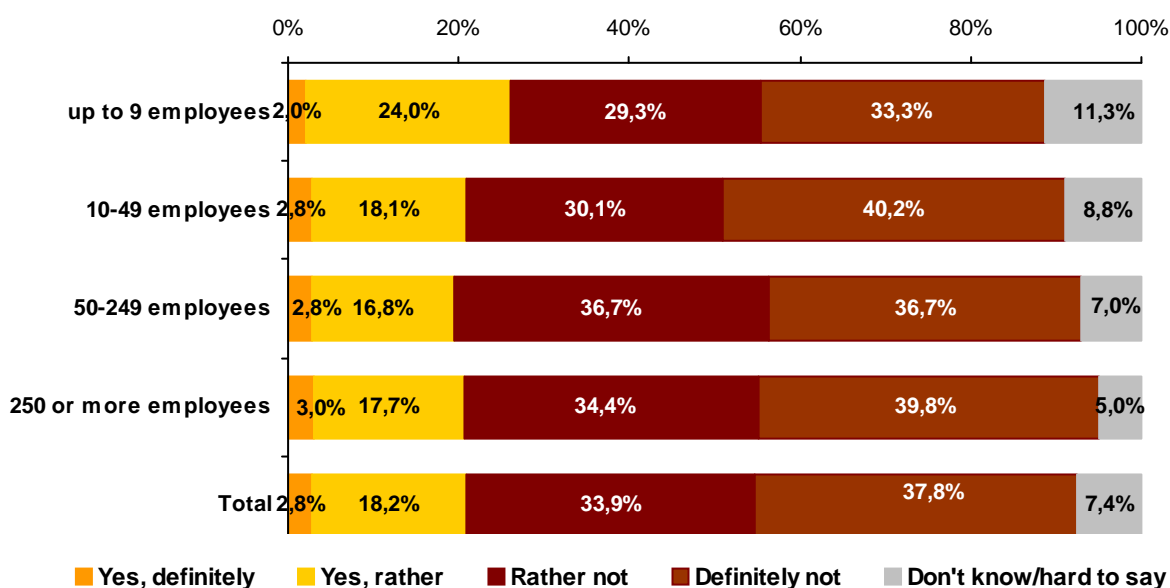
**Q. B25. In some town, owners of hair salons fixed minimum prices for their services – according to you, would that be legal?**

N=1200.



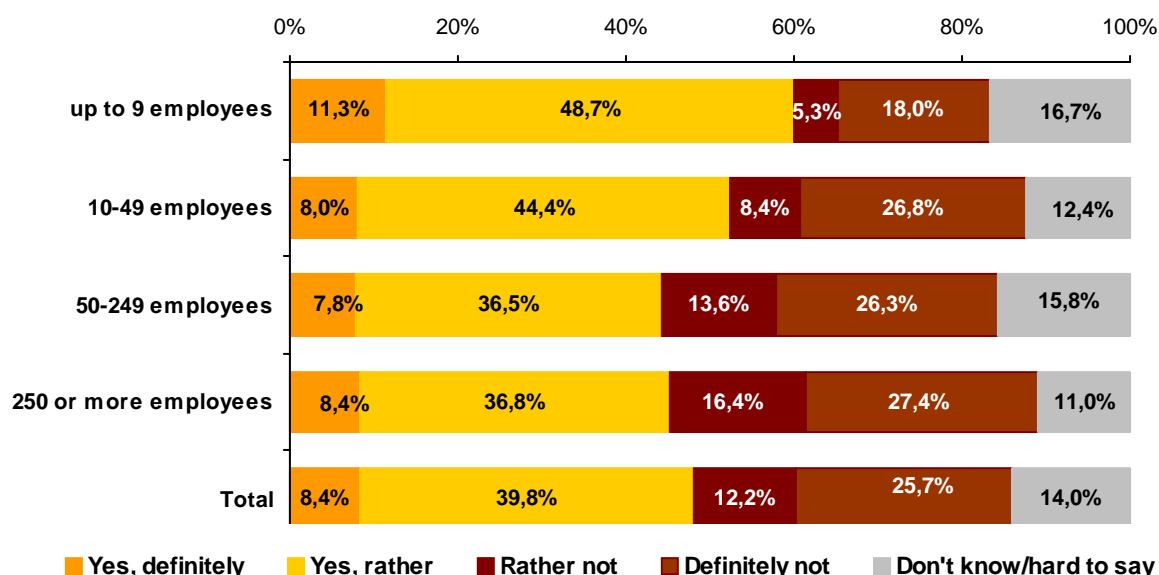
**Q. B26. A Poland-wide newspaper drastically lowered advertisement prices in one region aiming to force a local newspaper out of the market – according to you, would that be legal?**

N=1200.



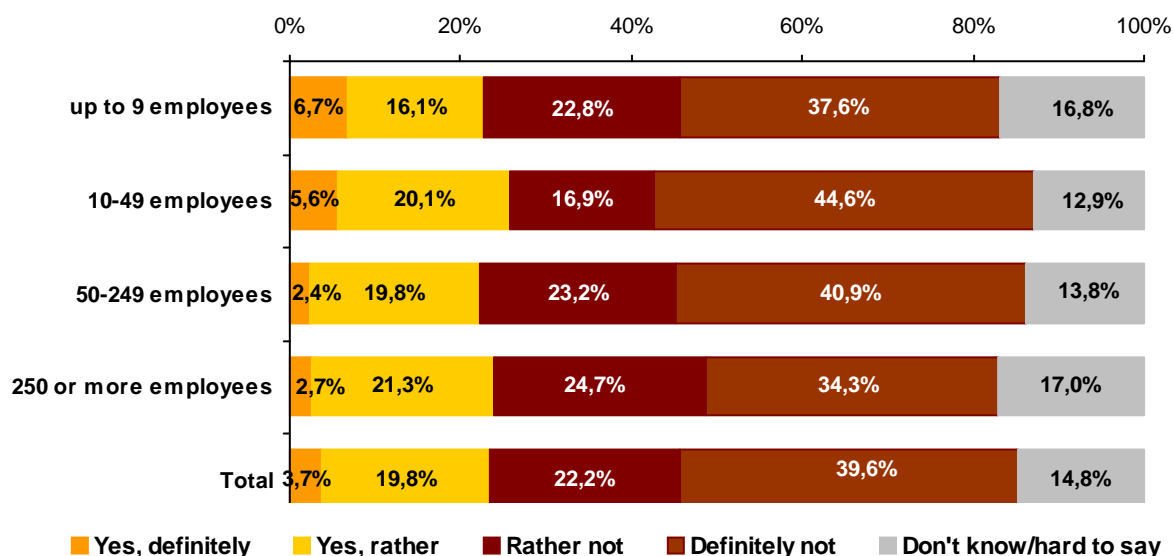
**Q. B27. On an industry meeting, companies agreed that, because of crisis, for each of them to be able to maintain the price level without having to lay off employees, each would reduce production by 30 percent – according to you, would that be legal?**

N=1200.



**Q. B28. A company with a dominant position on the market of devices for reception of satellite television imposed an obligation on cable TV networks to service its devices partially within their means and at their cost. Do you think that would be legal?**

N=1200.



In the process of analysis conducted, it has been stated that the level of knowledge of laws regulating competition protection is higher:

- in the case of biggest companies,
- among persons over 34 years of age.

When analyzing the knowledge of competition protection law in years 2006-2009, it should be noted that the declared level of knowledge was low in both surveys. During the past 3 years, there has been a decrease in the knowledge of the fact that enterprises must not fix tender prices (in 2006, awareness of this law was declared by 72 percent of respondents from smallest enterprises and 88 percent of those from biggest, while in 2009, the range was from 49 percent to 69 percent respectively in the two categories of companies). The level of knowledge of the prohibition of applying prices lower than the costs of production has also decreased: in 2006, it ranged from 72 percent in micro companies to 81 percent in big companies; whereas in 2009 – from 61 percent in micro companies to 72 percent in big companies.

On the other hand, when analyzing practical knowledge of legal behaviors, it can be seen that practical knowledge of competition law has increased. A higher percentage of respondents believe it is definitely illegal for a company with a dominant position to impose onerous conditions of cooperation on business partners (2006 – 5 percent in the case of micro companies; 12 percent – big companies; 2009 – 34 percent – micro companies - 45 percent big companies). Similarly, in the case of a publishing house using its prices to force a local competitor out from the market, in 2006, the number of respondents seeing the situation as definitely illegal ranged from 20 (micro companies) to 35 percent (big companies), while in the current survey the range was from 33 (micro companies) to 40 percent (big companies).

To summarize the changes which have taken place in years 2006-2009, it must be stated that although in theoretical questions describing illegal practices businesses' declared level of knowledge of competition law was lower, when answering questions quoting concrete business examples respondents scored considerably higher than in 2006. On balance, it is a positive change because what is in fact most important is for businesses to know how to act in everyday business situations when competition protection laws are in place.

## **8. POLISH COMPETITION PROTECTION LAW AND ETHICS IN BUSINESS**



Business ethics is business's contribution to the implementation of sustainable economic development policy, and a way of running a company where the priority objective is achieving balance between the company's effectiveness and profitability on the one hand, and social interest on the other.

Being guided by ethics in business in the sense of applying fair competition principles has been tested using a similar method as the knowledge of competition law. First, respondents referred to typical business issues saying whether they would be likely to violate the law in a situation where their enterprise had a chance for development or where its existence was threatened. Then, they declared how they would act in a concrete situation presented.

Most respondents declared they would not violate competition protection law in any of the ways listed, irrespective of whether their company found itself in a situation of a chance for development or threatened existence. It is interesting that the type of situation did not have great influence on respondents' likelihood to act in a given way. In both hypothetical situations, respondents pledge a principled attitude – compliant with the law.

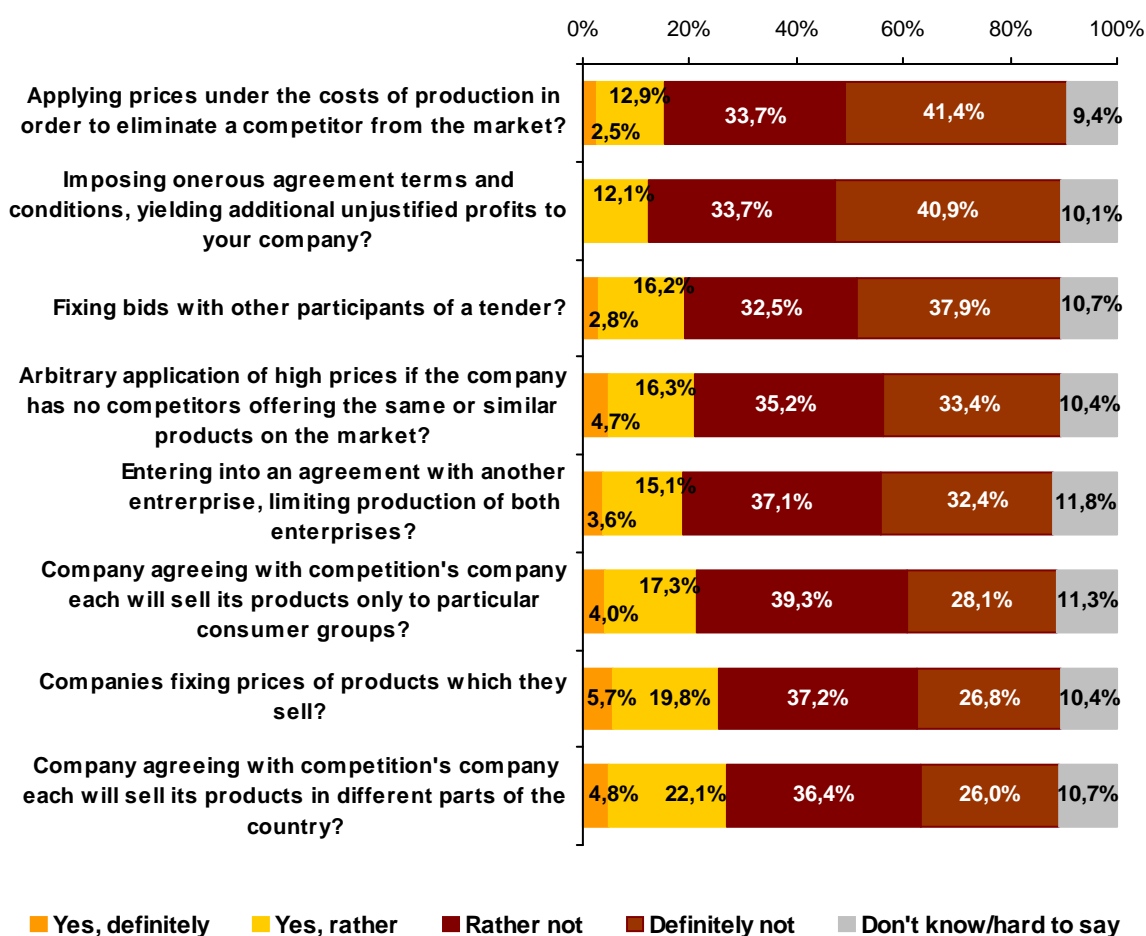
Respondents' unwillingness to engage in particular practices reflects their knowledge of laws. The better the knowledge of the fact that a practice is illegal, the smaller the likelihood of engaging in it. As a result, entrepreneurs were most unwilling towards practices connected with the abuse of a dominant position and those connected with price

fixing. On the other hand, they were least likely to express a negative attitude towards aspects connected with sharing markets of sale and regulating production.

It is also worth noting that the likelihood of engaging in illegal practices was greater among respondents representing smaller companies. On the one hand, that results from their poorer knowledge of law, but on the other, can be connected with involvement in the enterprise managed – in this category, respondents were often company owners.

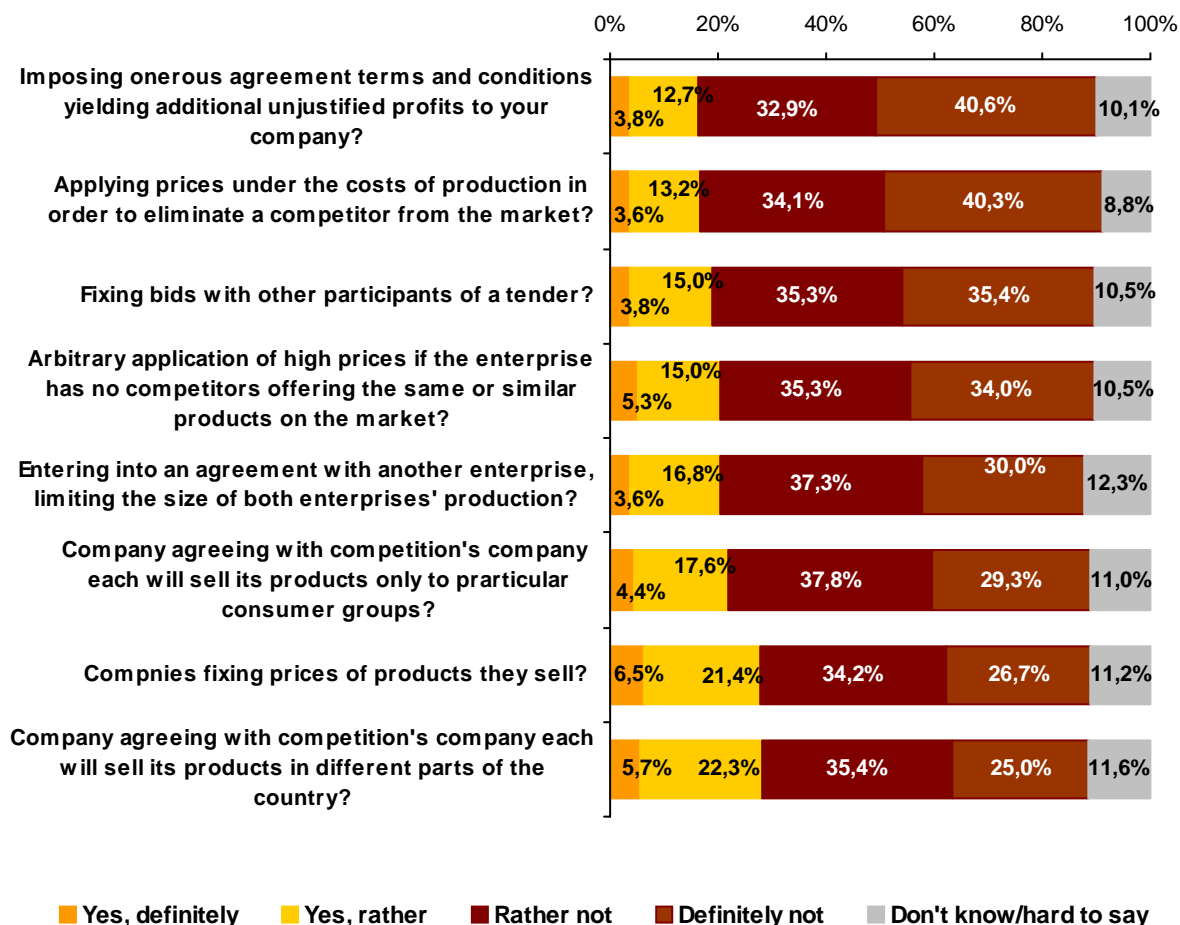
**Q. B10. If your company had a chance for dynamic development, would you engage in the following practices:**

N=1200. Question asked to all respondents



**Q. B11. If the existence of your company was threatened, would you engage in the following practices:**

N=818. Question asked to all respondents



**Table 5. Q. B10. If your company had a chance for dynamic development, would you engage in the following practices:**

Evaluated statements	Up to 9 employees		10-49 employees		50-249 employees		250 and more employees	
	% in row for company's type							
	Definitely not	Rather not	Definitely not	Rather not	Definitely not	Rather not	Definitely not	Rather not
Companies fixing prices of products which they sell?	25	31	25	33	27	38	29	42
Company agreeing with competition's company each will sell its products in different parts of the country?	24	30	24	31	25	39	30	40
Company agreeing with competition's company each will sell its products only to particular consumer groups	25	38	27	38	28	38	30	44
Entering into an agreement with another enterprise limiting the production of both enterprises	30	39	32	34	31	37	37	40
Fixing of bids to be proposed with other participants of a tender?	37	29	33	31	37	34	44	33
Applying prices under the costs of production in order to eliminate a competitor from the market?	42	28	43	28	40	34	43	40
Imposing onerous agreement terms and conditions yielding additional unjustified profits to your company?	38	34	41	32	39	33	45	37
Arbitrary application of high prices, if a company has no competitors offering the same or similar products on the market?	32	29	35	30	30	38	38	39

**Table 6. Q. B11. If the existence of your company was threatened, would you engage in the following practices:**

Evaluated statements	Up to 9 employees		10-49 employees		50-249 employees		250 and more employees	
	% in row for company's type							
	Definitely not	Rather not	Definitely not	Rather not	Definitely not	Rather not	Definitely not	Rather not
Companies fixing prices of products which they sell?	22	32	27	32	26	35	29	36
Company agreeing with competition's company each will sell its products in different parts of the country?	22	32	23	34	25	35	28	40
Company agreeing with competition's company each will sell its products only to particular consumer groups	29	31	28	39	28	38	32	39
Entering into an agreement with another enterprise limiting the production of both enterprises	27	38	28	41	29	36	34	37
Fixing of bids to be proposed with other participants of a tender?	31	35	32	38	36	34	39	36
Applying prices under the costs of production in order to eliminate a competitor from the market?	38	33	41	36	38	33	46	34
Imposing onerous agreement terms and conditions yielding additional unjustified profits to your company?	37	31	44	35	37	33	46	33
Arbitrary application of high prices, if a company has no competitors offering the same or similar products on the market?	33	33	36	35	31	36	37	35

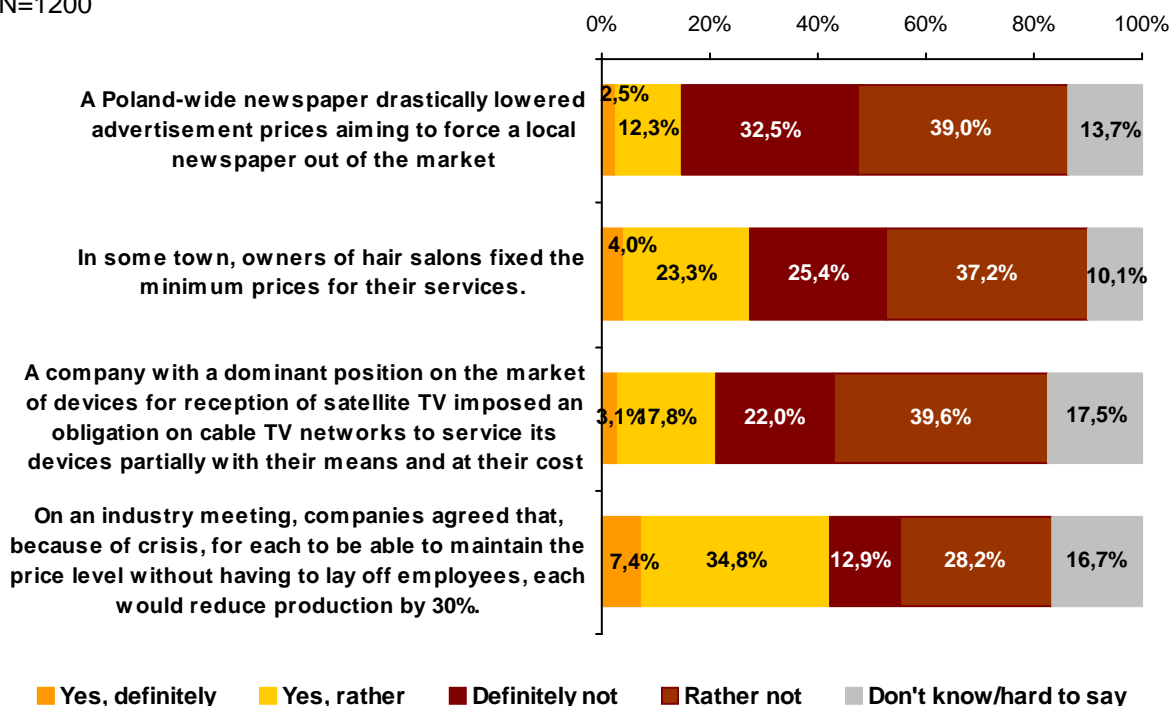
Analysis of respondents' answers concerning examples of business cases from various markets confirms the declarations concerning behaviors in typical situations prohibited by competition protection laws. Again, respondents were most unwilling to engage in practices connected with illegal abuse of a dominant position, and most likely to engage in practices connected with regulating production. Again, it appeared that in bigger companies acceptance of illegal practices is smaller.

It must be noted that the likelihood of engaging in a particular practice depends on how legal it appears to respondent.



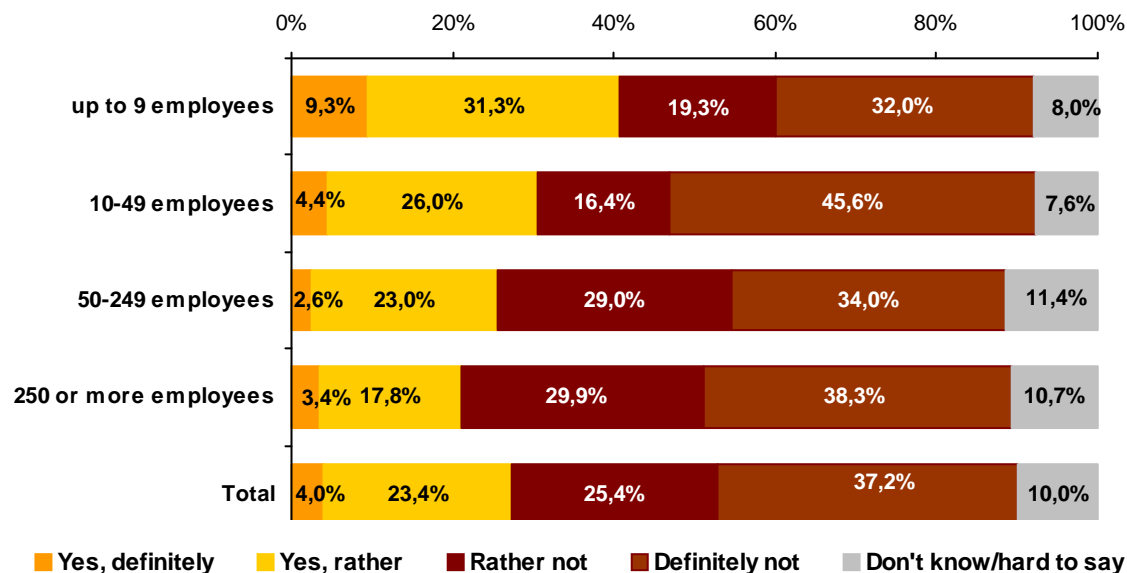
**Q.B25B-28B. If your enterprise were in the place of this enterprise, would you engage in the following practices?**

N=1200



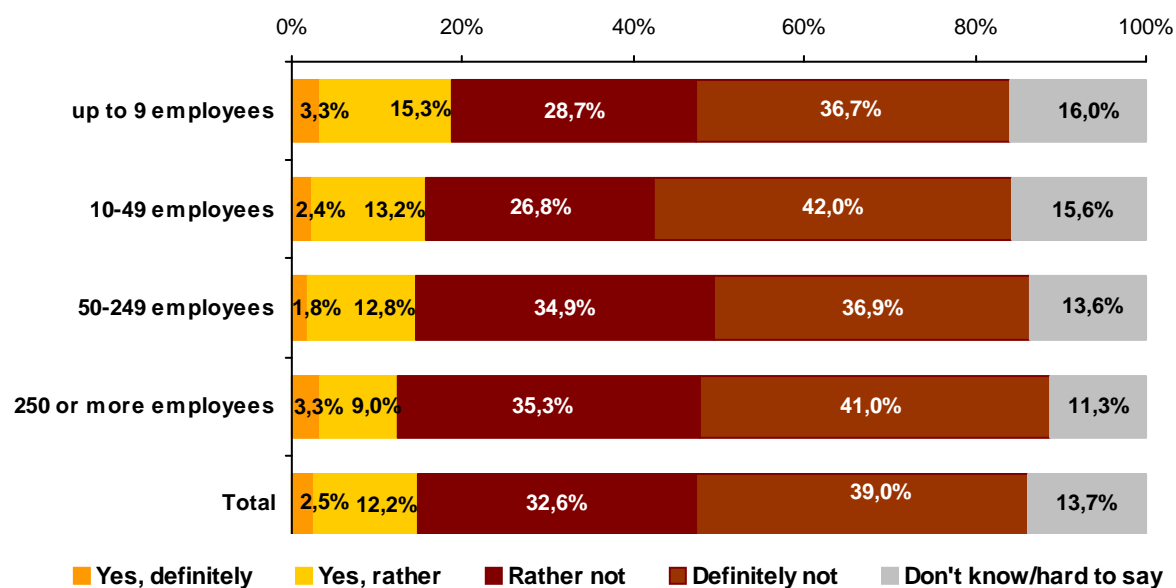
**Q. B25B. In some town, owners of hair salons fixed minimum prices for their services. If you were in the place of one of the hair salons' owners, would you engage in such practices?**

N=1200



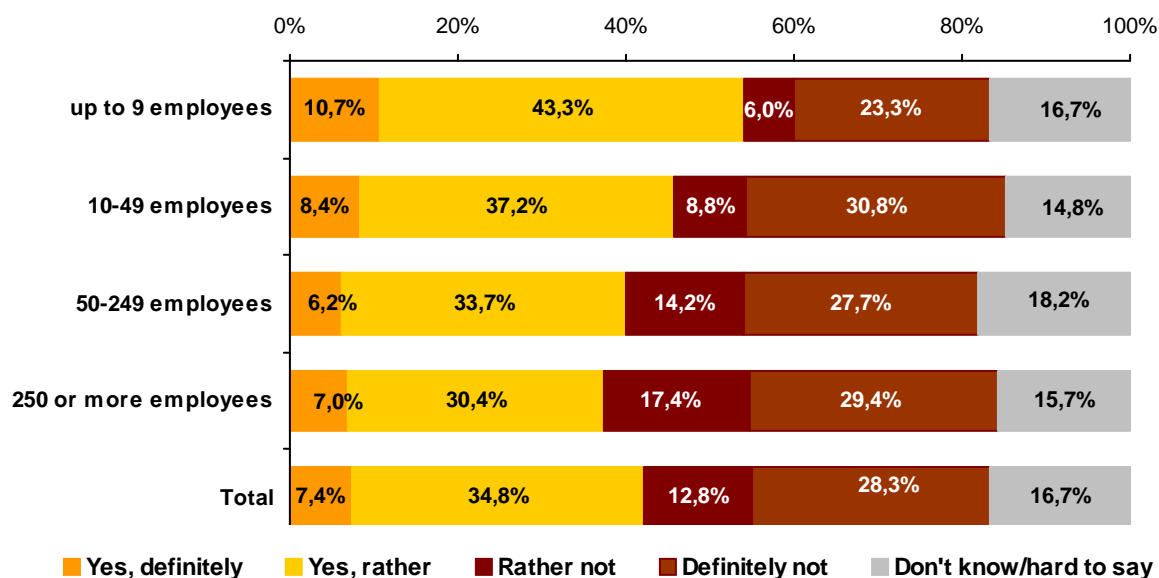
**Q. B26B. A Poland-wide newspaper drastically lowered advertisement prices in one region aiming to force a local newspaper out of the market. If you were in the place of the Poland-wide newspaper's President, would you engage in such practices?**

N=1200



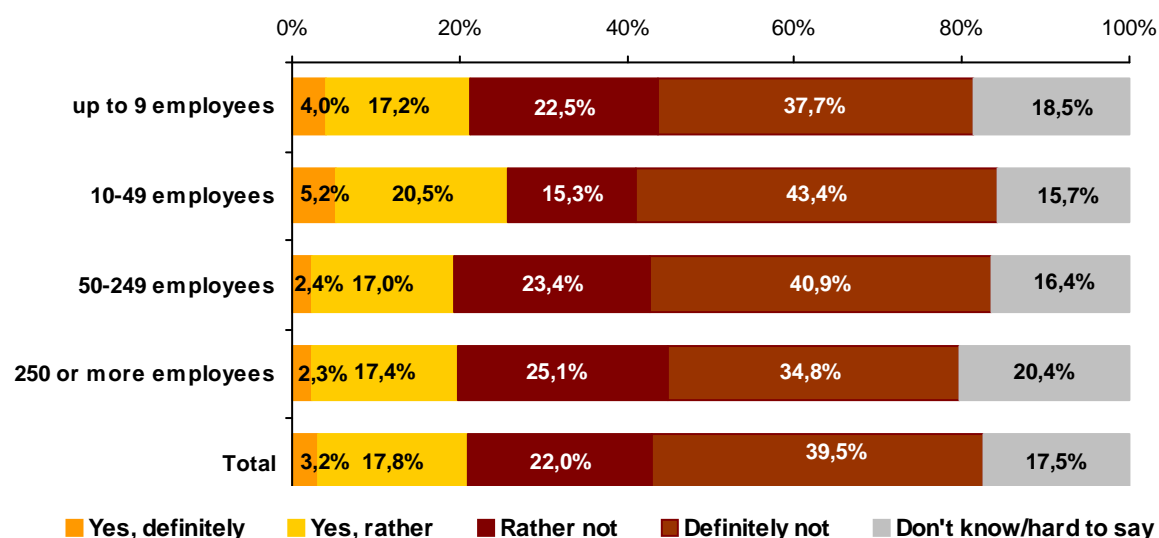
**Q. B27B. On an industry meeting, companies agreed that, because of crisis, for each of them to be able to maintain the price level without having to lay off employees, each would reduce production by 30 percent. If your company were in the place of one of the companies participating in the meeting, would you engage in such activities?**

N=1200



**Q. B28B. A company with a dominant position on the market of devices for reception of satellite television imposed an obligation on cable TV networks to service its devices partially within their means and at their cost. If you were in the place of the device's manufacturer, would you engage in such practices?**

N=1200



In analysis of tendencies, it has been established greater tendency for unethical behaviors is characteristic of:

- persons with secondary and vocational education,
- those working in companies employing over 50 persons,
- representative of the following industries: transport, logistics, and services.

Tendency for ethical behaviors in situations of competition protection law's violation covered by the survey has decreased in comparison to 2006. Currently, entrepreneurs are more likely to engage in practices non-compliant with requirements of the law.

In neither the previous nor the current survey, the type of situation (i.e. threatened existence of the company or chance for dynamic development) had a large influence on the tendency to approve of unethical behavior.

Detailed comparison of differences' scale with 2006 survey for behaviors in situation of a chance for dynamic development is as follows:

- 41 percent of respondents declare they would not apply prices under the costs of production in order to eliminate a competitor from the market, which is 23 percentage points less than in 2006
- 41 percent of respondents express acceptance of the rule of not imposing onerous terms and conditions of agreements if a company has a dominant position, which is 12-15 percentage points less than in 2006
- 38 percent of respondents declare they would not fix bids with other participants of a tender, which is 17 percentage points less than in 2006
- 30 percent of respondents declare they would not enter into an agreement with another enterprise limiting the size of production, which is 6 percentage points less than in 2006

One of few exceptions to the rule in which a smaller percentage of persons managing companies currently reject unethical behaviors is price fixing. However, it seems possible this can be connected with the fact that the question about admissibility of various types of behaviors was asked to respondents after the questions about advertising campaign for *leniency* program which includes the phrase: "a group of persons voluntarily confess to price fixing", which condemns price fixing as unethical. That is why answers to the question about the likelihood of engaging in price fixing should not obfuscate the fact that the current measurement detected respondents' greater tendency to engage in practices not compliant with principles contained in legal regulations.

Like in 2006 survey, a connection can be noticed between tendency to ethical behaviors, that is, renouncing prohibited practices, and enterprise's size. Acceptance of laws' violation is greater in smaller companies and smallest in biggest enterprises.

Besides attitudes towards general requirements contained in legal regulations, the survey also tested behaviors in concrete business cases. Analysis of answers to those questions does not bring as unambiguous conclusions as analysis of answers to questions about general attitude towards legal requirements in this scope, still, it can be said that in most cases, in comparison to 2006, negative changes have taken place. Entrepreneurs – mainly those representing smaller companies – are more likely to approve of illegal behaviors.

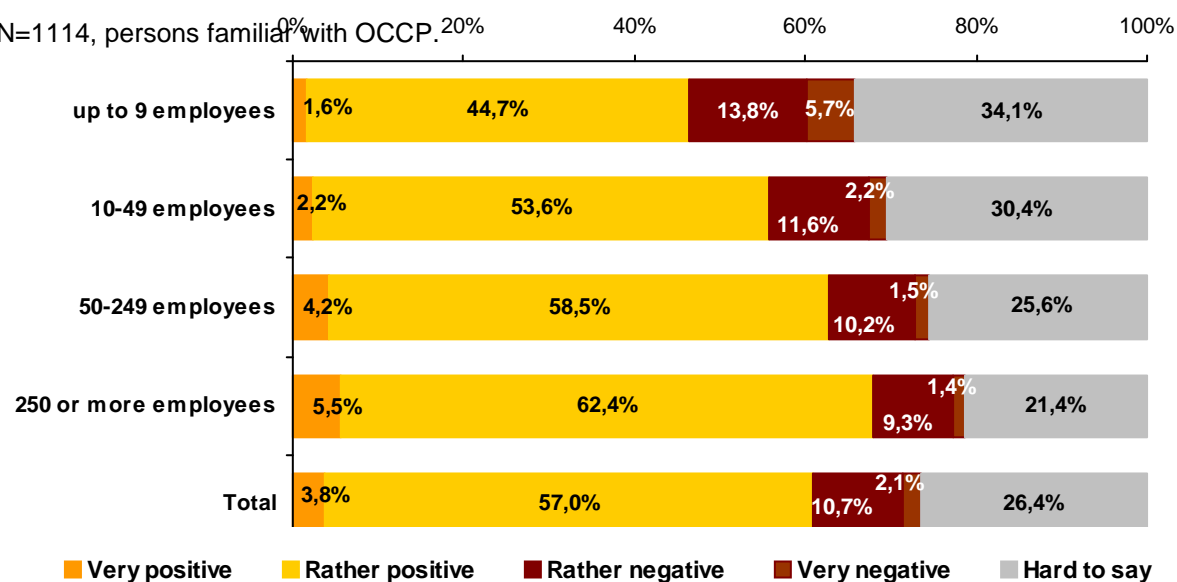
## 9. IMAGE OF OCCP AS AUTHORITY WORKING FOR COMPETITION PROTECTION



By the act on competition and consumer protection, The Office of Competition and Consumer Protection is a leading authority for both competition protection and consumer protection. That is why entrepreneurs' assessment of its activity is important<sup>16</sup>.

### ***Q. B1. What is your general opinion about the activity of the Office of Competition and Consumer Protection?***

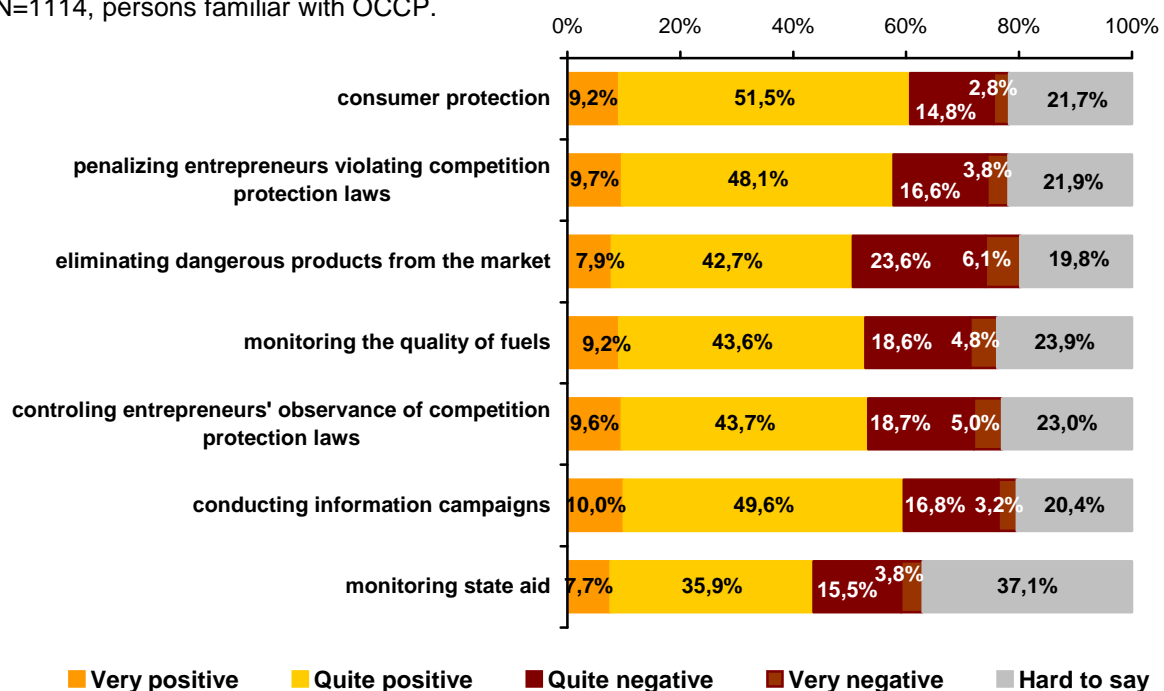
N=1114, persons familiar with OCCP.



<sup>16</sup> In this survey, respondents assessed also the activity of OCCP as antimonopoly body (compare: chapter 5).

**Q. B2 What is your opinion about the following aspects of the Office of Competition and Consumer Protection's activity:**

N=1114, persons familiar with OCCP.



**Table 7. Q. B2. What is your opinion about the following aspects of the Office of Competition and Consumer Protection's activity:**

Evaluation criteria	Up to 9 employees		10-49 employees		50-249 employees		250 and more employees	
	% in rows for compnay's type							
	Very good	Rath. good	Very good	Rath. good	Very good	Rath. good	Very good	Rath. good
controlling entrepreneurs' observance of competition protection laws	10	36	8	47	10	52	9	60
penalizing entrepreneurs violating competition protection laws	11	34	10	46	10	49	9	54
conducting information campaigns	8	34	9	37	7	45	8	48
monitoring the quality of fuels	11	37	8	39	10	46	8	45
eliminating dangerous products from the market	8	35	10	42	9	44	10	47
consumer protection	12	41	10	47	8	53	12	50
monitoring state aid	6	22	9	33	8	36	8	43

Rath.good=rather good



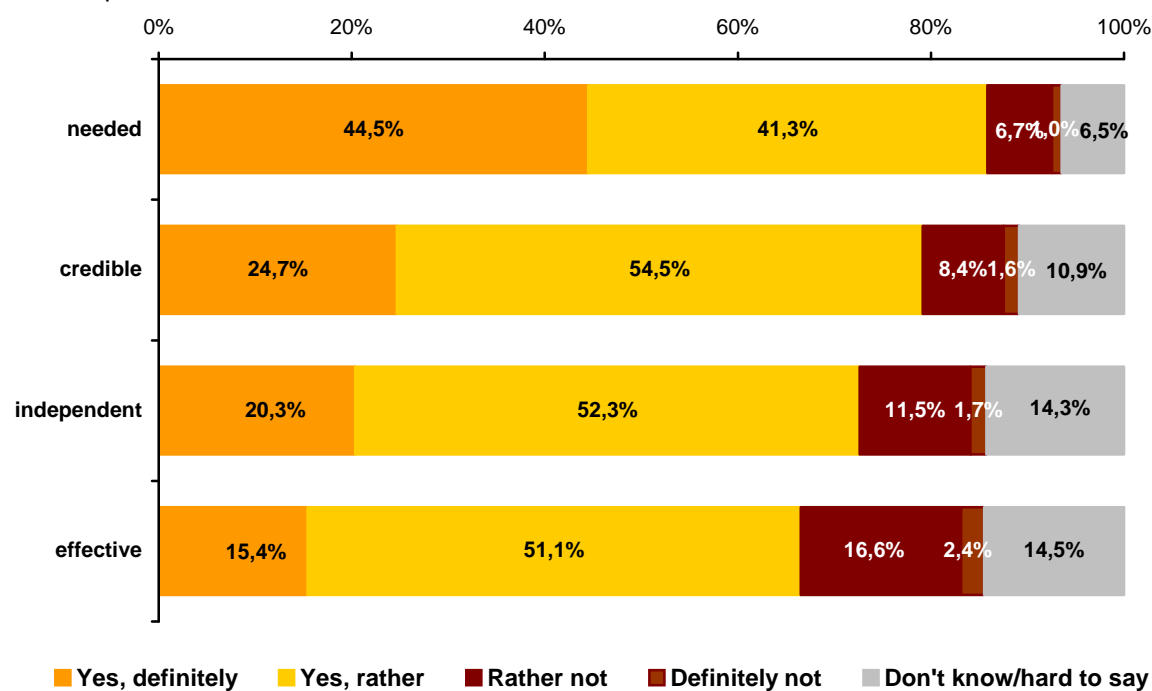
Most respondents have quite positive perception of OCCP's activity in the field of competition protection, with representatives of bigger companies perceiving the Office's activities more positively than representatives of smaller enterprises.

Respondents give similar positive rating to all activities of the Office, the only exception being monitoring of state aid, which scores somewhat lower.

Granting of state aid, as well as its usage, is subject to supervision and monitoring. In the process of state aid monitoring, information about aid granted is gathered and processed. Although respondents identified aid monitoring as least positively rated activity of OCCP, it is worth noting that 37 percent had no opinion on the subject, which proves their ignorance in this scope.

***Q. B3 According to you, the Office of Competition and Consumer protection is an institution which is:***

N=1114, persons familiar with OCCP.



**Table 8. Q. B3 According to you, the Office of Competition and Consumer Protection is an institution which is:**

Size of the company	Evaluation criteria	Yes, definitely	Yes, rather	Rather not	Definitely not	Don't know
		% in row				
Up to 9 employees	credible	21	55	8	3	13
	independent	21	50	15	2	12
	effective	10	42	26	3	19
	needed	45	39	7	2	7
10-49 employees	credible	21	53	11	1	13
	independent	19	47	15	1	19
	effective	15	48	16	4	18
	needed	43	41	7	1	7
50-249 employees	credible	25	54	8	2	11
	independent	21	53	9	3	15
	effective	14	54	15	2	14
	needed	42	45	6	1	6
250 and more employees	credible	28	57	7	2	7
	independent	20	56	12	1	11
	effective	19	52	16	2	11
	needed	50	36	8	0	6

Respondents agree that OCCP is a needed, credible, independent and effective institution. The aspect of its activities' effectiveness is rated relatively lowest. However, it should be noted that respondents rated the effectiveness of OCCP as institution working for competition protection higher than its effectiveness as antimonopoly body<sup>17</sup>.

The current survey shows that the rating of OCCP's activity as body working for competition protection has considerably improved (in the case of general assessment, the number of "very positive" and "rather positive" answers has increased by from 15 percentage points in the case of big companies, to 22 percentage points in the case of medium companies).

OCCP is now rated higher mainly in the effectiveness of its activity. In this aspect, the increase of the total of "yes, rather" and "yes, definitely" answers ranged from 21 percentage points in the case of micro companies, to 26 percentage points in the case of medium companies. In the opinion of persons managing companies, also OCCP's credibility has increased ("yes, definitely" and "yes, rather" answers: from 8 percentage points in the

<sup>17</sup>Por. szerzej: rozdz. 5.

case of big and medium companies, to 14 percentage points in micro companies). With the exception of biggest companies' managers, respondents see OCCP as institution with greater independence of action (in comparison to 2006, increase by from 10 percentage points in the case of small companies, to 13 percentage points in the case of micro companies).

In the light of the results presented above, slightly surprising is the somewhat less positive change in the Office's assessment as institution which is needed. The decrease is not large in the case of combined "yes, definitely" and "yes, rather" answers (between 3 and 4 percentage points in the entire sample), but analysis of "yes, definitely" shows that the Office's usefulness is currently rated lower (decrease by from 11 percentage points in the case of small, to 22 in medium companies). However, when interpreting the results it must be remembered that both now and in 2006 being a needed institution was the highest rated dimension of OCCP's image.