

ACT
of 16 February 2007
on competition and consumer protection^{1) 2)}

Title I
General provisions

Article 1.

1. The Act determines conditions for the development and protection of competition as well as the rules on protection of interests of undertakings and consumers, undertaken in the public interest.
2. The Act regulates the rules and measures of counteracting practices restricting competition and practices violating collective consumer interests, as well as anticompetitive concentrations of undertakings and associations thereof, where such practices or concentrations cause or may cause effects in the territory of the Republic of Poland.
3. The Act also defines the authorities competent in competition and consumer protection issues.

Article 2.

1. The Act is without prejudice to the rights vested pursuant to the provisions concerning protection of intellectual and industrial property rights, in particular the provisions on the protection of inventions, utility model and industrial rights, topography of integrated circuits, trade marks, geographical indications, copyright and rights related to copyright.
2. The Act shall apply to the concluded between undertakings:

¹⁾ In the scope of its regulation, this Act implements Directive 98/27/EC of the European Parliament and Council, of 19 May 1998 on injunctions for the protection of consumers' interests (Official Journal EU L 166 of 11.06.1998; Official Journal EU, Polish edition, chapter 15, volume 004, p. 43).

²⁾ This Act amends the following Acts: of 17 November 1964 – the Code of Civil Procedure, of 29 July 1992 on games of chance and mutual bets; of 30 April 1993 on national investment funds and their privatisation; of 20 August 1997 on the National Court Register; of 10 September 1999 on certain compensation agreements entered into in connection with agreements of supply for the purposes of the state defence and security; of 29 November 2000 on collecting and using accountancy data of agricultural holdings; of 24 August 2001 on restructuring of iron and steel industry; of 6 September 2001 – the Pharmaceutical Law; of 3 July 2002 – the Aviation Law; of 18 July 2002 on rendering services by electronic means; of 22 May 2003 on insurance activity; of 16 July 2004 – the Telecommunications Law; of 30 June 2005 on cinematography; of 29 July 2005 on supervision over a capital market; and of 24 August 2006 on the national reserve of human resources and high state posts.

- 1) agreements, in particular licence agreements, as well as to other practices of exercising rights referred to in Paragraph 1;
 - 2) agreements concerning information undisclosed to the general public, related to:
 - a) technical or technological information,
 - b) rules of organisation and management
- in relation to which steps were taken in order to prevent their disclosure, where such agreements result in an unjustified limitation of freedom of business activity of the parties, or in a significant restriction of competition within the market.

Article 3.

The provisions of the Act shall not apply to impediments to competition admitted by virtue of separate legal acts.

Article 4.

For the purpose of this Act:

- 1) "undertaking" shall have the same meaning as under the provisions on freedom of business activity, as well as:
 - a) natural and legal person as well as organisational unit without a legal status, to which the legislation grants legal capacity, organising or rendering services of public utility nature, and which are not business activity within the meaning of the provisions on freedom of business activity,
 - b) natural person exercising a profession on its own behalf and account or performing activity in the frame of exercising such profession,
 - c) natural person having control, within the meaning of Subparagraph 4, over at least one undertaking, even if not conducting business activity within the meaning of the provisions on freedom of business activity, provided that this person is undertaking further activities subject to control of concentrations, referred to in Article 13;
 - d) associations of undertakings within the meaning specified in Subparagraph 2 – for the purposes of the provisions on competition restricting practices and practices violating collective consumer interests;
- 2) "associations of undertakings" shall mean chambers, associations and other organisations associating undertakings referred to in Subparagraph 1, as well as associations of such organisations;
- 3) "dominant undertaking" shall mean an undertaking having control, within the meaning of Subparagraph 4, over another undertaking;
- 4) "taking over control" shall mean any form of direct or indirect acquisition of rights by the undertaking, which, individually or jointly, taking into account all legal or factual circumstances, allow for exerting a decisive influence upon another undertaking or other undertakings; in particular, such powers are created by:

- a) holding directly or indirectly a majority of votes in the shareholders' meeting or general meeting of shareholders, also in the capacity of a pledgee or user, or in the management board of another undertaking (dependent undertaking) also under agreements with other persons,
 - b) the right to appoint or recall a majority of members of the management board or supervisory board of another undertaking (dependent undertaking), also under agreements with other persons,
 - c) members of its management board or supervisory board constitute more than half of the members of another undertaking's (dependent undertaking's) management board.
 - d) holding directly or indirectly, a majority of votes in the dependent partnership or in the general meeting of the dependent cooperative, also under agreements with other persons,
 - e) ownership of entirety or part of the property of another undertaking (dependent undertaking),
 - f) an agreement which stipulates the management of another undertaking (dependent undertaking) or transfer of profit by such undertaking;
- 5) "agreements" shall mean:
- a) agreements concluded between undertakings, between associations thereof and between undertakings and their associations, or certain provisions of such agreements,
 - b) concerted practices undertaken in any form by two or more undertakings or associations thereof,
 - c) resolutions or other acts of associations of undertakings or their statutory organs;
- 6) "distribution agreements" shall mean agreements concluded between undertakings acting at different levels of the economic process aimed at purchase of products for further resale;
- 7) "goods" shall mean items as well as all forms of energy, securities and other property rights, services as well as construction works;
- 8) "prices" shall mean prices, also charges in the nature of prices, trade margins, commissions and mark-ups;
- 9) "relevant market" shall mean a market of goods, which by reason of their intended use, price and characteristics, including quality, are regarded by the buyers as substitutes, and are offered in the area in which, by reason of their nature and characteristics, the existence of market access barriers, consumer preferences, significant differences in prices and transport costs, the conditions of competition are sufficiently homogeneous;
- 10) "dominant position" shall mean a position of the undertaking which allows it to prevent the efficient competition within a relevant market thus enabling it to act in a significant degree independently of competitors, contracting parties and consumers; it is assumed that the undertaking holds a dominant position if its market share exceeds 40%;
- 11) "competitors" shall mean undertakings which at the same time release or may release for free circulation, purchase or may purchase goods in the relevant market;

- 12) "consumer" shall mean 'a consumer' as defined by the provisions of the Act of 23 April 1964 – the Civil Code (Journal of Laws, No. 16, item 93, as amended³⁾);
- 13) "consumer organisations" shall mean, independent of undertakings and of associations thereof social organisations, the statutory tasks of which include the protection of consumer interests; consumer organisations may run business activities, according to general rules, provided that the income from the activity serves solely to finance the execution of the organisations' statutory tasks;
- 14) "capital group" shall mean all undertakings, which act under the direct or indirect supervision of one undertaking, including the undertaking;
- 15) "revenue" shall mean revenue attained in the tax year preceding the day of instituting the proceedings by virtue of the present Act, within the meaning of income tax provisions binding the undertaking;
- 16) "average salary" shall mean an average monthly salary within the enterprise sector in the last month of the quarter preceding the day of issuance of a decision by the President of the Office of Competition and Consumer Protection, published by the President of the Central Statistical Office pursuant to separate provisions;
- 17) "business secret" shall mean 'business secret' as defined in Article 11, Paragraph 4 of the Act of 16 April 1993, on combating unfair competition (Journal of Laws of 2003 No. 153, item 1503, of 2004, as amended¹⁾);
- 18) "President of the Office" shall mean the President of the Office of Competition and Consumer Protection;
- 19) "EC Treaty" shall mean the Treaty establishing the European Community (Official Journal EC C 325 of 24.12.2002);
- 20) "Regulation No. 1/2003/EC" shall mean Council Regulation No. 1/2003/EC, of 16 December 2002, on the implementation of the rules on competition laid down in Articles 81 and 82 of the EC Treaty (Official Journal EU L 1 of 4.01.2003, p. 1; Official Journal EU Polish special edition, chapter 08, volume 02, p. 205);
- 21) "Regulation No. 139/2004/EC" shall mean Council Regulation No. 139/2004/EC, of 20 January 2004, on the control of concentrations between undertakings (Official Journal

³⁾ Amendments to the aforementioned Act are published in the Journal of Laws of 1971, No. 27, item 252; of 1976, No. 19, item 122; of 1982, No. 11, item 81, No. 19, item 147 and No. 30, item 210; of 1984 No. 45, item 242; of 1985 No. 22, item 99; of 1989, No. 3, item 11; of 1990, No. 34, item 198; No. 55, item 321 and No. 79, item 464; of 1991, No. 107, item 464 and No. 115, item 496; of 1993, No. 17, item 78; of 1994, No. 27, item 96, No. 85, item 388, and No. 105, item 509; of 1995, No. 83, item 417; of 1996, No. 114, item 542, No. 139, item 646 and No. 149, item 703; of 1997, No. 43, item 272, No. 115, item 741, No. 117, item 751 and No. 157, item 1040; of 1998, No. 106, item 668, and No. 117, item 758; of 1999, No. 52, item 532; of 2000, No. 22, item 271, No. 74, items 855 and 857, No. 88, item 983 and No. 114, item 1191; of 2001, No. 11, item 91, No. 71, item 733, No. 130, item 1450 and No. 145, item 1638; of 2002 No. 113, item 984, and No. 141, item 1176; of 2003, No. 49, item 408, No. 60, item 535, No. 64, item 592 and No. 124, item 1151; of 2004, No. 91, item 870, No. 96, item 959, No. 162, item 1692, No. 172, item 1804 and No. 281, item 2783; of 2005, No. 48, item 462, No. 157, item 1316 and No. 172, item 1438; and of 2006, No. 133, item 935 and No. 164, item 1166.

¹ No. 96, item 959, No. 162, item 1693 and No. 172, item 1804, and of 2005 No. 10, item 68

EU L 024 of 29.01.2004, p.1; Official Journal EU Polish special edition, chapter 08, volume 03, p. 40);

- 22) “Regulation No. 2006/2004/EC” shall mean European Parliament and Council Regulation No. 2006/2004/EC, of 27 October 2004, on cooperation between national authorities responsible for the enforcement of consumer protection laws (“Regulation on consumer protection cooperation”) (Official Journal EU L 364 of 9.12.2004).

Article 5.

The value of EURO referred to in the provisions of the Act shall be converted into Polish Zloty, according to the average rate of foreign currencies published by the National Bank of Poland on the last day of the calendar year preceding the year in which the intention of concentration is notified or a financial penalty imposed.

Title II

Prohibition of competition restricting practices

Chapter 1

Prohibition of competition restricting agreements

Article 6.

1. Agreements which have as their object or effect elimination, restriction or any other infringement of competition in the relevant market shall be prohibited, 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 fulfilment 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 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 organiser, of the terms and conditions of bids to be proposed, particularly as regards the scope of works and the price.

2. The agreements referred to in Paragraph 1 shall be in their entirety or in the respective part void, subject to Articles 7 and 8.

Article 7.

1. The prohibition of agreements referred to in Article 6, Paragraph 1 shall not apply to agreements concluded between:
 - 1) competitors whose combined market share in the calendar year preceding the conclusion of the agreement does not exceed 5%;
 - 2) undertakings which are not competitors, if the market share of any of them in the calendar year preceding the conclusion of the agreement does not exceed 10%.
2. The provisions of Paragraph 1 shall not apply to cases specified in Article 6, Paragraph 1, Subparagraphs 1 to 3 and Subparagraph 7.

Article 8.

1. The prohibition of agreements referred to in Article 6, Paragraph 1 shall not apply to agreements which at the same time:
 - 1) contribute to improvement of the production, distribution of goods or to technical or economic progress;
 - 2) allow the buyer or user a fair share of benefits resulting thereof;
 - 3) do not impose upon the undertakings concerned impediments which are not indispensable to the attainment of these objectives;
 - 4) do not afford these undertakings the possibility to eliminate competition in the relevant market in respect of a substantial part of the goods in question.
2. The burden of providing evidence to circumstances referred to in Paragraph 1 shall rest upon the undertaking concerned.
3. The Council of Ministers may, by way of a regulation, exempt from the prohibition referred to in Article 6, Paragraph 1, certain types of agreements which meet the conditions referred to in Paragraph 1 above, taking into consideration the benefits resulting from such types of agreements. In the regulation, the Council of Ministers shall specify:
 - 1) conditions which are to be satisfied for the agreement to be considered exempted from the prohibition;
 - 2) clauses, the existence of which in the agreement constitutes the infringement of Article 6;
 - 3) a period during which the exemption shall apply
 and may specify clauses, the existence of which in the agreement is not considered to infringe Article 6.

Chapter 2

Prohibition of abuse of a dominant position

Article 9.

1. The abuse of a dominant position in the relevant market by one or more undertakings shall be prohibited.
2. The abuse of a dominant position may, in particular consist in:
 - 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 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 fulfilment 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.
3. Legal actions which constitute abuse of a dominant position shall be in their entirety or in the respective part void.

Chapter 3

Decisions in cases of competition restricting practices

Article 10.

The President of the Office shall issue a decision assessing the practice as restricting competition and ordering to refrain from it if he finds an infringement of the prohibition specified in Article 6 or 9 of the Act, or in Article 81 or 82 of the EC Treaty.

Article 11.

1. The decision referred to in Article 10 shall not be issued if the market behaviour of the undertaking no longer infringes the prohibitions specified in Article 6 or 9 of the Act, or in Article 81 or 82 of the EC Treaty.

2. In the case referred to in Paragraph 1, the President of the Office shall issue a decision assessing the practice as restricting competition and shall declare it discontinued.
3. The burden of providing evidence to circumstances referred to in Paragraph 1 shall rest upon the undertaking.

Article 12.

1. In the event that, in the course of antimonopoly proceedings, it has been rendered plausible – on the basis of the circumstances of a given case, information comprised in the notification or information forming the basis for instituting *ex officio* proceedings – that the prohibition referred to in Article 6 or Article 9 of the Act, or in Article 81 or 82 of the EC Treaty has been infringed, whereas the undertaking being charged with having infringed such prohibition has agreed to take or discontinue certain actions aiming at preventing those infringements, then the President of the Office may, by way of a decision, impose upon the undertaking an obligation to exercise the undertaken commitments.
2. In the decision referred to in Paragraph 1, the President of the Office may determine the final date for realisation of the commitments.
3. In the decision referred to in Paragraph 1, the President of the Office shall impose upon the undertaking an obligation to provide, within fixed date(s), information regarding the degree of implementation of the assumed commitments.
4. In the event that a decision, referred to in Paragraph 1, is issued, Articles 10 and 11 as well as Article 106, Paragraph 1, Subparagraphs 1 and 2 shall not apply, subject to Paragraph 7.
5. The President of the Office may, on an *ex officio* basis, revoke the decision referred to in Paragraph 1, in the event that:
 - 1) it has been issued on the basis of false, incomplete or misleading information or documents;
 - 2) the undertaking has not carried out commitments or obligations imposed thereupon in the decision referred to in Paragraphs 1 to 3.
6. The President of the Office may, upon consent of the undertaking, on an *ex officio* basis revoke the decision referred to in Paragraph 1, in case that the circumstances having a significant impact on the issuance of the decision, have changed.
7. In the event that the decision is revoked, the President of the Office shall adjudicate on the merits of the case.

Title III

Concentrations of undertakings

Chapter 1

Control of concentrations

Article 13.

1. The intention of concentration is subject to a notification submitted to the President of the Office in the case where:
 - 1) 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
 - 2) 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 notification exceeds the equivalent of EUR 50 000 000.
2. The obligation referred to in Paragraph 1 concerns the intention of:
 - 1) a merger of two or more independent undertakings;
 - 2) taking over – by way of acquisition or entering into a possession of stocks, other securities, shares or in any other way obtaining direct or indirect control over one or more undertakings by one or more undertakings;
 - 3) creation by undertakings of one joint undertaking;
 - 4) acquisition by the undertaking, of a part of another undertaking's property (the entirety or part of the undertaking), if the turnover achieved by the property in any of the two financial years preceding the notification exceeded in the territory of the Republic of Poland, the equivalent of EUR 10 000 000.

Article 14.

The obligation to notify the intention of concentration shall not apply where:

- 1) the turnover of the undertaking over which the control is to be taken in accordance with Article 13, Paragraph 2, Subparagraph 2, did not exceed in the territory of the Republic of Poland in any of the two financial years preceding the notification, the equivalent of EUR 10 000 000;
- 2) the financial institution, the normal activities of which include investing in stocks and shares of other undertakings, for its own account or for the account of others, acquires or takes over, on a temporary basis, stocks and shares with a view to reselling them provided that such resale takes place within one year from the date of the acquisition or taking over, and that:
 - a) this institution does not exercise the rights arising from these stocks or shares, except from the right to dividend, or
 - b) exercises these rights solely in order to prepare the resale of the entirety or part of the undertaking, its assets, or these stocks and shares;
- 3) the undertaking acquires or takes over, on a temporary basis, stocks and shares with a view to securing debts, provided that such undertaking does not exercise the rights arising from these stocks or shares, except from the right to sell;

- 4) the concentration arises as an effect of insolvency proceedings, excluding the cases where the control is to be taken over by a competitor or a participant of the capital group to which the competitors of the to-be-taken undertaking belong;
- 5) the concentration applies to undertakings participating in the same capital group.

Article 15.

The concentration implemented by a dependent undertaking shall be considered as implemented by a dominant undertaking.

Article 16.

1. The turnover referred to in Article 13, Paragraph 1 shall include the turnover of undertakings directly participating in the concentration as well as of the remaining undertakings participating in the capital groups to which undertakings directly taking part in the concentration belong.
2. The turnover referred to in Article 14, Paragraph 1 shall include the turnover of the to-be-taken undertaking as well as of its dependent undertakings.

Article 17.

The Council of Ministers shall specify, by way of a regulation, the method of calculating the turnover referred to in Article 13, and Article 14, Subparagraph 1, taking into account the specificity of the activity conducted by undertakings, and in particular accountancy rules applicable to particular categories of undertakings, including banks, insurance companies and investment funds.

Chapter 2

Decisions in cases of concentration

Article 18.

The President of the Office shall, by way of decision, issue a consent to implement a concentration, which shall not result in significant impediments to competition in the market, in particular, by the creation or strengthening of a dominant position in the market.

Article 19.

1. The President of the Office shall, by way of a decision, issue a consent to implement a concentration when, upon fulfilment of the conditions specified in Paragraph 2 by undertakings intending to implement the concentration, competition in the market will not be significantly impeded, in particular by the creation or strengthening of a dominant position.

2. The President of the Office may impose upon the undertaking or undertakings intending to implement a concentration an obligation, or accept their obligation, in particular:
 - 1) to dispose of the entirety or part of the assets of one or several undertakings,
 - 2) to divest control over an undertaking or undertakings, in particular by disposing of a block of stocks or shares, or to dismiss one or several undertakings from the position in the management or supervisory board,
 - 3) to grant a competitor exclusive rights

- determining in the decision referred to in Paragraph 1 the time limit for meeting the requirements.
3. In the decision referred to in Paragraph 1, the President of the Office shall impose upon the undertaking or undertakings an obligation to provide information about fulfilment of such requirements, in a time limit specified in the decision.

Article 20.

1. The President of the Office shall, by way of a decision, prohibit the implementation of the concentration, if it results in a significant impediment to competition in the market, in particular by the creation or strengthening of a dominant position.
2. The President of the Office shall issue, by way of a decision, a consent for the implementation of the concentration as a result of which competition in the market will be significantly impeded, in particular by the creation or strengthening of a dominant position, in any case that the desistance from banning concentration is justifiable, and in particular:
 - 1) the concentration is expected to contribute to economic development or technical progress;
 - 2) it may exert a positive impact on the national economy.

Article 21.

1. The President of the Office may revoke the decisions referred to in Article 18, Article 19, Paragraph 1, and Article 20, Paragraph 2, if they were based on unreliable information for which undertakings participating in the concentration were responsible or where undertakings did not comply with the conditions referred to in Article 19, Paragraphs 2 and 3. In the case of revoking the decision, the President of the Office shall adjudicate on the merits of the case.
2. Where, in the cases referred to in Paragraph 1, the concentration is already implemented and restoration of the competition in the market is otherwise impossible, the President of the Office may, by way of a decision, defining the time limit for its implementation under conditions specified in the decision, order in particular:
 - 1) separation of the merged undertaking under conditions defined in the decision;
 - 2) disposal of the entirety or part of the undertaking's assets;
 - 3) disposal of stocks or shares ensuring the control over the undertaking or undertakings, or dissolution of the company over which the undertakings have joint control;

3. The decision referred to in Paragraph 2 cannot be issued after the lapse of 5 years from the day the concentration was implemented.
4. The provisions of Paragraphs 2 and 3 shall apply accordingly in cases whereby the intention to concentrate has not been notified to the President of the Office, as stipulated in Article 13, Paragraph 1, and when the decision banning the concentration has not been respected.

Article 22.

1. Decisions referred to in Article 18 and Article 19, Paragraph 1, or in Article 20, Paragraph 2 shall expire, if within 2 years from their issuance date, the concentration has not been implemented.
2. The President of the Office may, upon request of an undertaking participating in a concentration, extend, by way of a resolution, the date, referred to in Paragraph 1, by one year, if the undertaking has proved that no change has occurred as to the circumstance as a result of which the concentration may cause a significant impediment to competition in the market.
3. Before taking a resolution on the extension of the date to in Paragraph 1, the President of the Office may carry out explanatory proceedings.
4. In the event that a resolution has been issued refusing an extension of the date referred to in Paragraph 1, implementing a concentration upon the lapse of the time limit concerned shall require that the intent to implement the concentration be notified to the President of the Office, and that a consent be obtained for implementing thereof, under the rules and by the procedure as determined in the Act.

Article 23.

The President of the Office, upon request of a financial institution, may extend, by way of a decision, the time limit referred to in Article 14, Subparagraph 2, if the institution proves that resale of stocks or shares was not possible or economically justified before the lapse of one year from the date of their acquisition.

Title IV

Prohibition of practices violating collective consumer interests

Chapter 1

Practices violating collective consumer interests

Article 24

1. Practices violating collective consumer interests shall be prohibited.

2. A practice violating collective consumer interests shall mean any unlawful activity of an undertaking prejudicial to these interests, in particular:
 - 1) application of the provisions of standard forms of agreements entered in the register of the stipulations of standard forms of agreements that have been pronounced inadmissible, referred to in Article 479⁴⁵ of the Act of 17 November 1964 – the Code of Civil Procedure (Journal of Laws of 1964 No. 43, item 296, as amended⁴⁾);
 - 2) a breach of the duty to provide consumers with reliable, truthful and complete information;
 - 3) unfair or misleading advertising, and other acts of unfair competition prejudicial to collective consumer interest.
3. The sum total of individual consumer interests shall not be a collective consumer interest.

Article 25.

The protection of collective consumer interests provided for in this Act shall be without prejudice to protection under other acts, including without limitation the provisions on combating unfair competition. The provisions of this Act shall not apply to cases of pronouncing the stipulations of a standard form of an agreement inadmissible.

Chapter 2

Decisions on practices violating collective consumer interests

⁴⁾ Amendments to the aforementioned Act are published in the Journal of Laws of 1965 No. 15, item 113; of 1974 No. 27, item 157 and No. 39, item 231; of 1975, No. 45, item 234; of 1982 No. 11, item 82 and No. 30, item 210; of 1983 No. 5, item 33; of 1984 No. 45, item 241 and 242; of 1985 No. 20, item 86; of 1987 No. 21, item 123; of 1988 No. 41, item 324; of 1989 No. 4, item 21 and No. 33, item 175; of 1990 No. 14, item 88, No. 34, item 198, No. 53, item 306, No. 55, item 318 and No. 79, item 464; of 1991 No. 7, item 24, No. 22, item 92 and No. 115, item 496; of 1993 No. 12, item 53; of 1994 No. 105, item 509; of 1995 No. 83, item 417; of 1996 No. 24, item 110, No. 43, item 189, No. 73, item 350 and No. 149, item 703; of 1997 No. 43, item 270, No. 54, item 348, No. 75, item 471, No. 102, item 643, No. 117, item 752, No. 121, item 769 and 770, No. 133, item 882, No. 139, item 934, No. 140, item 940 and No. 141, item 944; of 1998 No. 106, item 668 and No. 117, item 757; of 1999 No. 52, item 532; of 2000 No. 22, item 269 and 271, No. 48, item 552 and 554, No. 55, item 665, No. 73, item 852 and No. 94, item 1037, No. 114, item 1191 and 1193 and No. 122, item 1314, 1319 and 1322; of 2001 No. 4, item 27, No. 49, item 508, No. 63, item 635, No. 98, item 1069, 1070 and 1071, No. 123, item 1353, No. 125, item 1368 and No. 138, item 1546; of 2002 No. 25, item 253, item 26, item 265, No. 74, item 676, No. 84, item 764, No. 126, item 1069 and 1070, No. 129, item 1102, No. 153, item 1271, No. 219, item 1849 and No. 240, item 2058; of 2003 No. 41, item 360, No. 42, item 363, No. 60, item 535, No. 109, item 1035, No. 119, item 1121, No. 130, item 1188, No. 139, item 1323, No. 199, item 1939 and No. 228, item 2255; of 2004 No. 9, item 75, No. 11, item 101, No. 68, item 623, No. 91, item 871, No. 93, item 891, No. 121, item 1264, No. 162, item 1691, No. 169, item 1783, No. 172, item 1804, No. 204, item 2091, No. 210, item 2135, No. 236, item 2356 and No. 237, item 2384; of 2005 No. 13, item 98, No. 22, item 185, No. 86, item 732, No. 122, item 1024, No. 143, item 1199, No. 150, item 1239, No. 167, item 1398, No. 169, item 1413 and 1417, No. 172, item 1438, No. 178, item 183, item 1538, No. 264, item 2205 and No. 267, item 2258; of 2006 No. 12, item 66, item 466, No. 104, item 708 and 711, No. 186, item 1379, No. 208, item 1537 and 1540, No. 226, item 1656 and No. 235, item 1699; and of 2007 No. 7, item 58.

Article 26.

1. The President of the Office shall issue a decision on pronouncing a practice as violating collective consumer interests and ordering that the same be discontinued, if he identifies a breach of the prohibition specified in Article 24.
2. The President of the Office may identify, in the decision referred to in Paragraph 1, measures for removing lasting effects of the violation of collective consumer interests with a view to ensuring compliance with the order, in particular bind the undertaking to issue a single or recurring declaration with such contents and in such form as may be prescribed in the decision. The President of the Office may also order the decision to be published in its entirety or in part at the expense of the undertaking.

Article 27

1. A decision referred to in Article 26 shall not be issued if the undertaking concerned has ceased to use the practice referred to in Article 24.
2. In a case as determined in Paragraph 1, the President of the Office shall issue a decision assessing the practice as violating collective interests of consumers, and shall declare it discontinued
3. The burden of providing evidence to circumstances referred to in Paragraph 1 shall rest upon the undertaking concerned.
4. The provision of Article 26, Paragraph 2 shall be applied accordingly.

Article 28

1. If, in the course of proceedings regarding practices violating collective interests of consumers, it has been rendered plausible – on the basis of the circumstances of a given case, information comprised in the notification referred to in Article 100, Paragraph 1, or information forming the basis for instituting proceedings – that the undertaking concerned uses the practice referred to in Article 24, whereas the undertaking charged with infringing such provision, has undertaken to take or discontinue certain actions aiming at preventing those infringements, then the President of the Office may, by way of a decision, impose an obligation to actually exercise the undertaken commitments.
2. In the decision referred to in Paragraph 1, the President of the Office may determine the final date(s) for implementing the undertaken commitments.
3. In the decision referred to in Paragraph 1, the President of the Office shall impose upon the undertaking an obligation to provide, within the fixed date(s), information regarding the degree of implementation of the assumed commitments.
4. In the event that a decision referred to in Paragraph 1 is issued, Articles 26 and 27 and Article 106, Paragraph 1, Subparagraph 4 shall not apply, subject to Paragraph 7.
5. The President of the Office may, on an *ex officio* basis, revoke the decision referred to in Paragraph 1, in the event that:

- 1) it has been issued on the basis of false, incomplete or misleading information or documents;
 - 2) the undertaking has not fulfilled commitments or obligations imposed thereupon in the decision referred to in Paragraphs 1 to 3.
6. The President of the Office may, upon consent of the undertaking concerned, revoke the decision referred to in Paragraph 1, if the circumstances that may have a significant impact on the issuance of such decision, have changed.
 7. In the event that the decision is revoked, the President of the Office shall adjudicate on the merits of the case.

Title V

Organisation of competition and consumer protection

Chapter 1

The President of the Office

Article 29.

1. The President of the Office shall be the central government administration body competent in the protection of competition and consumers. The Prime Minister shall supervise activities of the President of the Office.
2. The President of the Office is:
 - 1) an authority exercising tasks imposed upon the authorities of the Member States of the European Union, pursuant to Articles 84 and 85 of the EC Treaty. In particular, the President of the Office shall be the competent competition authority within the meaning of Article 35 of Regulation No. 1/2003/EC.
 - 2) a single liaison office within the meaning of the provisions of Regulation No. 2006/2004/EC and, in the scope of his statutory competences, shall be the competent authority referred to in Article 4 (1) of Regulation No. 2006/2004/EC.
3. The Prime Minister shall appoint, for the period of 5 years, the President of the Office, selected by way of a contest, from among persons:
 - 1) with university education, in particular in the field of law, economy or business administration;
 - 2) distinguished by their theoretical knowledge and practical experience in the scope of market economy as well as competition and consumer protection.
4. The Prime Minister shall dismiss the President of the Office. The President of the Office shall perform his duties until the date of appointing his successor.
5. The President of the Office may be dismissed by the Prime Minister before the term of office in the case of:

- 1) assuming employment relationship, with the exception of employment as professor at the university or in scientific institution;
 - 2) undertaking business activity in a capacity of an undertaking or assuming the function of a member of managing or supervisory body of an undertaking;
 - 3) condemnation by a lawful judgement for an offence committed in deliberate guilt or for a deliberate fiscal offence;
 - 4) flagrant infringement of his responsibilities;
 - 5) permanent illnesses which prevent from fulfilling duties;
 - 6) resigning of his office.
6. The President of the Office shall perform his tasks supported by the Office of Competition and Consumer Protection, hereinafter referred to as “the Office”.
 7. The member of the contest board may not be a person who within the last three years was performing a function in the organs of the undertaking being in possession of a dominant position in the market, or was representing its interest, or a person not giving a guarantee of impartiality in performance of the function in public interest.
 8. The Prime Minister shall define, by way of a regulation, the mode and procedures for organising the contest referred to in Paragraph 3, as well as the composition of the contest board, having in mind the necessity to ensure impartiality in the selection of the President of the Office.

Article 30.

The Prime Minister shall appoint Vice Presidents of the Office, upon a request of the President of the Office from among the persons belonging to the national reserve of human resources. The Prime Minister shall dismiss Vice Presidents of the Office, upon a request of the President of the Office.

Article 31.

The scope of the activities of the President of the Office shall include:

- 1) exercising control over the observance by undertakings of the provisions of the present Act;
- 2) issuing decisions in the matters of counteracting competition restricting practices, concentrations of undertakings, violations of collective consumer rights, as well as other decisions stipulated in the Act;
- 3) conducting studies on the concentration level in the economy and on the market behaviour of undertakings;
- 4) preparing the draft government programmes for the development of competition and the draft government consumer protection policy;

- 5) co-operating with foreign and international consumer and competition protection authorities and organisations;
- 6) performing tasks and exercising competences of a competition protection authority of the European Union Member State, as determined in Regulation No. 1/2003/EC and Regulation No. 139/2004/EC,
- 7) performing tasks and exercising competences of the competent authority and of the single liaison office of the European Union Member State, as determined in Regulation No. 2006/2004/EC;
- 8) preparing and submitting to the Council of Ministers, draft legal acts concerning competition restricting practices;
- 9) submitting to the Council of Ministers, periodical reports on the implementation of the government programmes for competition development and consumer policy;
- 10) co-operating with the territorial self-government authorities in the scope resulting from the government consumer policy;
- 11) initiating checks on products and services to be performed by consumer organisations;
- 12) preparing and editing publications and educational programmes promoting awareness of competition and consumer protection;
- 13) addressing undertakings on matters relating to the protection of the rights and interests of consumers;
- 14) fulfilling the international obligations of the Republic of Poland in the scope of co-operation and exchange of information in the field of consumer and competition protection and state aid;
- 15) collecting and disseminating judgements pronounced in the cases in the field of competition and consumer protection, in particular placing the decisions issued by the President of the Office on the Office's website;
- 16) co-operating with the Head of the National Crime Information Centre in the scope essential for the fulfilment of his statutory tasks;
- 17) performing other tasks defined by the present Act or by separate acts.

Article 32.

1. The President of the Office shall issue the Official Journal of the Office of Competition and Consumer Protection.
2. The following information may be published in the Official Journal of the Office of Competition and Consumer Protection, in its entirety or part:
 - 1) decisions and resolutions of the President of the Office,
 - 2) judgements of the District Court in Warsaw – the court of competition and consumer protection, hereinafter referred to as “the court of competition and consumer protection”,

- 3) judgement of the Court of Appeal in appeal cases concerning the judgements of the court of competition and consumer protection,
 - 4) judgments of the Supreme Court in cases of cassation of the judgements of the Court of Appeal,
- or their conclusions.
3. The publications referred to in Paragraph 2 shall be made with the omission of information constituting a business secret and other secret protected under separate provisions.
 4. Information, communications, notices, explanations and interpretations having significant importance for the application of the provisions encompassed by the scope of the activities of the President of the Office, shall be also published in the Official Journal of the Office of Competition and Consumer Protection.

Article 33.

1. The Office shall be composed of the Head Office in Warszawa and of the Office branches in Bydgoszcz, Gdańsk, Katowice, Kraków, Lublin, Łódź, Poznań, Warszawa and Wrocław.
2. The Office branches shall be managed by their directors.
3. The Prime Minister shall determine, by way of a regulation, territorial and material competence of the Office branches for cases in the scope of the activities of the President of the Office, taking into consideration the character and number of cases arising in the relevant territory.
4. In addition to the cases within their competence, the Office branches may deal with other cases entrusted by the President of the Office.
5. In particularly justified circumstances, the President of the Office may take over the case within the competence of a given branch or delegate it to be dealt with by another branch, or delegate the case of its own competence to be dealt with by an indicated branch.
6. Decisions and resolutions within the competence of branches and in cases delegated by the President of the Office pursuant to Paragraph 5, shall be issued by the directors of branches on behalf of the President of the Office.

Article 34.

The organisation of the Office shall be defined by the statutes granted by the Prime Minister, by way of an instruction.

Article 35.

1. The Trade Inspection shall be subordinated to the President of the Office.
2. The President of the Office shall sanction the policy of the Trade Inspection and its plans of inspections of national dimensions submitted by the Chief Inspector of the Trade Inspection.

3. The President of the Office may order the Trade Inspection to proceed with the inspection or to perform other tasks included in the scope of his activities.
4. The President of the Office shall perform periodical assessments of the activities of the Trade Inspection based on the reports submitted by this Inspection and shall deliver the conclusions of such assessments to the Chief Inspector of the Trade Inspection.

Article 36.

The President of the Office may make public information concerning results of the control of the Trade Inspection, excluding information constituting a business secret as well as any other secret protected under separate provisions.

Chapter 2

Territorial self-government and consumer organisations

Article 37.

The tasks in the field of the protection of consumer interests in the scope determined by the Act and by separate provisions shall be performed also by the territorial self-government as well as by consumer organisations and other institutions, the statutory tasks of which include the protection of consumer interests.

Article 38.

The task of the territorial self-government in the field of consumer protection shall consist in promoting consumer education, in particular by way of introducing elements of consumer awareness into educational programmes in the public schools.

Article 39.

1. The tasks of the *poviat* self-government in the field of the protection of consumer rights shall be performed by the *poviat* (municipal) Consumer Ombudsman, hereinafter referred to as "Consumer Ombudsman".
2. The *poviats* may, by way of an agreement, create one common post of the Consumer Ombudsman.

Article 40.

1. The Consumer Ombudsman shall be appointed and dismissed by the *poviat* council or town council in towns with *poviat* rights, hereinafter referred to as "the council".

2. The Consumer Ombudsman shall be appointed from among persons with university education, in particular in law or economy and with minimum five years of professional experience.
3. The Consumer Ombudsman shall be subordinated directly to the council and report to the council.
4. The organisational status of the Consumer Ombudsman shall be determined by the *poviat* statutes or regulations.
5. In *poviats* populated by over 100 thousand inhabitants and in towns with *poviat* rights, the Consumer Ombudsman may perform his tasks with the help of an individual office.

Article 41.

1. The Consumer Ombudsman shall be employed in the *poviat starosty*.
2. Functions in the scope of labour law in relation to the Consumer Ombudsman shall be performed by the *starost*.
3. The remuneration rules for the Consumer Ombudsman are regulated in Articles 20 to 22 of the Act of 22 March 1990 on self-government employees (Journal of Laws of 2001 No. 142, item 1593, as amended⁵⁾).

Article 42.

1. The tasks of the Consumer Ombudsman shall, in particular include the following:
 - 1) providing free of charge consumer advice and legal information in the scope of protection of consumer interests;
 - 2) submitting requests for proclaiming and amending local regulations in the scope of protection of consumer interests;
 - 3) addressing undertakings in cases concerning protection of consumer rights and interests;
 - 4) co-operating with the territorially competent Office branches, bodies of Trade Inspection and consumer organisations;
 - 5) performing other tasks prescribed by the present Act and by separate provisions.
2. The Consumer Ombudsman may in particular bring an action on consumers' behalf and, with their consent, join lawsuits in cases concerning protection of consumer interests.
3. In the cases concerning petty offences to the detriment of consumers, the Consumer Ombudsman shall act as a public prosecutor within the meaning of the provisions of the Act

⁵⁾ Amendments to the consolidated text of the aforementioned Act are published in Journal of Laws of 2002 No. 113, item 984 and No. 214, item 1806; of 2005 No. 10, item 71, No. 23, item 192 and No. 122, item 1020; and of 2006 No. 79, item 549, No. 169, item 1201 and No. 170, item 1218.

of 24 August 2001 – the Code of Procedure in Cases Prosecuted as Petty Offence (Journal of Laws No. 106, item 1148, as amended⁶⁾).

4. The undertaking addressed by the Consumer Ombudsman acting pursuant to the provisions of Paragraph 1, Subparagraph 3, is under an obligation to provide the Ombudsman with requested explanations and information and to take a stance in relation to comments and opinions of the Ombudsman.
5. The provisions of Article 63 of the Act of 17 November 1964 – the Code of Civil Procedure shall apply accordingly, to the Consumer Ombudsman.

Article 43.

1. The Consumer Ombudsman shall submit to the council for approval an annual activity report by 31 March of each year.
2. The Consumer Ombudsman shall remit the report referred to in Paragraph 1, approved by the council to the territorially competent branch of the Office.
3. The Consumer Ombudsman shall be obliged to continually present to the branches of the Office the relevant conclusions and inform them about problems concerning consumer protection which require taking measures on the government administration level.

Article 44.

1. The National Council of Consumer Ombudsmen, hereinafter referred to as “the Council” shall assist the President of the Office.
2. The Council shall be a standing opinion-giving and advisory body of the President of the Office in the scope of the matters related to protection of consumer rights at the level of a *poviat* self- government.
3. The tasks of the Council shall include, in particular:
 - 1) submitting proposals on directions of legislative changes in provisions pertaining to protection of consumer rights;
 - 2) giving opinions on matters related to draft legal instruments or directions of the government consumer policy;
 - 3) giving opinions on such other matters falling within the scope of protection of consumers as the President of the Office may refer to the Council;
 - 4) conveying information concerning protection of consumers to the extent as indicated by the President of the Office.
4. The Council shall comprise nine Consumer Ombudsmen, one from each area of local competence of the branches of the Office of Protection of Competition and Consumers.

⁶⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2003 No. 109, item 1031 and No. 213, item 2081; of 2004 No. 128, item 1351; of 2005 No. 132, item 1103 and No. 143, item 1203; and of 2006 No. 226, item 1648.

5. The members of the Council shall be appointed and dismissed by the President of the Office. Appointments shall be granted upon a request of the directors of the branches referred to in Paragraph 4, subject to a written consent of the recommended Consumer Ombudsmen. The recalling from the function of Consumer Ombudsman shall result in the expiry of the membership in the Council.
6. The Office shall provide administrative support for the Council.
7. The Office shall refund to the members of the Council the costs of commuting to meetings of the Council in accordance with the provisions on dues to which a person employed in a state or self-government unit of the budget sector is entitled in connection with domestic business travel.
8. The work practices of the Council shall be laid down in the regulations established by the President of the Office.

Article 45.

1. The consumer organisations shall represent consumer interests towards the central government and self-government administration bodies and may participate in the implementation of the government consumer policy.
2. The organisations referred to in Paragraph 1 are, in particular, entitled to:
 - 1) expressing opinions on the draft legal acts and other documents concerning rights and interests of consumers;
 - 2) elaborating and disseminating consumer educational programmes;
 - 3) performing tests of products and services and publishing their results;
 - 4) editing periodicals, research studies, folders and leaflets;
 - 5) providing free-of-charge consumer advisory services and free-of-charge assistance in handling consumer claims, unless the statutes of the organisation provide for the pursuance of such activities against payment;
 - 6) participating in the work on standardisation;
 - 7) implementing government tasks in the field of consumer protection, commissioned to them by the central government and self-government administration bodies;
 - 8) applying for allocation of public funds for the implementation of the tasks referred to in Subparagraph 7.
3. The central government and self-government administration bodies shall be obliged to consult consumer organisations on the issues concerning the directions of activities aimed at protection of consumer interests.

Article 46.

The amount of annual closed-end grants, within the meaning of the Act of 30 June 2005 on Public Finance (Journal of Laws No. 249, item 2104, as amended⁷⁾), allocated from the state budget for the implementation of the tasks referred to in Article 45, Paragraph 2, Subparagraph 7 shall be determined in the Budget Act in the part of the state budget, the administrator of which is the President of the Office.

Title VI

Proceedings before the President of the Office

Chapter 1

General Provisions

Article 47.

1. The proceedings before the President of the Office shall be conducted as explanatory proceedings, antimonopoly proceedings or proceedings in cases of practices violating collective consumer interests.
2. The explanatory proceedings may precede instituting the antimonopoly proceedings or proceedings in cases of practices violating collective consumer interests.

Article 48.

1. The President of the Office may institute, on an *ex officio* basis, and by way of a resolution, explanatory proceedings, if the circumstances indicate a possibility that the provisions of the Act have been infringed, as to matters regarding a given branch of economy, or as to matters regarding protection of consumer interests, and in any other cases as provided for by the Act.
2. The explanatory proceedings may in particular aim at:
 - 1) initially determining whether an infringement of the provisions of this Act has occurred, such as may justify the institution of antimonopoly proceedings, including whether the case is of an antimonopoly nature;
 - 2) initially determining whether an infringement of the provisions of this Act has occurred, such as may justify the institution of proceedings regarding the use of practices violating the collective interests of consumers;
 - 3) a study of the market, inclusive of the determination of the structure and degree of concentration thereof;
 - 4) initially determining whether an obligation exists to submit a notification of an intended concentration;

⁷⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2005 No. 169, item 1420; and of 2006 No. 45, item 319, No. 104, item 708, No. 170, item 1217 and 1218, No. 187, item 1381 and No. 249, item 1832.

- 5) determining whether an instance of the violation has occurred, of any consumer interest being protected by the law, such as may justify the undertaking of actions specified in the relevant separate acts.
3. The explanatory proceedings shall be concluded by way of a resolution.
4. The explanatory proceedings should not last in excess of 30 days, and as regards particularly complex issues, not longer than 60 days from the date of the institution thereof.
5. In the case as referred to in Paragraph 2, Subparagraph 3, the provision of Paragraph 4 and Article 35 of the Act of 14 June 1960 – the Code of Administrative Procedure (Journal of Laws of 2000 No. 98, item. 1071, as amended⁸⁾) shall not apply.

Article 49.

1. The antimonopoly proceedings in the cases of competition restricting practices, proceedings in cases of practices violating collective consumer interests and in cases involving imposition of financial penalties shall be instituted on *ex officio* basis.
2. The antimonopoly proceedings in cases of concentrations shall be instituted upon a request or on an *ex officio* basis.

Article 50.

1. Undertakings shall be obliged to provide all necessary information and documents upon request of the President of the Office.
2. The request referred to in Paragraph 1 should include:
 - 1) indicating the scope of such information;
 - 2) indicating the objective of the request;
 - 3) the time limit for providing information;
 - 4) an instruction about sanctions for non-delivery of information or for providing false or misleading information.
3. Everyone shall be entitled to submit, in a written form, on his or her own initiative or upon request of the President of the Office, explanations concerning essential circumstances of a given case.

Article 51.

1. Only the original document or its copy certified by a public administration body, notary, attorney at law, legal adviser or authorised employee of the undertaking may serve as the documentary evidence in the proceedings before the President of the Office.

⁸⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2001 No. 49, item 509; of 2002 No. 113, item 984, No. 153, item 1271, No. 169, item 1387; of 2003 No. 130, item 1188, No. 170, item 1660; of 2004 No. 162, item 162, item 1692; and of 2005 No. 64, item 565, No. 78, item 682 and No. 181, item 1524.

2. The evidence in the proceedings before the President of the Office shall constitute the document drawn up in the Polish language, subject to Paragraph 3.
3. Where such document has been drawn up in a foreign language also the translation into Polish of this document or of its part intended to serve as the evidence in the proceedings should be submitted, certified by a sworn translator.

Article 52.

1. The party adducing witness evidence shall be obliged to precisely indicate facts subject to confirmation by the testimony of individual witnesses and to indicate the data to allow proper summons of the witnesses.
2. The President of the Office, when summoning a witness, shall indicate in his summons the name, surname and domicile of the summoned, the place and date of giving the explanation, the parties and subject of the case as well as the provisions on penal sanctions for false testimony.

Article 53.

1. The testimony of a witness, after its entry into the protocol, shall be read before a witness and, depending on circumstances, completed or verified based on his/her comments.
2. The protocol of the hearings of a witness shall be signed by the witness and by the employee of the Office carrying out the hearings.

Article 54.

1. In cases requiring special information, the President of the Office having heard requests of the parties concerning the number of experts and their choice, may summon one or more experts in order to seek their opinion.
2. The expert within the meaning of Paragraph 1 may be also a legal person specialised in the relevant field.

Article 55.

Until the termination of the activities of an expert each party may request him/her to be excluded from the proceedings for the same reasons as may be requested to exclude the employee of the Office. The party lodging a request to exclude an expert after activities have been initiated by the expert, has an obligation to give an appearance of verisimilitude that the reason justifying the exclusion arose thereafter or was unknown to the party beforehand.

Article 56.

The President of the Office may order to present to an expert the case records and the subject of inspection. The provisions of Article 71, Paragraph 1 shall apply accordingly.

Article 57.

1. The opinion of an expert should contain its justification.
2. The experts may submit their joint opinion.

Article 58.

1. The President of the Office shall accord to an expert the remuneration in accordance with the provisions on costs of obtaining expert's evidence in court proceedings, subject to Paragraph 3.
2. The President of the Office may impose upon a party which has filed a request for obtaining expert's evidence, the obligation to pay an advance on account of the expert's expenses.
3. If no decision is issued, stating that the practice restricting competition has been applied, or collective consumer interests have been violated, the costs of the expert's remuneration shall be borne by the State Treasury.

Article 59.

1. The President of the Office may address a scientific institute, within the meaning of the provisions on science financing rules, to issue an opinion.
2. In its opinion, the institute shall indicate a person or persons who carried the research and issued the opinion.
3. The provisions of Articles 54 to 58 shall apply accordingly.

Article 60.

1. During the proceedings the President of the Office may hold a hearing.
2. The hearing referred to in Paragraph 1 shall be an open session , subject to Paragraph 4.
3. The President of the Office may summon for the hearing, and examine parties, witnesses as well as ask for an expert opinion.
4. The hearing referred to in Paragraph 1 is a closed session, if during its course, the information considered is subject to business secrecy or other secrecy protected under separate provisions. The provisions of Articles 153 and 154 of the Act of 17 November 1964 – the Code of Civil Procedure, shall apply accordingly.

Article 61.

The President of the Office may address a territorially competent regional court to examine witnesses and obtain an expert opinion, where it is supported by the character of the evidence or consideration of significant inconvenience or significant costs of obtaining the evidence. When

addressing the court for providing evidence, the President of the Office shall issue a resolution which shall define:

- 1) the court which is to provide evidence,
- 2) means of evidence,
- 3) facts to be established.

Article 62.

1. During the proceedings before the President of the Office, an authorised employee of the Office or of the Trade Inspection, hereinafter referred to as “the inspector”, may perform an inspection of each undertaking, hereinafter referred to as “inspected”, in the scope encompassed by these proceedings.
2. The President of the Office may authorise any of the following for participation in an inspection:
 - 1) an employee of the competition authority of a Member State of the European Union – in the case referred to in Article 22 of Regulation No. 1/2003/EC;
 - 2) an employee of the authority within the meaning of Article 3 (f) of Regulation No. 2006/2004/EC in the case referred to in Article 6 (3) of this Regulation;
 - 3) any individuals having special knowledge – if for the carrying out of an inspection any such knowledge is necessary.
3. An authorisation for carrying out an inspection should comprise:
 - 1) designation of the inspection authority;
 - 2) indication of the relevant legal basis;
 - 3) date and location of issue;
 - 4) first name, surname, and title/post of the inspector as well as the number of his or her professional identity card, and in case an authorisation for participation in an inspection concerns any of the individuals referred to in Paragraph 2 – the respective first names and surnames of those persons, and the number of passport or any other document confirming the individual’s identity;
 - 5) designation of the entity to be inspected;
 - 6) determination of the object and scope of the inspection;
 - 7) determination of the inspection start date and the expected end date;
 - 8) signature of the authorisation granting individual, also quoting the title or post (scope of duties) being held by the same;
 - 9) instruction regarding the rights and obligations of the entity being inspected.
4. The authorisation to perform the inspection referred to in Paragraph 1 shall be issued, respectively: by the President of the Office and, upon a request of the Chief Inspector of the Trade Inspection, by the voivodship inspectors of the Trade Inspection.

5. The inspector shall be obliged to serve an authorisation to carry out the inspection on the inspected person or to a person authorised by him or her, and to show them his or her professional identity card, whereas individuals being authorised to take part in the inspection, as referred to in Paragraph 2, shall be obliged to show their (personal) identity card, passport, or any other document confirming their identity.
6. In case the inspected person or a person authorised by him or her is not present, the authorisation to carry out the inspection as well as the professional identity card, (personal) identity card, passport or another document confirming the identity shall be shown to an employee of the inspected person or to a person referred to in Article 97 of the Act of 23 April 1964 – the Civil Code, or to another person being active at the place where the inspection is due to start. In such case the authorisation for carrying out the inspection shall be delivered to the inspected person without delay.

Article 63.

1. The inspector is entitled to:
 - 1) enter the premises, buildings, rooms or other quarters and means of transportation belonging to the inspected person;
 - 2) request to render accessible files, books and all kinds of documents or data carriers related to the subject of the inspection as well as duplicates and extracts thereof and also to make notes;
 - 3) require from the persons referred to in Article 65, Paragraph 1, to provide oral explanations relevant to the subject of the inspection.
2. The person authorised to participate in the inspection, on the basis of Article 62, Paragraph 2, shall enjoy the same rights as the inspector, concerning entering the premises, buildings, rooms and other quarters and means of transportation belonging to the inspected person; having access to files, books and all kinds of documents or data carriers related to the subject of inspection, as well as duplicates and extracts thereof and also making notes; and shall be authorised to participate, alongside the inspector, in a search referred to in Articles 64 and 91.
3. During the inspection, the inspector may use the assistance provided by officers of other state inspection authorities or the Police. The state inspection authorities or the Police shall perform activities upon the inspector's request.
4. In justified cases, the course of the inspection and particular activities performed within the proceedings, upon a prior notice given to the inspected person, may be recorded by means of video or audio devices. The IT data carriers, within the meaning of the provisions on informatisation of the activity of entities performing public tasks, on which the course of the inspection or particular activities in its proceedings have been recorded, shall be attached to the inspection protocol.
5. The Council of Ministers shall determine, by way of a regulation and taking into consideration the objectives of the inspection, the detailed mode and procedure of the inspection, including the mode of drafting the inspection protocol.

Article 64.

1. In the course of the inspection, the inspector may also search the premises or things, pursuant to the permission of the court of competition and consumer protection, issued upon a request of the President of the Office.
2. In the event of any justifiable suspicion of breach of the provisions of the Act, particularly whenever obliteration of evidence may occur, the President of the Office may file a request referred to in Paragraph 1 prior to the antimonopoly proceedings getting instituted.
3. The court of competition and consumer protection shall issue within 48 hours a resolution in the case referred to in Paragraph 1. To the resolution of the Court the right of complaint shall not apply.
4. With regard to any cases not regulated in the present Act, the relevant provisions of the Act of 6 June 1997 – the Code of Penal Procedure (Journal of Laws, No. 89, item 555, as amended⁹⁾) applying to a search, shall apply accordingly.

Article 65.

1. The inspected person or an individual being authorised to represent the same, and the owner of a dwelling (living quarters), room, real estate, or means of transportation referred to in Article 91, Paragraph 1, as well as the persons referred to in Article 62, Paragraph 6, shall be obliged to:
 - 1) provide any information that has been demanded;
 - 2) render it feasible to enter the land and buildings, premises or any other rooms or areas and means of transportation;
 - 3) render accessible files, books or registers, and any other documents or other data carriers.
2. The individuals referred to in Paragraph 1 may refuse to provide information or co-operate in the course of an inspection exclusively whenever this would expose him or her, or his or her spouse, ascendants, descendants, siblings, relations in the same line or to the same degree, as well as any persons being related thereto by adoption, custody or *ad hoc* guardianship, or a person being related thereto on the basis of cohabitation, to criminal liability. The right to refuse provision of information or co-operate in the course of an inspection shall survive the cessation of marriage or dissolution of the relationship of adoption, custody or *ad hoc* guardianship.

Article 66.

⁹⁾ Amendments to the aforementioned Act are published in Journal of Laws of 1999 No. 83, item 931; of 2000 No. 50, item 580, No. 62, item 717, No. 73, item 852, No. 93, item 1027; of 2001 No. 98, item 1071, No. 106, item 1149; of 2002 No. 74, item 676; of 2003, No. 17, item 155, No. 111, item 1061, No. 130, item 1188; of 2004 No. 51, item 514, No. 69, item 626, No. 93, item 889, No. 240, item 2405, No. 264, item 2641; of 2005 No. 10, item 70, No. 48, item 461, No. 77, item 680, No. 96, item 821, No. 141, item 1181, No. 143, item 1203, No. 163, item 1363, No. 169, item 1416 and No. 178, item 1479; of 2006 No. 15, item 118, No. 66, item 467, No. 95, item 659, No. 104, item 708 and 711, No. 141, item 1009 and 1013, No. 167, item 1192 and No. 226, item 1647 and 1648; and of 2007 No. 30, item 116.

1. In the course of the inspection referred to in Article 62, Paragraph 1, the President of the Office may issue a resolution on the seizure of any files, books, documents of any type, or any other IT data carriers within the meaning of the provisions on informatisation of the activity of entities performing public tasks, as well as any other objects that may constitute evidence in the case, for a period of time indispensable to carry out the inspection, being not longer, however, than 7 days.
2. The inspector shall summon the person being in a possession of the objects referred to in Paragraph 1 to hand them over voluntarily and, in the case of refusal, may carry out their collection in the course of administrative execution proceedings.
3. The resolution on the seizure of objects shall be subject to a complaint of the persons whose rights have been infringed. The lodging of a complaint does not suspend the enforcement of the resolution.
4. Securing at the inspection site, in order to perform searching duties, any files, books, documents of any type, or data carriers as well as any other objects that may constitute evidence in the case, and the premises of the inspected person, in which such documents or objects are located, shall not be subject to Paragraphs 1 to 3.

Article 67.

1. The objects subject to seizure referred to Article 66, Paragraph 1, handed over, collected or found during the inspection, after being examined and entered into the protocol of seizure, should be taken away or deposited with a trustworthy person, with an indication of the obligation to present them upon each request of the body performing the inspection.
2. The protocol of seizure should contain a designation of the case to which the seizure or search is related, exact hour of initiating and terminating the action, a detailed list of retained objects and, where appropriate, their description, and moreover, a reference to the resolution of the President of the Office about the seizure. The protocol shall be signed by the executor of the seizure and the representative of the inspected person.
3. The executor of the seizure of the objects referred to in Paragraph 1 shall be obliged to immediately present to the interested persons a receipt specifying which objects and by whom have been retained and to provide without delay the undertaking the objects of which have been retained, with information thereof.
4. The objects having been seized should be returned immediately after it has been found that they prove redundant in terms of the ongoing proceedings, or, following a revocation by the court of competition and consumer protection, of a resolution concerning the seizure of the objects, no later than upon the lapse of the final date referred to in Article 66, Paragraph 1.

Article 68.

Without any separate proceedings being instituted, the President of the Office may carry out an inspection, inclusive of a search, under Article 64 or Article 91:

- 1) upon request from the European Commission – if the undertaking or individual authorised to represent the same, or the owner of a housing apartment, room, real estate,

or means of transportation referred to in Article 91, Paragraph 1, has opposed the carrying out by the European Commission of an inspection in the course of proceedings conducted under the provisions of Regulation No. 1/2003/EC, or of Regulation No. 139/2004/EC;

- 2) upon request from the European Commission or a competition authority of any other Member State of the European Union – in the case referred to in Article 22 of Regulation No. 1/2003/EC, and in Article 12 of Regulation No. 139/2004/EC.

Article 69.

1. The President of the Office may, upon a request or on an *ex officio* basis, and by way of a resolution, limit to an extent indispensable the right to have access to evidence being attached to the records of proceedings, in case that rendering such evidence accessible would entail a risk that the business secret, or any other secrets being liable to protection under the relevant separate provisions, may be revealed.
2. The restriction referred to in Paragraph 1 shall also apply to evidence included in the proceedings pursuant to Article 73, Paragraph 5.
3. The resolution issued pursuant to Paragraph 1 shall be subject to a complaint.
4. The party filing a request for a limited right of access to evidence shall also submit to the President of the Office a version of the document that does not comprise any information subject to a limitation referred to in Paragraph 1, as furnished with a relevant annotation.
5. A version of the document not comprising any information being liable to a limitation referred to in Paragraph 1 shall be rendered accessible to the parties concerned, as furnished with a relevant annotation.

Article 70.

1. Any information and evidence received by the President of the Office under the procedure of Article 109, including information on the undertaking's request for renouncement of imposing a financial penalty or reducing thereof (leniency), shall not be rendered accessible, subject to Paragraphs 2 and 3.
2. The President of the Office shall provide the parties concerned with access to information and evidence referred to in Paragraph 1, prior to issuing a decision.
3. The provision of Paragraph 1 shall not apply, if the undertaking moving for leniency agrees in writing to rendering accessible the information and evidence referred to in Paragraph 1.

Article 71.

1. The Office employees shall be obliged to protect the business secret as well as any other secrets being liable to protection under the relevant separate provisions, of which they have become aware in the course of the proceedings.
2. The provision of Paragraph 1 shall not apply to information proving generally accessible, information regarding the institution of proceedings, as well as any information regarding the issuance of decisions finalising the proceedings and their accompanying findings.

3. The provisions of Paragraphs 1 and 2 shall also apply to employees of the Trade Inspection and any other persons participating in the inspection referred to in Article 62, Paragraph 2.

Article 72.

The public administration bodies are under obligation to render accessible to the President of the Office the files being in their possession as well as information relevant to the proceedings before the President of the Office.

Article 73.

1. Information received in the course of the proceedings may not be used in any other proceedings based on separate provisions, subject to Paragraphs 2 to 4.
2. The provision of Paragraph 1 shall not apply with:
 - 1) penal proceedings exercised by a public-complaint procedure, or fiscal penal proceedings;
 - 2) other proceedings exercised by the President of the Office;
 - 3) sharing information with the European Commission and competition authorities of the European Union Member States, under Regulation No. 1/2003/EC;
 - 4) sharing information with the European Commission and competent authorities of the European Union Member States, pursuant to Regulation No. 2006/2004/EC;
 - 5) providing the competent authorities of the European Union Member States with information which may indicate that any separate provisions have been infringed.
3. The President of the Office shall provide regulatory authorities involved in the market of telecommunications and postal services, as well as management of fuels and energy, hereinafter referred to as “regulatory authorities” with information, including results of research and market analyses required in proceedings conducted by these authorities, save for information:
 - 1) for which the confidentiality obligation results from international commitments, in particular information obtained in the course of proceedings instituted pursuant to Article 81 or 82 of the EC Treaty;
 - 2) obtained from the undertaking in connection with the application of Article 109 of the Act.
4. The regulatory authorities shall be obliged to protect the information obtained pursuant to Paragraph 3, in particular the information may not be used in other proceedings than those conducted by the regulatory authorities. The provisions of Articles 69 and 71 shall apply accordingly.
5. Information received in the course of proceedings from a competition authority of a Member State of the European Union may be used in the course of the said proceedings under the terms upon which such information has been provided by that authority, inclusive of not availing oneself of the information in order to impose any sanctions upon certain persons.

6. The President of the Office shall notify the parties concerned, of having included in the pool of evidence the information obtained in the course of any other proceedings exercised by him.

Article 74.

When issuing the decision terminating the proceedings, the President of the Office shall take into consideration only the charges to which the parties concerned could assume their position.

Article 75.

1. The President of the Office shall discontinue proceedings, by way of a resolution, in the event that:
 - 1) the notification on intended concentration of undertakings has been withdrawn;
 - 2) the financial penalty referred to in Article 106, Paragraph 2, and Articles 107 and 108, has not been imposed;
 - 3) the case has been taken over by the European Commission under the relevant provisions of the Community law
2. The President of the Office may, by way of a resolution, discontinue proceedings if the case concerned has been resolved by a competent competition authority of a Member State of the European Union.

Article 76.

Subject to Articles 93 and 105, proceedings shall not be instituted if 5 years elapsed from the end of the year when:

- 1) the infringement of the provisions of the Act took place;
- 2) a decision about imposition of a financial penalty became legally binding.

Article 77.

1. If the proceedings result in the assessment by the President of the Office that the provisions of the Act have been infringed, the undertaking which has committed this infringement shall be obliged to bear the costs of the proceedings.
2. In the cases particularly justified the President of the Office may impose upon a party the obligation to reimburse only part of the expenses or desist from charging costs.

Article 78.

Regardless of the result of the proceedings, the President of the Office may impose upon a party the obligation to reimburse expenses due to its unreliable or clearly unfair behaviour, in

particular costs resulting from avoidance to give explanation or submitting untruthful explanation, concealment or delayed presentation of the evidence.

Article 79.

The costs of necessary opinions of experts and scientific institutes within the meaning of the provisions on science financing rules in cases related to concentrations shall be borne by the undertakings participating in the concentration.

Article 80.

The President of the Office shall decide upon the costs by way of a resolution, which may be included in the decision terminating the proceedings.

Article 81.

1. The decision of the President of the Office shall be subject to an appeal to the court of consumer and competition protection, lodged within two weeks from the date of delivering the decision.
2. In the case where the appeal against the decision is lodged, the President of the Office shall without delay remit it to the court of competition and consumer protection together with the records of proceedings.
3. Where the President of the Office considers the appeal to be justified, he may – without remitting the records to the court – revoke or change the decision in its entirety or in part, about which, without delay, the party is informed by sending a new decision, which may be appealed against.
4. Prior to the remittance of the appeal to the court or the revocation or the change of the decision pursuant to Paragraph 3, the President of the Office may also, in justified cases, perform additional activities aimed at clarification of objections contained in the appeal.
5. The provisions of Paragraphs 1 to 4 shall apply, accordingly, to the resolutions of the President of the Office which are subject to complaints, however a complaint is to be lodged within one week from the day of delivering the resolution.

Article 82.

1. Legal means for refuting the decision foreseen in the Code of Administrative Procedure and concerning the resumption of proceedings, revocation, change or assessment of invalidity of decisions shall not apply to the decision of the President of the Office.
2. The provision of Paragraph 1 shall apply accordingly to the resolutions of the President of the Office.

Article 83.

The matters not regulated by the present Act, as regards the proceedings before the President of the Office, shall be subject to the provisions of the Act of 14 June 1960 – the Code of Administrative Procedure, subject to Article 84.

Article 84.

To the matters concerning the evidence in the proceeding before the President of the Office in the scope not regulated in the present chapter, Articles 227 to 315 of the Act of 17 November 1964 – the Code of Civil Procedure, shall apply accordingly.

Article 85.

The provisions of the present chapter shall apply accordingly to the cases of imposition of financial penalties for infringements of the provisions contained in the Act.

Chapter 2

Antimonopoly proceedings in cases of competition restricting practices

Article 86.

1. Everybody may submit to the President of the Office a written notification concerning a suspicion that competition restricting practices have been applied, together with a justification.
2. The notification referred to in Paragraph 1 may include in particular:
 - 1) indication of the undertaking which is accused of applying competition restricting practices;
 - 2) description of the actual state being the basis of the notification;
 - 3) indication of the provision of the Act or the EC Treaty, the infringement of which is objected against by the notification submitter;
 - 4) making the infringement of the provisions of the Act or the EC Treaty plausible;
 - 5) identification data of the notification submitter.
3. Any documents that may constitute the evidence of infringing the provisions of the Act shall be attached to the notification.
4. The President of the Office shall provide the notification submitter, within the time period specified in Articles 35 to 37 of the Act of 14 June 1960 – the Code of Administrative Procedure, with information in writing about the way of considering the notification together with its justification.

Article 87

1. The President of the Office shall, in accordance with Article 11 (6) of Regulation No. 1/2003/EC, refuse to institute antimonopoly proceedings in the event that:
 - 1) the European Commission is exercising proceedings regarding this same case;
 - 2) the case has been resolved by the European Commission.
2. The President of the Office may, pursuant to Article 13 of Regulation No. 1/2003/EC, refuse to institute antimonopoly proceedings in the event that:
 - 1) the competent competition authority of another Member State of the European Union is exercising proceedings regarding the same case;
 - 2) the case has been resolved by the competent competition authority of another Member State of the European Union.
3. If in the case referred to in Paragraph 2, Subparagraph 1, the President of the Office has instituted antimonopoly proceedings concerning a given case, he may suspend the proceedings, by way of a resolution, until the competent competition authority of another Member State of the European Union resolves the case.

Article 88.

1. The party to the proceedings shall be every person against whom the proceedings on the application of competition restricting practices are instituted.
2. The President of the Office shall issue a resolution about the instituted antimonopoly proceedings and he shall notify the parties of this fact.

Article 89.

1. If, in the course of antimonopoly proceedings, it has been rendered plausible that any further application of the practice being objected against may cause serious and hard-to-remove threats to competition, the President of the Office may, prior to the conclusion of the antimonopoly proceedings, and by way of a decision, impose on the undertaking being alleged to be using a given practice, an obligation to omit acting in a certain manner, in order to prevent those threats. Lodging of an appeal shall not stay execution of the said decision. Prior to issuing the decision, no right shall be vested in the party concerned to express itself as to the evidence and materials gathered, or demands submitted, as referred to in Article 10 of the Act of 14 June 1960 – the Code of Administrative Procedure.
2. In the decision referred to in Paragraph 1, the President of the Office shall determine the period for which it is due to be binding. The decision shall be binding for no longer than until a decision is issued concluding the proceedings regarding the case.
3. The President of the Office may extend, by way of a decision, the validity period of the decision referred to in Paragraph 1. The provision of Paragraph 2, the second sentence, shall apply accordingly.
4. In the event that a decision is issued, as referred to in Paragraph 1, Article 106, Paragraph 1 Subparagraphs 1 and 2 shall not apply.

Article 90.

The President of the Office may rule that the decision be immediately enforceable in whole or in part, where it is necessary for the protection of competition or important interest of consumers.

Article 91.

1. In the event that any justifiable grounds for presuming that in a housing apartment or in any other room, real estate or means of transportation, any objects, files, books, documents and any other IT data carriers, within the meaning of the provisions on informatisation of the activity of entities performing public tasks, are kept which may influence the determination of the actual state of affairs being of essence for the proceedings being exercised, the court of competition and consumer protection may, upon request of the President of the Office, grant its consent for carrying out a search, including for seizure of objects that may constitute evidence for the case, by officers of the Police. The provisions of Article 64, Paragraphs 2 to 4 shall apply accordingly.
2. The search referred to in Paragraph 1 shall be performed also with the participation of an authorised employee of the Office or other persons referred to in Article 62, Paragraph 2.
3. On the basis of the order of the court of competition and consumer protection, the Police shall perform the activities referred to in Paragraph 1.

Article 92.

The antimonopoly proceeding in cases of competition restricting practices shall be completed no later than 5 months from the date of their institution. The provisions of Articles 35 to 38 of the Act of 14 June 1960 – the Code of Administrative Procedure, shall apply accordingly.

Article 93.

Proceedings in cases of application of competition restricting practices shall not be instituted where since the end of the year in which they were abandoned one year have elapsed.

Chapter 3**Antimonopoly proceedings in cases of concentration****Article 94.**

1. Every person who notifies, in conformity with Paragraph 2, the intention of concentration shall be a party to the proceedings.
2. The intention of concentration shall be notified by:

- 1) merging undertakings jointly – in the case referred to in Article 13, Paragraph 2, Subparagraph 1;
 - 2) an undertaking taking over the control – in the case referred to in Article 13, Paragraph 2, Subparagraph 2;
 - 3) jointly all undertakings participating in creation of a joint undertaking – in the case referred to in Article 13, Paragraph 2, Subparagraph 3;
 - 4) an undertaking acquiring part of another undertaking's property – in the case referred to in Article 13, Paragraph, 2 Subparagraph 4.
3. In the case where a concentration is implemented by a dominant undertaking by intermediary of at least two dependent undertakings, the notification of intention of concentration shall be submitted by a dominant undertaking.
 4. For the requests for instituting the antimonopoly proceedings in concentration cases the undertakings shall pay fees. If the request has been submitted but no fee has been paid, the President of the Office shall summon the applicant to pay the fee within 7 days with the instruction that if the fee is not paid, the request will not be considered.
 5. The fees referred to in Paragraph 4 shall constitute the state budget income.
 6. The Council of Ministers shall determine, by way of a regulation:
 - 1) the detailed conditions to be met by the notification of the intention of concentration, including a list of information and documents which this notification should contain, taking into consideration the specificity of activities conducted by different types of undertakings and, in particular by financial institutions;
 - 2) the rate of fees referred to in Subparagraph 4 as well as the procedure of payment, making sure that they do not constitute a barrier for the undertakings as regards implementing the concentration.

Article 95.

1. The President of the Office:
 - 1) shall return the notification of the intention of concentration, if the intention of concentration is not subject to a notification pursuant to Article 13 in connection with Article 14;
 - 2) may return within 14 days the notification of the intention of concentration, if the intention of concentration fails to meet the requirements with which it should comply;
 - 3) may summon the party notifying the intention of concentration to eliminate the indicated errors in the notification or to supplement necessary information, in the appointed time limit;
 - 4) may return the notification of the intention of concentration, if despite the summons pursuant to Subparagraph 3, the party notifying the intention of concentration fails to eliminate the indicated errors or supplement necessary information, in the appointed time limit.

2. The President of the Office may present to the undertaking or undertakings participating in the concentration the requirements referred to in Article 19, Paragraph 2, appointing the time limit for the undertaking(s) to respond to the proposal; failure to reply or a negative answer shall result in the issuance of the decision referred to in Article 20, Paragraph 1.

Article 96.

1. The antimonopoly proceedings in concentration cases should be terminated not later than within 2 months from their institution.
2. In the event that the undertaking has presented the conditions determined in Article 19, Paragraph 2, the final date referred to in Paragraph 1 shall be extended by additional 14 days.
3. The time limits as established in Paragraphs 1 and 2, do not include the time periods of waiting for a notification from other participants of the concentration, or the time periods necessary to eliminate errors or supplement necessary information, as referred to in Article 95, Paragraph 1, Subparagraph 3, or to respond to the measures proposed by the President of the Office, referred to in Article 19, Paragraph 2, as well as the time period of waiting until the fee is paid, as referred to in Article 94, Paragraph 4.

Article 97.

1. The undertakings whose intention of concentration is subject to a notification shall be under obligation to refrain from implementing the concentration until the issuance of the decision by the President of the Office or the lapse of the time limit in which such a decision should be issued.
2. The legal action pursuant to which the concentration is to be implemented may be performed under condition of the issuance by the President of the Office, by way of a decision, of the approval for implementing the concentration, or after the lapse of the time limit referred to in Article 96.

Article 98.

The realisation of the public offer to purchase or exchange of stocks, notified to the President of the Office under the procedure stipulated in Article 13, Paragraph 1, shall not be considered as an infringement of the obligation referred to in Article 97, Paragraph 1, provided that the buyer does not exercise the voting rights arising from the acquired stocks or exercises them solely in order to maintain the full value of his capital investment or to prevent the substantial damage which might affect the undertakings participating in the concentration.

Article 99.

In the case of non-compliance with the decision referred to in Article 21, Paragraph 1 or 4, the President of the Office may, by way of a decision, accomplish a division of the undertaking. To the division of a company, the provisions of Articles 528 to 550 of the Act of 15 September 2000 – the Code of Commercial Partnerships and Companies (Journal of Laws, No. 94, item 1037, as

amended¹⁰⁾) shall apply accordingly. The President of the Office has the competence of the bodies of companies participating in the division. Moreover, the President of the Office may apply to the court for the annulment of the agreement or for undertaking other legal means aimed at restoring the previous status.

Chapter 4

Proceedings in cases of practices violating collective consumer interests

Article 100.

1. Every person may submit a notification in writing to the President of the Office about a suspicion of applying practices of violating collective consumer interests.
2. The notification referred to in Paragraph 1 may be also submitted by a foreign organisation entered in the list, published in the Official Journal of the European Communities, of organisations entitled in the European Union Member States to file a request for instituting proceedings, where the object of its activity warrants its submitting a notification concerning an infringement resulting from unlawful omissions or such acts performed in the Republic of Poland, which jeopardise collective consumer interests in the Member State where the organisation is seated.
3. The provisions of Article 86, Paragraphs 2 to 4 shall apply accordingly.

Article 101.

1. The party to the proceedings shall be every person against whom the proceedings on the application of practises violating collective consumer interests are instituted.
2. The President of the Office shall issue a resolution about the instituted proceedings on the application of practises violating collective consumer interests and he shall notify the parties of this fact.

Article 102.

A settlement may be made in proceedings in cases of practices violating collective consumer interests where the nature of the case warrants this and the settlement is not intended to circumvent the law or is not contrary to public interest or a legitimate consumer interest.

Article 103.

The President of the Office may rule that the decision be immediately enforceable in whole or in part where an important consumer interest so warrants.

¹⁰⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2001 No. 102, item 1117; of 2003 No. 49, item 408, No. 229, item 2276; of 2005 No. 132, item 1108, No. 183, item 1538 and No. 184, item 1539; and of 2006, No. 133, item, 935 and 208, item 1540.

Article 104.

The proceedings in cases of practices violating collective consumer interests shall be concluded no later than within two months, and in particularly complicated cases no later than within three months from the date of their institution. The provisions of Articles 35 to 38 of the Act of 14 June 1960 – the Code of Administrative Procedure, shall apply accordingly.

Article 105.

No proceedings in cases of practices infringing collective consumer interests shall be instituted where a year has elapsed from the end of the year in which such practices were discontinued.

Title VII

Financial penalties

Article 106.

1. The President of the Office may impose upon the undertaking, by way of a decision, a financial penalty being not in excess of 10% of the revenue earned in the accounting year preceding the year within which the penalty is imposed, if the undertaking, even if unintentionally:
 - 1) has committed an infringement of the ban determined in Article 6, as regards the non-excluded scope under Articles 7 and 8, or an infringement of the ban determined in Article 9;
 - 2) has committed an infringement of Article 81 or Article 82 of the EC Treaty;
 - 3) has implemented a concentration without a consent from the President of the Office;
 - 4) has committed the application of a practise violating collective consumer interests within the meaning of Article 24.
2. The President of the Office may also impose upon the undertaking, by way of a decision, a financial penalty being an equivalent of up to EUR 50 000 000, if the undertaking, even if unintentionally:
 - 1) in a request referred to in Article 23, or in a notification referred to in Article 94, Paragraph 2, has quoted any untrue data;
 - 2) has not provided information as demanded by the President of the Office pursuant to Article 12 Paragraph 3, Article 19 Paragraph 3, or Article 50, or provided untrue or misleading information;
 - 3) has not co-operated in the course of the inspection being carried out within the framework of proceedings pursuant to Article 62, subject to Article 65 Paragraph 2.
3. In case whereby an undertaking has been established by way of merging or transformation of other undertakings, when calculating the turnover, as referred to in Paragraph 1, the revenue

earned by such undertakings in the accounting year preceding the year within which the penalty is imposed, shall be considered.

4. In case whereby the undertaking has not gained any revenue in the accounting year preceding the year within which the penalty is imposed, the President of the Office may determine a financial penalty being an equivalent of up to two hundred-fold the average salary.

Article 107.

The President of the Office may impose on undertakings, by way of a decision, a financial penalty being an equivalent of up to EUR 10 000 per each day of delay in execution of decisions issued under Article 10, Article 12, Paragraph 1, Article 19 Paragraph 1, Article 20 Paragraph 1, Article 21 Paragraphs 2 and 4, Article 26, Article 28 Paragraph 1 as well as Article 89 Paragraphs 1 and 3, resolutions issued under Article 66 Paragraph 1, or court judgements rendered in cases involving practices restricting competition, practices violating collective interests of consumers, and concentration; the financial penalty shall be imposed as of the date indicated in the respective decision.

Article 108.

1. The President of the Office may, by way of a decision, impose on a person holding a managerial post or being a member of a managing authority of the undertaking, a financial penalty of up to fifty-fold the average salary, should such a person, intentionally or unintentionally, have not:
 - 1) executed any of the decisions, resolutions or judgements referred to in Article 107;
 - 2) notify an intention of concentration referred to in Article 13;
 - 3) provided information, or have provided unreliable or misleading information, as demanded by the President of the Office pursuant to Article 50.
2. The President of the Office may impose a financial penalty referred to in Paragraph 1, upon
 - 1) a person authorised by the inspected person referred to in Article 62 Paragraph 5, the owner of a housing apartment, room, real estate, or means of transportation referred to in Article 91 Paragraph 1, as well as persons referred to in Article 62 Paragraph 6, for:
 - a) failure to provide information or providing false or misleading information, requested by the President of the Office;
 - b) failure to co-operate in the course of the inspection carried out within the framework of the proceedings pursuant to Article 62;
 - 2) witnesses for unjustified refusal to testify.

Article 109.

1. Subject to Paragraph 4, the President of the Office shall refrain from imposing a penalty referred to in Article 106 Paragraph 1 Subparagraph 1 or 2, upon an undertaking taking part

in an agreement referred to in Article 6 Paragraph 1 or Article 81 of the EC Treaty, should this undertaking have jointly fulfilled the following conditions:

- 1) it has been the first, amongst the participants of the agreement, to:
 - a) provide the President of the Office with information concerning the existence of such forbidden agreement, as may suffice for instituting antimonopoly proceedings, or
 - b) present to the President of the Office, upon its own initiative, a proof rendering it possible to issue a decision referred to in Article 10 or 11
 - providing that the President of the Office did not have at that time any information or pieces of evidence proving sufficient for instituting antimonopoly proceedings or issuing a decision referred to in Article 10 or 11;
 - 2) it is fully co-operating with the President of the Office in the course of the proceedings, providing him with any and all proofs or pieces of evidence that it has at its disposal, or the ones it may have at its disposal, and promptly giving any information relating to the case, upon its own initiative or upon demand of the President of the Office,
 - 3) it has ceased participating in the agreement not later than as of the day on which it notified the President of the Office, the existence of an agreement or presented evidence referred to in Subparagraph 1 (b);
 - 4) it was not the initiator of the agreement and did not induce other undertakings to participate in the agreement.
2. In the event that an undertaking participating in an agreement referred to in Article 6 Paragraph 1 or in Article 81 of the EC Treaty, appears not to be meeting the conditions referred to in Paragraph 1, then the President of the Office shall decrease the penalty referred to in Article 106 Paragraph 1 Subparagraph 1 or 2, being imposed on that undertaking, should the latter have jointly fulfilled the following conditions:
- 1) it has presented to the President of the Office, upon his own initiative, evidence which to an essential extent will contribute to issuing a decision referred to in Article 10 or 11;
 - 2) it has ceased participating in the agreement not later than as of the day on which it presented the evidence referred to in Subparagraph 1.
3. In the case referred to in Paragraph 2, subject to Article 110, the President of the Office shall impose a penalty:
- 1) being not in excess of 5% of the revenue earned in the accounting year preceding the year within which the penalty is imposed – upon the undertaking which has first met the conditions, referred to in Paragraph 2;
 - 2) being not in excess of 7% of the revenue earned in the accounting year preceding the year within which the penalty is imposed – upon the undertaking proving to be the second to have met the conditions, referred to in Paragraph 2;
 - 3) being not in excess of 8% of the revenue earned in the accounting year preceding the year within which the penalty is imposed – upon other undertakings which have met the conditions, referred to in Paragraph 2.

4. In case that an undertaking has fulfilled the conditions determined in Paragraph 1 Subparagraph 1 (b) and Subparagraphs 2 to 4, the President of the Office shall impose a penalty in the amount as determined in Paragraph 3 Subparagraph 1, provided that another undertaking participating in the agreement had prior thereto met the conditions determined in Paragraph 1 Subparagraph 1 (a) and Subparagraphs 2 to 4.
 5. The Council of Ministers shall determine, by way of a regulation, the procedure to be followed in the event when undertakings have applied for renouncement or reduction of a penalty, including in particular:
 - 1) the method of accepting and considering undertakings' requests for renouncement or reduction of a penalty,
 - 2) the method of notifying the undertakings of the position assumed by the President of the Office
- having regard to a necessity for ensuring the option for producing a reliable assessment of whether the undertakings have fulfilled the conditions referred to in Paragraphs 1 and 2, and for classifying the requests appropriately.

Article 110.

1. In case whereby an undertaking has been established by way of merging or transformation of other undertakings, when calculating its turnover, as referred to in Article 109 Paragraph 3, the revenue earned by such undertakings in the accounting year preceding the year within which the penalty is imposed, shall be considered.
2. In case whereby an undertaking has not gained any revenue in the accounting year preceding the year within which the penalty is imposed, the President of the Office may impose a financial penalty amounting up to:
 - 1) fifty-fold the average salary, imposed on the undertaking which has first met the conditions, referred to in Article 109 Paragraph 2;
 - 2) seventy-fold the average salary, imposed on the undertaking which has second met the conditions, referred to in Article 109 Paragraph 2;
 - 3) eighty-fold the average salary, imposed on other undertakings which have met the conditions, referred to in Article 109 Paragraph 2.

Article 111.

When fixing the amount of the financial penalties referred to in Articles 106 to 108, the duration, gravity and circumstances of the infringement of the provisions of the Act, as well as the previous infringement, should be particularly taken into account.

Article 112.

1. The financial penalties referred to in Articles 106 to 108 are to be paid out of the income after taxation or out of another form of the surplus of income over expenses decreased by the taxes.
2. Financial means originating from the financial penalties referred to in Articles 106 to 108 shall constitute the state budget income.
3. The financial penalty is to be paid within 14 days from the validation of the decision issued by the President of the Office.
4. In the case of the ineffective lapse of the time limit referred to in Paragraph 3, the financial penalty shall be subject to collection on the basis of the provisions on administrative execution proceedings.
5. In case of delay in the payment of a financial penalty, the interest shall not be collected.

Article 113.

1. Upon a request of the undertaking or persons referred to in Article 108, the President of the Office may, by way of a resolution which is not subject to a complaint, accord to the respite for payment of the financial penalty or to the payment on the instalment plan, taking into account important interests of the applicant.
2. The President of the Office may abrogate, by way of a resolution which is not subject to a complaint, the respite for payment of the financial penalty, or the payment on the instalment plan, where new or previously unknown circumstances, substantial for the settlement, are disclosed.

Title VIII

Penal provision

Article 114.

1. Whoever, acting against the provision of Article 42 Paragraph 4, has breached the obligation of providing the Consumer Ombudsman with explanations and information being the subject of the Ombudsman's approach, or the obligation to take a stance on the Ombudsman's comments and opinions, shall be liable to a fine of at least PLN 2000.
2. Deciding and adjudging as regards cases involving acts determined in Paragraph 1 shall be effectuated pursuant to the provisions of the Act of 24 August 2001 – the Code of Procedure in Cases Prosecuted as Petty Offence.

Title IX

Amending, transitional and final provisions

Article 115.

In the Act of 17 November 1964 – the Code of Civil Procedure (Journal of Laws, No. 43, item 296 as amended¹¹⁾), in Article 479²⁸ Paragraph 1, Subparagraph 2 shall be replaced by the following:

- “2) complaints against decisions issued by the President of the Office in proceedings conducted pursuant to the provisions on competition and consumer protection or separate provisions.”.

Article 116.

In the Act of 29 July 1992, on games of chance and mutual bets (Journal of Laws of 2004 No. 4, item 27 and No. 273, item 2703, and of 2005 No. 132, item 1111 and 178, item 1479) in Article 4, Paragraphs 3 shall be replaced by the following:

- “3. Conducting the activity referred in Paragraph 1 shall not be subject to the provisions on competition and consumer protection in the scope of competition protection.”.

Article 117.

In the Act of 30 April 1993 on national investment funds and their privatisation (Journal of Laws No. 44, item 202, as amended¹²⁾), chapter 5 shall be repealed.

Article 118.

¹¹⁾ Amendments to the aforementioned Act are published in Journal of Laws of 1965 No. 15, item 113; of 1974 No. 27, item 157 and No. 39, item 231; of 1975, No. 45, item 234; of 1982 No. 11, item 82 and No. 30, item 210; of 1983 No. 5, item 33; of 1984 No. 45, item 241 and 242; of 1985 No. 20, item 86; of 1987 No. 21, item 123; of 1988 No. 41, item 324; of 1989 No. 4, item 21 and No. 33, item 175; of 1990 No. 14, item 88, No. 34, item 198, No. 53, item 306, No. 55, item 318 and No. 79, item 464; of 1991 No. 7, item 24, No. 22, item 92, No. 115, item 496; of 1993 No. 12, item 53; of 1994 No. 105, item 509; of 1995 No. 83, item 417; of 1996 No. 24, item 110, No. 43, item 189, No. 73, item 350 and No. 149, item 703; of 1997 No. 43, item 270, No. 54, item 348, No. 75, item 471, No. 102, item 643, No. 117, item 752, No. 121, item 769 and 770, No. 133, item 882, No. 139, item 934, No. 140, item 940 and No. 141, item 944; of 1998 No. 106, item 668 and No. 117, item 757; of 1999 No. 52, item 532; of 2000 No. 22, item 269 and 271, No. 48, item 552 and 554, No. 55, item 665, No. 73, item 852 and No. 94, item 1037, No. 114, item 1191 and 1193 and No. 122, item 1314, 1319 and 1322; of 2001 No. 4, item 27, No. 49, item 508, No. 63, item 635, No. 98, item 1069, 1070 and 1071, No. 123, item 1353, No. 125, item 1368 and No. 138, item 1546; of 2002 No. 25, item 253, No. 26, item 265, No. 74, item 676, No. 84, item 764, No. 126, item 1069 and 1070, No. 129, item 1102, No. 153, item 1271, No. 219, item 1849 and No. 240, item 2058; of 2003 No. 41, item 360, No. 42, item 363, No. 60, item 535, No. 109, item 1035, No. 119, item 1121, No. 130, item 1188, No. 139, item 1323, No. 199, item 1939 and No. 228, item 2255; of 2004 No. 9, item 75, No. 11, item 101, No. 68, item 623, No. 91, item 871, No. 93, item 891, No. 121, item 1264, No. 162, item 1691, No. 169, item 1783, No. 172, item 1804, No. 204, item 2091, No. 210, item 2135, No. 236, item 2356 and No. 237, item 2384; of 2005 No. 13, item 98, No. 22, item 185, No. 86, item 732, No. 122, item 1024, No. 143, item 1199, No. 150, item 1239, No. 167, item 1398, No. 169, item 1413 and 1417, No. 172, item 1438, No. 178, item 1478, No. 183, item 1538, No. 264, item 2205 and No. 267, item 2258; of 2006 No. 12, item 66, No. 66, item 466, No. 104, item 708 and 711, No. 186, item 1379, No. 208, item 1537 and 1540, No. 226, item 1656 and No. 235, item 1699; and of 2007 No. 7, item 58.

¹²⁾ Amendments to the aforementioned Act are published in Journal of Laws of 1994 No. 84 item 385; of 1997 No. 30 item 164, No. 47 item 298 and No. 107 item 691; of 2000 No. 122, item 1319; of 2001 No. 63, item 637; of 2002 No. 240, item 2055 and of 2004 No. 281, item 2775.

The Act of 20 August 1997 on National Court Register (Journal of Laws of 2001 No. 17, item 209, as amended¹³⁾) is hereby amended as follows:

1) Article 20a shall be replaced by the following:

“Article 20a. Subject to Article 20b, the request for the entry in the court register shall be examined not later than within 14 days from the date of its submission. If examining of the request requires summoning to remove an obstacle for making the entry, the request should be examined within 7 days from the removal of the obstacle by the applicant, which does not prejudice the time limits specified in special provisions. If examining of the request requires hearing the participants of the proceedings or conducting a trial, it should be examined not later than within one month”.

2) After Article 20a, Article 20b shall be added with the following wording:

“Article 20b. In the event that the entry in the register depends on the consent of the President of the Office of Competition and Consumer Protection to implement a concentration, granted on the basis of the provisions on competition and consumer protection, the court shall issue a resolution on the entry in the register, pursuant to the decision of the President of the Office of Competition and Consumer Protection on granting a consent to implement a concentration or, if the undertaking has made a declaration, under pain of criminal liability, that the intention of concentration was not subject to the obligation of notification.

Article 119.

In the Act of 10 September 1999 on certain compensation agreements entered into in connection with agreements of supply for the purposes of the state defence and security (Journal of Laws No. 80, item 903, as amended¹⁴⁾), Article 25 shall be replaced by the following:

“Article 25. Offset agreements entered into in connection with an agreement of supply for the purposes of the state defence and security shall not be subject to the provisions of competition and consumer protection.”

Article 120.

¹³⁾ Amendments to the consolidated text of the aforementioned Act are published in Journal of Laws of 2001 No. 110, item 1189; of 2002 No. 1, item 2 and No. 113, item 984; of 2003 No. 49, item 408, No. 60, item 535, No. 96, item 874, No. 217, item 2125, No. 228, item 2256 and No. 229, item 2276; of 2004 No. 96, item 959, No. 173, item 1808 and No. 273, item 2703; of 2005 No. 62, item 551, No. 86, item 732; and of 2006, No. 149, item 1077, No. 208, item 1540 and No. 225, item 1636.

¹⁴⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2000 No. 119, item 1250; of 2001 No. 89, item 972; of 2002 No. 37, item 332, No. 74, item 676 and No. 81, item 733; of 2004 No. 19, item 177 and No. 238, item 2390, and of 2006 No. 251, item 1845.

In the Act of 29 November 2000 on collecting and using accountancy data of agricultural holdings (Journal of Laws of 2001 No. 3, item 20, and of 2004 No. 96, item 959), in Article 5, Paragraph 4 shall be replaced by the following:

“4. Agreements concerning tasks specified in the provisions of Regulation No. 79/65/EEC setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Economic Community (Official Journal EEC P 109 of 23.06.1965) shall not be subject to the provisions on competition and consumer protection or provisions of the Act of 29 January 2004 – the Public Procurement Law (Journal of Laws of 2006 No. 164, item 1163, No. 170, item 1271 and No. 227, item 1658).”.

Article 121.

In the Act of 24 August 2001 on restructuring of iron and steel industry (Journal of Laws No. 111, item 1196, as amended¹⁵⁾) in Article 22, Paragraph 3 shall be replaced by the following:

“3. The intention of merging referred to in Paragraph 1 shall not be subject to a notification to the President of the Office of Competition and Consumer Protection within the meaning of the provisions on competition and consumer protection.”.

Article 122.

In the Act of 6 September 2001 – the Pharmaceutical Law (Journal of Laws of 2004 No. 53, item 533, as amended¹⁶⁾) in Article 99 in Paragraph 3, Subparagraph 2 shall be replaced by the following:

“2) shall run in the area of a voivodship no more than 1% of pharmacies accessible to general public or entities controlled by it, directly or indirectly, in particular dependent entities within the meaning of the provision on competition and consumer protection, shall run no more than 1% of pharmacies in total in the area of a voivodship;”.

Article 123.

The Act of 3 July 2002 – the Aviation Law (Journal of Laws of 2006 No. 100, item 696 as amended²⁾) is hereby amended as follows:

1) in Article 198, Paragraph 6 shall be replaced by the following:

¹⁵⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2003 No. 56, item 495, No. 90, item 844 and No. 139, item 1325; of 2004 No. 12, item 102, No. 120, item 1252 and No. 187, item 1922; and of 2005 No. 167, item 1398 and No. 184, item 1539.

¹⁶⁾ Amendments to the consolidated text of the aforementioned Act are published in Journal of Laws of 2004. No. 69, item 625, No. 91, item 877, No. 92, item 882, No. 93, item 896, No. 173, item 1808, No. 210, item 2135 and No. 273, item 2703; of 2005 No. 94, item 787, No. 163, item 1362, No. 179, item 1485 and 184, item 1539; and of 2006 No. 170, item 1217, No. 171, item 1225 and No. 217, item 1588.

²⁾ No. 104, item 708 and 711, No. 141, item 1008, No. 170, item 1217 and No. 249, item 1829

“6. In cases indicating the infringement of the provisions on competition and consumer protection, the President of the Office may direct the case to a body competent in matters related to competition and consumer protection, and if he has taken a decision to withdraw the tariff or suspend the application of the tariff, the decision of the President of the Office shall remain in force until the case is resolved by the body.”;

2) In Article 203, Paragraph 1 shall be replaced by the following:

“1. Air transportation shall be subject to the provisions on competition and consumer protection, save for matters regulated otherwise in the Act as well as in agreements and international law.”;

3) In Article 205a, Paragraph 3 shall be replaced by the following:

“3. Provisions of Paragraphs 1 and 2 do not infringe the tasks and competences of the President of the Office of Competition and Consumer Protection, as referred to in the provisions on competition and consumer protection.”.

Article 124.

In the Act of 18 July 2002 on rendering services by electronic means (Journal of Laws No. 144, item 1204, and of 2004 No. 96, item 959 and No. 173, item 1808), in Article 14, Paragraph 4 shall be replaced by the following:

“4. Provisions of Paragraphs 1 to 3 shall not apply, if the service provider has taken control over the service recipient within the meaning of the provisions on competition and consumer protection.”.

Article 125.

In the Act of 22 May 2003 on Insurance Activity (Journal of Laws No. 124, item 1151, as amended¹⁷⁾) in Article 19, Paragraph 2, Subparagraph 9 shall be replaced by the following:

“9) of the President of the Office of Competition and Consumer Protection in the scope of performing his duties specified in the provisions on competition and consumer protection;”.

Article 126.

The Act of 16 July 2004 – the Telecommunications Law (Journal of Laws No. 171, item 1800, as amended¹⁸⁾) is hereby amended as follows:

1) in Article 1, Paragraph 3 shall be replaced by the following:

¹⁷⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2004 No. 91, item 870 and No. 96, item 959; of 2005 No. 48, item 447, No. 83, item 719, No. 143, item 1204, No. 167, item 1396, No. 183, item 1538 and No. 184, item 1539, and of 2006 No. 157, item 1119.

¹⁸⁾ Amendments to the aforementioned Act are published in Journal of Laws of 2004 No. 273, item 2703; of 2005 No. 163, item 1362 and No. 267, item 2258; and of 2006 No. 12, item 66, No. 104, item 708 and 711, No. 170, item 1217, No. 220, item 1600, No. 235, item 1700 and No. 249, item 1834.

“3. The provisions of the Act do not infringe the provisions on competition and consumer protection or the provisions of the Act of 29 December 1992 on radio and television broadcasting (Journal of Laws of 2004 No. 253, item 2531, as amended¹⁹⁾).”;

2) in Article 21, Paragraph 2 shall be replaced by the following:

“2. A relevant market shall be understood to mean a relevant market within the meaning of the provisions on competition and consumer protection.”.

Article 127.

In the Act of 30 June 2005 on cinematography (No. 132, item 1111 and of 2006 No. 249, item 1832), in Article 19, Paragraph 6 shall be replaced by the following:

“6. An entity belonging to a capital group within the meaning of the provisions on competition and consumer protection, controlled by an entity referred to in Paragraphs 1 to 5, shall make a payment for the benefit of the Institute amounting to 1.5% of the revenue earned from the sources referred to in Paragraphs 1 to 5. In such a case, the controlling entity may deduct from the amount owed to the Institute in respect as referred to in Paragraphs 1 to 5, in a given accounting period, amounts actually paid for the benefit of the Institute in this respect, in the same accounting period, by the controlled entity belonging to a capital group.”.

Article 128.

In the Act of 29 July 2005 on supervision over a capital market (Journal of Laws No. 183, item 1537 and of 2006 No. 157, item 1119 and No. 170, item 1217) in Article 23, Paragraph 2 shall be replaced by the following:

“2. The Commission and its authorised representative may also transfer and receive information, including opinions from the President of the Office of Competition and Consumer Protection required to ensure a proper performance of supervision tasks, including tasks specified in the provisions on competition and consumer protection.”.

Article 129.

In the Act of 24 August 2006 on the national reserve of human resources and high state posts (Journal of Laws, No. 170, item 1217 and No. 249, item 1832 and of 2007, No. 17, item 96) after Article 4, Article 4a shall be added with the following wording:

“Article 4a. The provisions of the Act shall not apply to the President or Vice Presidents of the Office of Competition and Consumer Protection.”.

Article 130.

¹⁹⁾ Amendments to the consolidated text of the aforementioned Act are published in Journal of Laws of 2005 No. 17, item 141, No. 85, item 728 and No. 267, item 2258; and of 2006, No. 51, item 377, No. 83, item 574 and No. 133, item 935.

In determining the amount of the financial penalty referred to in Article 111, also the circumstance of infringing the provisions of the Act of 15 December 2000 on competition and consumer protection (Journal of Laws of 2005 No. 244, item 2080 and of 2006 No. 157, item 1119, No. 170, item 1217 and No. 249, item 1834) shall be taken into account.

Article 131.

1. Proceedings instituted pursuant to the provisions of the Act of 15 December 2000 on competition and consumer protection, and not completed by the time this Act enters into force, shall be subject to the hitherto existing provisions.
2. Antimonopoly proceedings in cases of concentration, instituted pursuant to the Act of 15 December 2000 on competition and consumer protection shall be discontinued, if the intention of concentration is not subject to the obligation of notification on the basis of the provisions of this Act.
3. Requests for instituting proceedings in cases of competition restricting practices and in cases of practices violating collective consumer interests, filed pursuant to the Act of 15 December 2000 on competition and consumer protection, on the basis of which antimonopoly proceedings in cases of competition restricting practices and in cases of practices violating collective consumer interests have not been instituted, shall be treated as a notification concerning a suspicion of applying such practices, within the meaning of the provisions of this Act.

Article 132.

Until the time the President of the Office is appointed under the procedure specified in Article 29, this function shall be performed by the President of the Office appointed under the hitherto existing provisions.

Article 133.

Members of the National Council of Consumer Ombudsmen established on the basis of the provisions of the Act of 15 December 2000 on competition and consumer protection shall maintain their membership in the Council after this Act enters into force, in accordance with the rules specified herein.

Article 134.

1. Consumer Ombudsmen appointed on the basis of the hitherto existing provisions shall perform their functions until they are dismissed under the procedure of Article 40 of this Act.
2. The hitherto existing conditions of the Consumer Ombudsman's work practices and remuneration shall remain in force until new conditions of the Consumer Ombudsman's work practices and remuneration are specified by the *starost*.

Article 135.

1. On the date of entry into force of the Act, the Office shall assume all rights and obligations of the Office of Competition and Consumer Protection established pursuant to the hitherto existing provisions.
2. On the date of entry into force of the Act, the property of the Office of Competition and Consumer Protection established pursuant to the hitherto existing provisions, shall become by virtue of the law, the property of the Office.
3. The rights and property of the Office of Competition and Consumer Protection established pursuant to the hitherto existing provisions shall be transferred to the Office free of charge and without taxes or fees.
4. On the date of entry into force of the Act, employees of the Office of Competition and Consumer Protection established pursuant to the hitherto existing provisions shall become by virtue of the law, employees of the Office.

Article 136.

1. The implementing provisions issued pursuant to Article 16, Article 28, Paragraph 3, Article 57, Paragraph 6, Article 77, Paragraph 6, Article 94, Paragraph 5, Article 103a, Paragraph 5 of the Act of 15 December 2000 on competition and consumer protection shall remain in force until the time of entry into force of implementing provisions issued pursuant to Article 17, Article 33, Paragraph 3, Article 63, Paragraph 5, Article 94, Paragraph 6, Article 109, Paragraph 5 of this Act, however not longer than for the period of 12 months from the date of its entry into force, subject to 2.
2. The implementing provisions pursuant to Article 7 of the Act of 15 December 2000 on competition and consumer protection shall remain in force until the time of their expiry.

Article 137.

The Act of 15 December 2000 on competition and consumer protection shall expire.

Article 138.

The Act shall enter into force after the lapse of 30 days from its publication.

President of the Republic of Poland

Lech Kaczyński